

2020

SESSION LAWS

OF THE

STATE OF WASHINGTON

2020 REGULAR SESSION
SIXTY-SIXTH LEGISLATURE

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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 effective date for the Laws of the 2020 regular session is June 11, 2020.
- (b) Laws that carry an emergency clause take effect immediately, or as otherwise specified, 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 2020 laws may be found at the back of the final volume.

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
2020 SESSION			
81	HB	2416 Forensic mental health services—Disclosure of information and records	833
82	SHB	2417 Community custody—Various provisions	835
83	HB	2449 Commissioner compensation—Inflation adjustments	840
84	HB	2474 Sales commissions—Earning and payment	855
85	HB	2602 Race discrimination—Hair.	857
86	SHB	2613 Unemployment benefit charges—Discharge required by law .	861
87	SHB	2673 Infill development exemptions—State environmental policy act	868
88	HB	2701 Fire and smoke control systems—Inspection and testing . . .	869
89	HB	2763 Interest arbitration—Department of corrections—Marine department employees	873
90	SHB	2787 Early support for infants and toddlers program—Transfer . . .	875
91	SHB	2868 Historic property special valuation—Extensions.	886
92	ESSB	5385 Telemedicine reimbursement rates.	888
93	ESB	6032 Washington apples special license plate	895
94	SSB	6058 Fire protection districts—Health clinic services	904
95	SB	6102 School bus stop signal warning devices.	905
96	ESSB	6217 Airport and air navigation facility employees—Labor standards.	905
97	SB	6218 Washington state patrol retirement system—Salary definition	910
98	SSB	6267 Long-term services and supports trust program—Various provisions	913
99	SSB	6415 Permanent fire protection district benefit charges	920
100	ESSB	6473 Asbestos-containing building materials	922
101	SHB	1251 Election systems and data—Security breaches	925
102	ESHB	1608 Health care providers—Providing information to patients . . .	926
103	2SHB	1661 Higher education retirement plans—Funding	927
104	HB	1702 Community and technical colleges—Low-cost course material—Notice	938
105	SHB	1847 Aircraft noise abatement—Various provisions	939
106	2SHB	1888 Public agency employees—Personal information—Public records act.	941
107	HB	2051 Firefighters and law enforcement officers pension and disability boards—Membership	943
108	HB	2189 Competency restoration workers—Public safety employees’ retirement system	957
109	HB	2229 Land development and management services—Taxation	961
110	HB	2242 Travel trailers—Maximum length	963
111	HB	2266 Expression of breast milk—Employee reasonable accommodation—Written certification	964
112	HB	2315 Aircraft noise abatement—Mitigation equipment	966
113	ESHB	2342 Growth management act and shoreline management act— Plan/program update timing.	967
114	HB	2402 Legislative committees—Various provisions	974

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
115	SHB	2426 Psychiatric hospitals—Patient safety	989
116	SHB	2464 Prescription medication—Charges	994
117	SHB	2483 Driving under the influence—Vehicle impoundment	995
118	HB	2491 Tribal license plates and vehicle registration—Compact	999
119	2SHB	2499 Corrections officers—Certification	1000
120	E2SHB	2528 Forest products sector—Climate response contributions	1011
121	ESHB	2565 Disposable wipes products—"do not flush" labeling	1014
122	HB	2599 Services for children with multiple handicaps program— Repeal	1016
123	HB	2601 Parks and recreation commission—Lease approval	1017
124	SHB	2607 Homeless youth—Identicards	1019
125	SHB	2614 Paid family and medical leave—Various provisions	1021
126	SHB	2622 Court order for surrender of firearms, etc.—Compliance	1041
127	ESHB	2638 Sports wagering—Tribal-state gaming compacts	1046
128	HB	2640 Private detention facilities—Growth management act	1056
129	HB	2669 Seattle NHL hockey special license plates	1058
130	2SHB	2737 Children's mental health work group—Various provisions	1068
131	EHB	2755 Air ambulance services—Claims data	1072
132	SHB	2803 Indian tribe compacts—State taxes	1073
133	HB	2826 Marijuana vapor products—Liquor and cannabis board	1078
134	HB	2858 County assessors—Assessment rolls filing timeline	1086
135	SHB	2889 Utility taxes—Disclosure	1086
136	3SSB	5164 Victims of human trafficking—Public assistance	1087
137	E2SSB	5291 Alternatives to total confinement—Persons with minor children	1091
138	ESSB	5323 Plastic bags—Retail establishments	1106
139	PV ESB	5402 Tax and licensing laws—Department of revenue	1115
140	ESB	5457 Public works contract bidding—Naming of subcontractors by prime contractors	1169
141	2SSB	5488 Youth and young adults—Criminal sentencing	1171
142	ESSB	5522 Code city annexations—Interlocal agreement with county	1176
143	SB	5811 Motor vehicle emissions standards—Zero emission vehicles	1178
144	ESSB	5829 Volunteer firefighters' and reserve officers' relief and pension system—Benefits and contributions	1179
145	SB	6034 Pregnancy discrimination—Complaint filing deadline	1184
146	SB	6045 Vulnerable user of a public way—Definition	1184
147	SSB	6061 Telemedicine—Training standards	1186
148	SSB	6072 State wildlife account—Dividing	1187
149	SB	6090 Fire protection service agencies—Detection device installation—Liability	1208
150	SB	6120 Gambling activities—Nonprofit organizations—Eligibility	1208
151	SB	6131 Securities act—Debenture company laws—Repeal	1210
152	SSB	6152 Elections—Participation by entities with foreign national ownership or control	1212
153	SB	6170 Plumbing profession—Various provisions	1230
154	SSB	6206 Marijuana businesses—Certificate of compliance	1263
155	SB	6229 Recipients of housing-related state funding—Washington state quality award program	1267

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
156	SSB	6257 Underground storage tank reinsurance—Emergency program	1269
157	SB	6286 Athlete agents—Benefits provided to student athletes.	1273
158	ESSB	6300 Animals—Various provisions	1274
159	SB	6312 Nonprofit organization and library fundraising—Receipt of prize—Use tax exemption	1283
160	SB	6383 Retirement strategy funds—Plan 3 and deferred compensation programs—State investment board commingled funds	1284
161	SB	6417 Survivor option election—Change after retirement.	1289
162	SB	6420 Underground utilities—Various provisions	1307
163	SB	6565 Motorcycle parking—Permissible methods	1311
164	SSB	6632 Business licensing service program—Funding	1312
165	ESB	6690 Aerospace business and occupation taxes—World trade organization compliance.	1313
166	EHB	1187 Conservation district-sponsored fish habitat enhancement projects—Hydraulic project eligibility standards.	1323
167	2SHB	1191 School notifications—Various provisions	1325
168	ESHB	1622 Droughts—Department of ecology	1334
169	EHB	1694 Tenants—Payments in installments	1340
170	PV HB	1841 Trains—Minimum crew size	1346
171	HB	2217 Cottage food product labeling—Permit number	1349
172	SHB	2250 Coastal commercial Dungeness crab pot removal program—Expansion	1350
173	SHB	2343 Urban housing supply—Various provisions	1352
174	SHB	2374 Motor vehicle dealers—Secondary products	1361
175	HB	2512 Mobile homes and manufactured homes—Property tax distraint.	1363
176	HB	2524 Agricultural marketing and fair practices act—Pears—Mediation	1365
177	ESHB	2535 Past due rent—Tenant grace period	1368
178	SHB	2544 Veterans—Period of war—Definition	1370
179	ESHB	2588 Special purpose districts—Audits	1372
180	HB	2624 Department of agriculture—Examinations	1376
181	HB	2641 Passenger-only ferry service—Cities	1379
182	ESHB	2676 Autonomous vehicle testing	1380
183	HB	2677 Health care authority—Health insurance information sharing—Coordination of benefits.	1382
184	SHB	2794 Juvenile record sealing—Various provisions.	1383
185	SHB	2883 Adolescent behavioral health care—Family-initiated treatment.	1389
186	ESSB	5006 Domestic wineries, breweries, and microbreweries—On-premises consumption endorsement	1400
187	ESB	5282 Pelvic exams—Informed consent.	1401
188	ESSB	5395 Sexual health education	1403
189	ESSB	5434 Possession of weapons—Child care.	1407
190	ESSB	5473 Unemployment insurance—Leaving work voluntarily—Study.	1409
191	SSB	5640 Youth courts—Various provisions.	1411
192	SB	5792 Cultural access programs—County uniformity	1415

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
193	2ESB	5887 Health carrier prior authorization—Various provisions	1422
194	SSB	6037 Business corporations—Various provisions	1424
195	SB	6049 Insurance fraud program—Funding	1440
196	SSB	6051 Health insurance—Supplemental prescription drug coverage—Exemption	1444
197	SSB	6052 Life insurance—Behavioral change incentives	1450
198	SB	6078 Fire service jurisdictions—Clean-up and removal cost reimbursement	1453
199	SSB	6084 Circular intersections—Commercial motor vehicles	1455
200	ESSB	6095 Liquor industry—Common carriers	1456
201	SB	6096 Department of social and health services—Contracted service providers—Labor unrest	1461
202	SSB	6158 Sexual assault coordinated community response task force— Model hospital and clinic protocols	1462
203	SB	6164 Felony resentencing—Prosecutorial discretion	1464
204	2SSB	6231 Property tax exemption—Single-family dwelling improvements—Expansion and study	1465
205	ESSB	6261 Farm labor contractors—Various provisions	1466
206	SB	6263 Educational data sharing agreements—School districts and tribes—Model policy	1467
207	SB	6305 Library districts—Various provisions	1468
208	ESB	6313 Young voters—Various provisions	1469
209	SSB	6319 Senior property tax exemption program—Various provisions	1481
210	SSB	6392 Local wine industry association license	1486
211	SSB	6409 Industrial equipment—Electrical work—Exemptions	1487
212	ESB	6421 Farm internship program	1487
213	ESSB	6440 Industrial insurance medical examinations—Various provisions	1493
214	ESSB	6574 Growth management hearings board/environmental land use and hearings office—Various provisions	1496
215	ESSB	6592 Tourism authorities—Various provisions	1500
216	SSB	6613 Marine aquatic farming—Inspections—Cost recovery	1503
217	ESSB	6617 Accessory dwelling units—Off-street parking	1504
218	SSB	6660 Four-year balanced budget requirements	1506
219	PV ESHB	2322 Transportation budget—Supplemental	1515
220	ESHB	1023 Adult family homes—Eight bed capacity	1608
221	SHB	1154 Office of the Chehalis basin—Funding	1613
222	HB	1590 Affordable housing sales and use tax—Councilmanic authority	1617
223	ESHB	1754 Religious organizations—Hosting of the homeless	1619

CHAPTER 81

[House Bill 2416]

FORENSIC MENTAL HEALTH SERVICES--DISCLOSURE OF INFORMATION AND RECORDS

AN ACT Relating to disclosures of information and records related to forensic mental health services; and amending RCW 10.77.210 and 70.02.205.

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

Sec. 1. RCW 10.77.210 and 1998 c 297 s 45 are each amended to read as follows:

(1) Any person involuntarily detained, hospitalized, or committed pursuant to the provisions of this chapter shall have the right to adequate care and individualized treatment. The person who has custody of the patient or is in charge of treatment 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 of the patient that have been filed with the secretary pursuant to this chapter. Except as provided in RCW 10.77.205 and 4.24.550 regarding the release of information concerning insane offenders who are acquitted of sex offenses and subsequently committed pursuant to this chapter, and disclosures of health care information as authorized under chapter 70.02 RCW, all records and reports made pursuant to this chapter, shall be made available only upon request, to the committed person, to his or her attorney, to his or her personal physician, to the supervising community corrections officer, to the prosecuting attorney, to the court, to the protection and advocacy agency, or other expert or professional persons who, upon proper showing, demonstrates a need for access to such records. All records and reports made pursuant to this chapter shall also be made available, upon request, to the department of corrections or the indeterminate sentence review board if the person was on parole, probation, or community supervision at the time of detention, hospitalization, or commitment or the person is subsequently convicted for the crime for which he or she was detained, hospitalized, or committed pursuant to this chapter.

(2) All relevant records and reports as defined by the department in rule shall be made available, upon request, to criminal justice agencies as defined in RCW 10.97.030.

Sec. 2. RCW 70.02.205 and 2017 c 298 s 1 are each amended to read as follows:

(1)(a) A health care provider or health care facility may use or disclose the health care information of a patient without obtaining an authorization from the patient or the patient's personal representative if the conditions in (b) of this subsection are met and:

(i) The disclosure is to a family member, including a patient's state registered domestic partner, other relative, a close personal friend, or other person identified by the patient, and the health care information is directly relevant to the person's involvement with the patient's health care or payment related to the patient's health care; or

(ii) The use or disclosure is for the purpose of notifying, or assisting in the notification of, including identifying or locating, a family member, a personal

representative of the patient, or another person responsible for the care of the patient of the patient's location, general condition, or death.

(b) A health care provider or health care facility may make the uses and disclosures described in (a) of this subsection if:

(i) The patient is not present or obtaining the patient's authorization or providing the opportunity to agree or object to the use or disclosure is not practicable due to the patient's incapacity or an emergency circumstance, the health care provider or health care facility may in the exercise of professional judgment, determine whether the use or disclosure is in the best interests of the patient and, if so, disclose only the health care information that is directly relevant to the person's involvement with the patient's health care or payment related to the patient's health care; or

(ii) The patient is present for, or otherwise available prior to, the use or disclosure and has the capacity to make health care decisions, the health care provider or health care facility may use or disclose the information if it:

(A) Obtains the patient's agreement;

(B) Provides the patient with the opportunity to object to the use or disclosure, and the patient does not express an objection; or

(C) Reasonably infers from the circumstances, based on the exercise of professional judgment, that the patient does not object to the use or disclosure.

(2) With respect to information and records related to mental health services provided to a patient by a health care provider, the health care information disclosed under this section may include, to the extent consistent with the health care provider's professional judgment and standards of ethical conduct:

(a) The patient's diagnoses and the treatment recommendations;

(b) Issues concerning the safety of the patient, including risk factors for suicide, steps that can be taken to make the patient's home safer, and a safety plan to monitor and support the patient;

(c) Information about resources that are available in the community to help the patient, such as case management and support groups; and

(d) The process to ensure that the patient safely transitions to a higher or lower level of care, including an interim safety plan.

(3) Any use or disclosure of health care information, including information and records related to mental health services, under this section must be limited to the minimum necessary to accomplish the purpose of the use or disclosure.

(4) A health care provider or health care facility is not subject to any civil liability for making or not making a use or disclosure in accordance with this section.

Passed by the House February 18, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 82

[Substitute House Bill 2417]

COMMUNITY CUSTODY--VARIOUS PROVISIONS

AN ACT Relating to individuals serving community custody terms; amending RCW 9.94A.737, 9.94A.631, and 9.94A.716; adding a new section to chapter 72.09 RCW; and creating new sections.

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

Sec. 1. RCW 9.94A.737 and 2012 1st sp.s. c 6 s 7 are each amended to read as follows:

(1) If an offender is accused of violating any condition or requirement of community custody, the department shall address the violation behavior. The department may hold offender disciplinary proceedings not subject to chapter 34.05 RCW. The department shall notify the offender in writing of the violation process.

(2)(a) The offender's violation behavior shall determine the sanction the department imposes. The department shall adopt rules creating a structured violation process that includes presumptive sanctions, aggravating and mitigating factors, and definitions for low level violations and high level violations.

(b) After an offender has committed and been sanctioned for five low level violations, ~~((and))~~ subsequent violations committed by that offender ~~((shall automatically))~~ may be considered high level violations, provided that any decision to elevate a violation complies with policies and rules established by the department.

(c)(i) The department must define aggravating factors that indicate the offender may present a current and ongoing foreseeable risk and which therefore~~((:))~~ elevate an offender's behavior to a high level violation process.

(ii) The state and its officers, agents, and employees may not be held criminally or civilly liable for a decision to elevate or not to elevate an offender's behavior to a high level violation process under this subsection unless the state or its officers, agents, and employees acted with reckless disregard.

(3) The department may intervene when an offender commits a low level violation ~~((as follows:))~~

~~((a))~~ ~~For a first low level violation, the department may sanction~~ by sanctioning the offender to one or more nonconfinement sanctions~~((-~~

~~((b))~~ ~~For a second or subsequent low level violation, the department may sanction the offender~~ or to not more than three days in total confinement.

~~((+))~~ (a) The department shall develop rules to ensure that each offender subject to a short-term confinement sanction is provided the opportunity to respond to the alleged violation prior to imposition of total confinement.

~~((+))~~ (b) The offender may appeal the short-term confinement sanction to a panel of three reviewing officers designated by the secretary or by the secretary's designee. The offender's appeal must be in writing and hand-delivered to department staff, or postmarked, within seven days after the sanction is imposed.

(4) If an offender is accused of committing a high level violation, the department may sanction the offender to not more than thirty days in total confinement per hearing.

(a) The offender is entitled to a hearing prior to the imposition of sanctions; and

(b) The offender may be held in total confinement pending a sanction hearing. Prehearing time served must be credited to the offender's sanction time.

(5) If the offender's underlying offense is one of the following felonies provided in this subsection and the violation behavior constitutes a new misdemeanor, gross misdemeanor, or felony, the offender shall be held in total confinement pending a sanction hearing, and until the earlier of: The date the sanction expires ((or until if); the date a prosecuting attorney files new charges against the offender((, whichever occurs first)); or the date a prosecuting attorney provides the department with written notice that new charges will not be filed for the violation behavior. The following underlying offenses apply to the restrictions in this subsection:

(a) Assault in the first degree, as defined in RCW 9A.36.011;

(b) Assault of a child in the first degree, as defined in RCW 9A.36.120;

(c) Assault of a child in the second degree, as defined in RCW 9A.36.130;

(d) Burglary in the first degree, as defined in RCW 9A.52.020;

(e) Child molestation in the first degree, as defined in RCW 9A.44.083;

(f) Commercial sexual abuse of a minor, as defined in RCW 9.68A.100;

(g) Dealing in depictions of a minor engaged in sexually explicit conduct, as defined in RCW 9.68A.050;

(h) Homicide by abuse, as defined in RCW 9A.32.055;

(i) Indecent liberties with forcible compulsion, as defined in RCW 9A.44.100(1)(a);

(j) Indecent liberties with a person capable of consent, as defined in RCW 9A.44.100(1)(b);

(k) Kidnapping in the first degree, as defined in RCW 9A.40.020;

(l) Murder in the first degree, as defined in RCW 9A.32.030;

(m) Murder in the second degree, as defined in RCW 9A.32.050;

(n) Promoting commercial sexual abuse of a minor, as defined in RCW 9.68A.101;

(o) Rape in the first degree, as defined in RCW 9A.44.040;

(p) Rape in the second degree, as defined in RCW 9A.44.050;

(q) Rape of a child in the first degree, as defined in RCW 9A.44.073;

(r) Rape of a child in the second degree, as defined in RCW 9A.44.076;

(s) Robbery in the first degree, as defined in RCW 9A.56.200;

(t) Sexual exploitation of a minor, as defined in RCW 9.68A.040; or

(u) Vehicular homicide while under the influence of intoxicating liquor or any drug, as defined in RCW 46.61.520(1)(a).

(6) The department shall adopt rules creating hearing procedures for high level violations. The hearings are offender disciplinary proceedings and are not subject to chapter 34.05 RCW. The procedures shall include the following:

(a) The department shall provide the offender with written notice of the alleged violation and the evidence supporting it. The notice must include a statement of the rights specified in this subsection, and the offender's right to file a personal restraint petition under court rules after the final decision;

(b) Unless the offender waives the right to a hearing, the department shall hold a hearing, and shall record it electronically. For offenders not in total confinement, the department shall hold a hearing within fifteen business days,

but not less than twenty-four hours, after written notice of the alleged violation. For offenders in total confinement, the department shall hold a hearing within five business days, but not less than twenty-four hours, after written notice of the alleged violation;

(c) The offender shall have the right to: (i) Be present at the hearing; (ii) have the assistance of a person qualified to assist the offender in the hearing, appointed by the hearing officer if the offender has a language or communications barrier; (iii) testify or remain silent; (iv) call witnesses and present documentary evidence; (v) question witnesses who appear and testify; and (vi) receive a written summary of the reasons for the hearing officer's decision; and

(d) The sanction shall take effect if affirmed by the hearing officer. The offender may appeal the sanction to a panel of three reviewing officers designated by the secretary or by the secretary's designee. The offender's appeal must be in writing and hand-delivered to department staff, or postmarked, within seven days after the sanction was imposed. The appeals panel shall affirm, reverse, modify, vacate, or remand based on its findings. If a majority of the panel finds that the sanction was not reasonably related to any of the following: (i) The crime of conviction; (ii) the violation committed; (iii) the offender's risk of reoffending; or (iv) the safety of the community, then the panel will reverse, vacate, remand, or modify the sanction.

(7) For purposes of this section, the hearings officer may not rely on unconfirmed or unconfirmable allegations to find that the offender violated a condition.

(8) Hearing officers shall report through a chain of command separate from that of community corrections officers.

Sec. 2. RCW 9.94A.631 and 2012 1st sp.s. c 6 s 1 are each amended to read as follows:

(1) If an offender violates any condition or requirement of a sentence, a community corrections officer may arrest or cause the arrest of the offender without a warrant, pending a determination by the court or by the department. If there is reasonable cause to believe that an offender has violated a condition or requirement of the sentence, a community corrections officer may require an offender to submit to a search and seizure of the offender's person, residence, automobile, or other personal property.

(2) For the safety and security of department staff, an offender may be required to submit to pat searches, or other limited security searches, by community corrections officers, correctional officers, and other agency approved staff, without reasonable cause, when in or on department premises, grounds, or facilities, or while preparing to enter department premises, grounds, facilities, or vehicles. Pat searches of offenders shall be conducted only by staff who are the same gender as the offender, except in emergency situations.

(3) A community corrections officer may also arrest an offender for any crime committed in his or her presence. The facts and circumstances of the conduct of the offender shall be reported by the community corrections officer, with recommendations, to the court, local law enforcement, or local prosecution for consideration of new charges. The community corrections officer's report shall serve as the notice that the department will hold the offender for not more than three days from the time of such notice for the new crime, except if the

offender's underlying offense is a felony offense listed in RCW 9.94A.737(5), in which case the department will hold the offender for thirty days from the time of arrest ((~~or~~)), until a prosecuting attorney charges the offender with a crime, or until a prosecuting attorney provides written notice to the department that new charges will not be filed, whichever occurs first. This does not affect the department's authority under RCW 9.94A.737.

If a community corrections officer arrests or causes the arrest of an offender under this section, the offender shall be confined and detained in the county jail of the county in which the offender was taken into custody, and the sheriff of that county shall receive and keep in the county jail, where room is available, all prisoners delivered to the jail by the community corrections officer, and such offenders shall not be released from custody on bail or personal recognizance, except upon approval of the court or authorized department staff, pursuant to a written order.

Sec. 3. RCW 9.94A.716 and 2012 1st sp.s. c 6 s 6 are each amended to read as follows:

(1) The secretary may issue warrants for the arrest of any offender who violates a condition of community custody. The arrest warrants shall authorize any law enforcement or peace officer or community corrections officer of this state or any other state where such offender may be located, to arrest the offender and place him or her in total confinement pending disposition of the alleged violation pursuant to RCW 9.94A.633.

(2) A community corrections officer, if he or she has reasonable cause to believe an offender has violated a condition of community custody, may suspend the person's community custody status and arrest or cause the arrest and detention in total confinement of the offender, pending the determination of the secretary as to whether the violation has occurred. The community corrections officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending community custody status.

(3) If an offender has been arrested by the department for a new felony offense while under community custody, the facts and circumstances of the conduct of the offender shall be reported by the community corrections officer to local law enforcement or local prosecution for consideration of new charges. The community corrections officer's report shall serve as notice that the department will hold the offender in total confinement for not more than three days from the time of such notice for the new crime, except if the offender's underlying offense is a felony offense listed in RCW 9.94A.737(5), in which case the department will hold the offender for thirty days from the time of arrest ((~~or~~)), until a prosecuting attorney charges the offender with a crime, or until a prosecuting attorney provides written notice to the department that new charges will not be filed, whichever occurs first. Nothing in this subsection shall be construed as to permit the department to hold an offender past his or her maximum term of total confinement if the offender has not completed the maximum term of total confinement or to permit the department to hold an offender past the offender's term of community custody.

(4) A violation of a condition of community custody shall be deemed a violation of the sentence for purposes of RCW 9.94A.631. The authority granted to community corrections officers under this section shall be in addition to that set forth in RCW 9.94A.631.

NEW SECTION. Sec. 4. A new section is added to chapter 72.09 RCW to read as follows:

(1) The department shall track and collect data and information on violations of community custody conditions and the sanctions imposed for violations under RCW 9.94A.737, which includes, but is not limited to, the following:

(a) The number and types of high level violations and the types of sanctions imposed, including term lengths for confinement sanctions;

(b) The number and types of low level violations and the types of sanctions imposed, including nonconfinement sanctions, confinement sanctions, and term lengths for confinement sanctions;

(c) The circumstances and frequency at which low level violations are elevated to high level violations under RCW 9.94A.737(2)(b);

(d) The number of warrants issued for violations;

(e) The number of violations resulting in confinement under RCW 9.94A.737(5), including the length of the confinement, the number of times new charges are filed, and the number of times the department received written notice that new charges would not be filed;

(f) Trends in the rate of violations, including the rate of all violations, high level violations, and low level violations; and

(g) Trends in the rate of confinement, including frequency of confinement sanctions and average stays.

(2) The department shall submit a report with a summary of the data and information collected under this section, including statewide and regional trends, to the governor and appropriate committees of the legislature by November 1, 2021, and every November 1st of each year thereafter.

NEW SECTION. Sec. 5. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of corrections shall contract with an independent third party to provide a comprehensive review of the community corrections staffing model and develop an updated staffing model for use by the department of corrections. The updated model must include additional time and flexibility for community corrections officers to focus on case management, engagement, and interventions.

(2) The department of corrections shall submit a report, including a summary of the review and update, to the governor and appropriate committees of the legislature by July 1, 2021.

NEW SECTION. Sec. 6. Sections 1 through 3 of this act apply retroactively and prospectively regardless of the date of an offender's underlying crime.

Passed by the House February 13, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 83

[House Bill 2449]

COMMISSIONER COMPENSATION--INFLATION ADJUSTMENTS

AN ACT Relating to water-sewer district commissioner compensation; and amending RCW 35.61.150, 36.57A.050, 53.12.260, 54.12.080, 57.12.010, 68.52.220, 70.44.050, 85.05.410, 85.06.380, 85.08.320, 85.24.080, 85.38.075, 86.09.283, 86.15.055, and 87.03.460.

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

Sec. 1. RCW 35.61.150 and 2019 c 198 s 1 are each amended to read as follows:

(1) Metropolitan park commissioners selected by election according to RCW 35.61.050(2) shall perform their duties and may provide, by resolution passed by the commissioners, for the payment of compensation to each of its commissioners at a rate up to the daily compensation maximum amount provided in subsection (3) of this section for each day or portion of a day spent in actual attendance at official meetings or in performance of other official services or duties on behalf of the district. However, the compensation for each commissioner must not exceed the annual compensation maximum amount provided in subsection (3) of this section per year.

(2) Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the clerk of the board. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

(3)(a) For purposes of the references in subsection (1) of this section, the daily compensation maximum amount is one hundred twenty-eight dollars and the annual compensation maximum amount is twelve thousand two hundred eighty-eight dollars. However, for any metropolitan park district with facilities including an aquarium, a wildlife park, and a zoo, accredited by a nationally recognized accrediting agency, the annual compensation maximum amount is twenty-four thousand five hundred seventy-six dollars.

(b) The dollar thresholds established in this subsection (3) must be adjusted for inflation by the office of financial management every five years, beginning ~~((July 1, 2023))~~ January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

(4) A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more

than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 2. RCW 36.57A.050 and 2018 c 154 s 1 are each amended to read as follows:

Within sixty days of the establishment of the boundaries of the public transportation benefit area the members of the county legislative authority and the elected representative of each city within the area shall provide for the selection of the governing body of such area, the public transportation benefit area authority, which shall consist of elected officials selected by and serving at the pleasure of the governing bodies of component cities within the area and the county legislative authority of each county within the area. The members of the governing body of the public transportation benefit area, if the population of the county in which the public transportation benefit area is located is more than four hundred thousand and the county does not also contain a city with a population of seventy-five thousand or more operating a transit system pursuant to chapter 35.95 RCW, must be selected to assure proportional representation, based on population, of each of the component cities located within the public transportation benefit area and the unincorporated areas of the county located within the public transportation benefit area, to the extent possible within the restrictions placed on the size of the governing body of a public transportation benefit area. If necessary to assure such proportional representation, multiple cities may be represented by a single elected official from one of the cities. A majority of the governing board may not be selected to represent a single component city. If at the time a public transportation benefit area authority assumes the public transportation functions previously provided under the interlocal cooperation act (chapter 39.34 RCW) there are citizen positions on the governing board of the transit system, those positions may be retained as positions on the governing board of the public transportation benefit area authority.

Within such sixty-day period, any city may by resolution of its legislative body withdraw from participation in the public transportation benefit area. The county legislative authority and each city remaining in the public transportation benefit area may disapprove and prevent the establishment of any governing body of a public transportation benefit area if the composition thereof does not meet its approval.

In no case shall the governing body of a single county public transportation benefit area be greater than nine voting members and in the case of a multicounty area, fifteen voting members. Those cities within the public transportation benefit area and excluded from direct membership on the authority are hereby authorized to designate a member of the authority who shall be entitled to represent the interests of such city which is excluded from direct membership on the authority. The legislative body of such city shall notify the authority as to the determination of its authorized representative on the authority.

There is one nonvoting member of the public transportation benefit area authority. The nonvoting member is recommended by the labor organization representing the public transportation employees within the local public transportation system. If the public transportation employees are represented by more than one labor organization, all such labor organizations shall select the

nonvoting member by majority vote. The nonvoting member shall comply with all governing bylaws and policies of the authority. The chair or cochairs of the authority shall exclude the nonvoting member from attending any executive session held for the purpose of discussing negotiations with labor organizations. The chair or cochairs may exclude the nonvoting member from attending any other executive session. The requirement that a nonvoting member be appointed to the governing body of a public transportation benefit area authority does not apply to an authority that has no employees represented by a labor union.

Each member of the authority is eligible to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 and to receive compensation, as set by the authority, in an amount not to exceed forty-four dollars for each day during which the member attends official meetings of the authority or performs prescribed duties approved by the chair of the authority. Except that the authority may, by resolution, increase the payment of per diem compensation to each member from forty-four dollars up to ninety dollars per day or portion of a day for actual attendance at board meetings or for performance of other official services or duties on behalf of the authority. In no event may a member be compensated in any year for more than seventy-five days, except the chair who may be paid compensation for not more than one hundred days: PROVIDED, That compensation shall not be paid to an elected official or employee of federal, state, or local government who is receiving regular full-time compensation from such government for attending meetings and performing prescribed duties of the authority.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning ((July 1, 2008)) January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 3. RCW 53.12.260 and 2011 c 152 s 1 are each amended to read as follows:

(1) Each commissioner of a port district shall receive ninety dollars, as adjusted for inflation by the office of financial management in subsection (4) of this section, per day or portion thereof spent (a) in actual attendance at official

meetings of the port district commission, or (b) in performance of other official services or duties on behalf of the district. The total per diem compensation of a port commissioner shall not exceed eight thousand six hundred forty dollars in a year, as adjusted for inflation by the office of financial management in subsection (4) of this section, or ten thousand eight hundred dollars in any year, as adjusted for inflation by the office of financial management in subsection (4) of this section, for a port district with gross operating income of twenty-five million or more in the preceding calendar year.

(2) Port commissioners shall receive additional compensation as follows: (a) Each commissioner of a port district with gross operating revenues of twenty-five million dollars or more in the preceding calendar year shall receive a salary of five hundred dollars per month, as adjusted for inflation by the office of financial management in subsection (4) of this section; and (b) each commissioner of a port district with gross operating revenues of from one million dollars to less than twenty-five million dollars in the preceding calendar year shall receive a salary of two hundred dollars per month, as adjusted for inflation by the office of financial management in subsection (4) of this section.

(3) In lieu of the compensation specified in this section, a port commission may set compensation to be paid to commissioners.

(4) For any commissioner who has not elected to become a member of public employees retirement system before May 1, 1975, the compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created pursuant to the general laws of this state nor shall attendance at such meetings or other service on behalf of the district constitute service as defined in RCW 41.40.010(37): PROVIDED, That in the case of a port district when commissioners are receiving compensation and contributing to the public employees retirement system, these benefits shall continue in full force and effect notwithstanding the provisions of ((~~RCW 53.12.260~~)) this section and RCW 53.12.265.

The dollar thresholds for salaries and per diem compensation established in this section must be adjusted for inflation by the office of financial management every five years, beginning ((~~July 1, 2008~~)) January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem

compensation if approved by resolution of all boards of the affected commissions.

Sec. 4. RCW 54.12.080 and 2010 c 58 s 1 are each amended to read as follows:

(1) Commissioners of public utility districts shall receive salaries as follows:

(a) Each public utility district commissioner of a district operating utility properties shall receive a salary of one thousand eight hundred dollars per month, as adjusted for inflation by the office of financial management in subsection (6) of this section, during a calendar year if the district received total gross revenue of over fifteen million dollars during the fiscal year ending June 30th before the calendar year.

(b) Each public utility district commissioner of a district operating utility properties shall receive a salary of one thousand three hundred dollars per month, as adjusted for inflation by the office of financial management in subsection (6) of this section, during a calendar year if the district received total gross revenue of from two million dollars to fifteen million dollars during the fiscal year ending June 30th before the calendar year.

(c) Commissioners of other districts shall receive a salary of six hundred dollars per month, as adjusted for inflation by the office of financial management in subsection (6) of this section, for each commissioner.

(2) In addition to salary, all districts shall provide for the payment of per diem compensation to each commissioner at a rate of ninety dollars, as adjusted for inflation by the office of financial management in subsection (6) of this section, for each day or portion thereof spent in actual attendance at official meetings of the district commission or in performance of other official services or duties on behalf of the district, to include meetings of the commission of his or her district or meetings attended by one or more commissioners of two or more districts called to consider business common to them, but such compensation paid during any one year to a commissioner shall not exceed twelve thousand six hundred dollars, as adjusted for inflation by the office of financial management in subsection (6) of this section. Per diem compensation shall not be paid for services of a ministerial or professional nature.

(3) Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the district as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

(4) Each district commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business and meetings, including his or her subsistence and lodging and travel while away from his or her place of residence.

(5) Any district providing group insurance for its employees, covering them, their immediate family, and dependents, may provide insurance for its commissioner with the same coverage.

(6) The dollar thresholds for salaries and per diem compensation established in this section must be adjusted for inflation by the office of financial

management every five years, beginning (~~(July 1, 2008)~~) January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

(7) A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 5. RCW 57.12.010 and 2008 c 31 s 1 are each amended to read as follows:

The governing body of a district shall be a board of commissioners consisting of three members, or five or seven members as provided in RCW 57.12.015. The board shall annually elect one of its members as president and another as secretary.

The board shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings shall be by resolution recorded in a book kept for that purpose which shall be a public record.

Each commissioner shall receive ninety dollars for each day or portion thereof spent in actual attendance at official meetings of the district commission, or in performance of other official services or duties on behalf of the district. However, the compensation for each commissioner shall not exceed eight thousand six hundred forty dollars per year. In addition, the secretary may be paid a reasonable sum for clerical services.

Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during the commissioner's term of office, by a written waiver filed with the district at any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

No commissioner shall be employed full time by the district. A commissioner shall be reimbursed for reasonable expenses actually incurred in connection with district business, including subsistence and lodging while away from the commissioner's place of residence and mileage for use of a privately owned vehicle at the mileage rate authorized in RCW 43.03.060.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning (~~(July 1, 2008)~~) January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar

year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 6. RCW 68.52.220 and 2013 c 167 s 9 are each amended to read as follows:

(1) The affairs of the cemetery district must be managed by a board of cemetery district commissioners composed of three members. The board may provide, by resolution passed by the commissioners, for the payment of compensation to each of its commissioners at a rate of up to ninety dollars for each day or portion of a day spent in actual attendance at official meetings of the district commission, or in performance of other official services or duties on behalf of the district. However, the compensation for each commissioner must not exceed eight thousand six hundred forty dollars per year.

(2) Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the clerk of the board. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver must specify the month or period of months for which it is made. The board must fix the compensation to be paid the secretary and other employees of the district. Cemetery district commissioners and candidates for cemetery district commissioner are exempt from the requirements of chapter 42.17A RCW.

(3) The initial cemetery district commissioners must assume office immediately upon their election and qualification. Staggering of terms of office must be accomplished as follows: (a) The person elected receiving the greatest number of votes is elected to a six-year term of office if the election is held in an odd-numbered year or a five-year term of office if the election is held in an even-numbered year; (b) the person who is elected receiving the next greatest number of votes is elected to a four-year term of office if the election is held in an odd-numbered year or a three-year term of office if the election is held in an even-numbered year; and (c) the other person who is elected is elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year. The initial commissioners must assume office immediately after they are elected and

qualified but their terms of office must be calculated from the first day of January after the election.

(4) Thereafter, commissioners are elected to six-year terms of office. Commissioners must serve until their successors are elected and qualified and assume office as provided in RCW ((29A.20.040)) 29A.60.280.

(5) The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning ((July 1, 2008)) January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items must be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

(6) A person holding office as commissioner for two or more special purpose districts may receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 7. RCW 70.44.050 and 2008 c 31 s 2 are each amended to read as follows:

Each commissioner shall receive ninety dollars for each day or portion thereof spent in actual attendance at official meetings of the district commission, or in performance of other official services or duties on behalf of the district, to include meetings of the commission of his or her own district, or meetings attended by one or more commissioners of two or more districts called to consider business common to them, except that the total compensation paid to such commissioner during any one year shall not exceed eight thousand six hundred forty dollars. The commissioners may not be compensated for services performed of a ministerial or professional nature.

Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the district as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

Any district providing group insurance for its employees, covering them, their immediate family, and dependents, may provide insurance for its commissioners with the same coverage. Each commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business and meetings, including his or her subsistence and lodging and travel while away from his or her place of residence. No resolution shall be adopted without a

majority vote of the whole commission. The commission shall organize by election of its own members of a president and secretary, shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings of the commission shall be by motion or resolution recorded in a book or books kept for such purpose, which shall be public records.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning ~~((July 1, 2008))~~ January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 8. RCW 85.05.410 and 2007 c 469 s 8 are each amended to read as follows:

Members of the board of diking commissioners of any diking district in this state may receive as compensation the sum of up to ninety dollars for actual attendance at official meetings of the district and for each day or part thereof, or in performance of other official services or duties on behalf of the district and shall receive the same compensation as other labor of a like character for all other necessary work or services performed in connection with their duties: PROVIDED, That such compensation shall not exceed eight thousand six hundred forty dollars in one calendar year, except when the commissioners declare an emergency. Allowance of such compensation shall be established and approved at regular meetings of the board, and when a copy of the extracts of minutes of the board meeting relative thereto showing such approval is certified by the secretary of such board and filed with the county auditor, the allowance made shall be paid as are other claims against the district.

Each commissioner is entitled to reimbursement for reasonable expenses actually incurred in connection with such business, including subsistence and lodging, while away from the commissioner's place of residence, and mileage for use of a privately owned vehicle in accordance with chapter 42.24 RCW.

Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the secretary as provided in this section.

The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning ((July 1, 2008)) January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 9. RCW 85.06.380 and 2007 c 469 s 9 are each amended to read as follows:

In performing their duties under the provisions of this title the board and members of the board of drainage commissioners may receive as compensation up to ninety dollars per day or portion thereof spent in actual attendance at official meetings of the district, or in performance of other official services or duties on behalf of the district: PROVIDED, That such compensation shall not exceed eight thousand six hundred forty dollars in one calendar year: PROVIDED FURTHER, That such services and compensation are allowed and approved at a regular meeting of the board. Upon the submission of a copy, certified by the secretary, of the extracts of the relevant minutes of the board showing such approval, to the county auditor, the same shall be paid as other claims against the district are paid. Each commissioner is entitled to reimbursement for reasonable expenses actually incurred in connection with such business, including subsistence and lodging, while away from the commissioner's place of residence and mileage for use of a privately-owned vehicle in accordance with chapter 42.24 RCW.

Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning (~~July 1, 2008~~) January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 10. RCW 85.08.320 and 2007 c 469 s 10 are each amended to read as follows:

The compensation of the superintendent of construction, the board of appraisers hereinafter provided for, and any special engineer, attorney or agent employed by the district in connection with the improvement, the maximum wages to be paid, and the maximum price of materials to be used, shall be fixed by the district board of supervisors. Members of the board of supervisors may receive compensation up to ninety dollars per day or portion thereof spent in actual attendance at official meetings of the district, or in performance of other official services or duties on behalf of the district: PROVIDED, That such compensation shall not exceed eight thousand six hundred forty dollars in one calendar year. Each supervisor shall be entitled to reimbursement for reasonable expenses actually incurred in connection with business, including subsistence and lodging while away from the supervisor's place of residence and mileage for use of a privately owned vehicle in accordance with chapter 42.24 RCW. All costs of construction or maintenance done under the direction of the board of supervisors shall be paid upon vouchers or payrolls verified by two of the said supervisors. All costs of construction and all other expenses, fees and charges on account of such improvement shall be paid by warrants drawn by the county auditor upon the county treasurer upon the proper fund, and shall draw interest at a rate determined by the county legislative authority until paid or called by the county treasurer as warrants of the county are called.

Any supervisor may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the supervisor's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning ~~((July 1, 2008))~~ January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 11. RCW 85.24.080 and 2007 c 469 s 11 are each amended to read as follows:

The members of the board may receive as compensation up to ninety dollars per day or portion thereof spent in actual attendance at official meetings of the district, or in performance of other official services or duties on behalf of the district: PROVIDED, That such compensation shall not exceed eight thousand six hundred forty dollars in one calendar year: PROVIDED FURTHER, That the board may fix a different salary for the secretary thereof in lieu of the per diem. Each commissioner is entitled to reimbursement for reasonable expenses actually incurred in connection with such business, including subsistence and lodging, while away from the commissioner's place of residence, and mileage for use of a privately owned vehicle in accordance with chapter 42.24 RCW. The salary and expenses shall be paid by the treasurer of the fund, upon orders made by the board. Each member of the board must before being paid for expenses, take vouchers therefore from the person or persons to whom the particular amount was paid, and must also make affidavit that the amounts were necessarily incurred and expended in the performance of his or her duties.

Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning ~~((July 1, 2008))~~ January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar

year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 12. RCW 85.38.075 and 2007 c 469 s 15 are each amended to read as follows:

The members of the governing body may each receive up to ninety dollars per day or portion thereof spent in actual attendance at official meetings of the governing body or in performance of other official services or duties on behalf of the district. The governing body shall fix the compensation to be paid to the members, secretary, and all other agents and employees of the district. Compensation for the members shall not exceed eight thousand six hundred forty dollars in one calendar year. A member is entitled to reimbursement for reasonable expenses actually incurred in connection with such business, including subsistence and lodging, while away from the member's place of residence, and mileage for use of a privately owned vehicle in accordance with chapter 42.24 RCW.

Any member may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the member's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning ((July 1, 2008)) January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code

reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 13. RCW 86.09.283 and 2007 c 469 s 12 are each amended to read as follows:

The board of directors may each receive up to ninety dollars per day or portion thereof spent in actual attendance at official meetings of the board, or in performance of other official services or duties on behalf of the board. The board shall fix the compensation to be paid to the directors, secretary, and all other agents and employees of the district. Compensation for the directors shall not exceed eight thousand six hundred forty dollars in one calendar year. A director is entitled to reimbursement for reasonable expenses actually incurred in connection with such business, including subsistence and lodging, while away from the director's place of residence, and mileage for use of a privately owned vehicle in accordance with chapter 42.24 RCW.

Any director may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the director's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning ~~((July 1, 2008))~~ January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 14. RCW 86.15.055 and 2015 c 165 s 1 are each amended to read as follows:

(1) In a zone with supervisors elected pursuant to RCW 86.15.050, the supervisors may, as adjusted in accordance with subsection (4) of this section, each receive up to one hundred fourteen dollars per day or portion of a day spent in actual attendance at official meetings of the governing body or in performance of other official services or duties on behalf of the zone. The compensation for supervisors in office on January 1, 2015, is fixed at one hundred fourteen dollars per day. The board of county commissioners shall fix any such compensation to be paid to the initial supervisors during their initial terms of office. The supervisors shall fix the compensation to be paid to the supervisors thereafter. Compensation for the supervisors shall not exceed ten thousand nine hundred forty-four dollars in one calendar year.

(2) A supervisor is entitled to reimbursement for reasonable expenses actually incurred in connection with performance of the duties of a supervisor, including subsistence and lodging, while away from the supervisor's place of residence, and mileage for use of a privately owned vehicle in accordance with chapter 42.24 RCW.

(3) Any supervisor may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the supervisors as provided in this section. The waiver, to be effective, must be filed any time after the member's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

(4) The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning ~~((July 1, 2018))~~ January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state and including all items, must be used for the adjustments of inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

Sec. 15. RCW 87.03.460 and 2009 c 145 s 2 are each amended to read as follows:

(1) In addition to their reasonable expenses in accordance with chapter 42.24 RCW, the directors shall each receive ninety dollars for each day or portion thereof spent by a director for such actual attendance at official meetings of the district, or in performance of other official services or duties on behalf of the district. The total amount of such additional compensation received by a director may not exceed eight thousand six hundred forty dollars in a calendar year. The board shall fix the compensation of the secretary and all other employees.

(2) Any director may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the director's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

(3) The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning ~~((July 1, 2008))~~ January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

(4) A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Passed by the House March 7, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 84

[House Bill 2474]

SALES COMMISSIONS--EARNING AND PAYMENT

AN ACT Relating to sales commissions; and amending RCW 49.48.150, 49.48.160, and 49.48.010.

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

Sec. 1. RCW 49.48.150 and 2010 c 8 s 12052 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 49.48.160 through 49.48.190.

(1) "Commission" means compensation paid a sales representative by a principal in an amount based on a percentage of the dollar amount of certain orders for or sales of the principal's product. Commission includes bonus payments under an incentive compensation plan or other agreement between a principal and sales representative.

(2) "Principal" means a person, whether or not the person has a permanent or fixed place of business in this state, who:

(a) Manufactures, produces, imports, or distributes a product for sale to customers who purchase the product for resale;

(b) Uses a sales representative to solicit orders for the product; and

(c) Compensates the sales representative in whole or in part by commission.

(3) "Sales representative" means a person who solicits, on behalf of a principal, orders for the purchase at wholesale of the principal's product, but does not include a person who places orders for his or her own account for resale, or purchases for his or her own account for resale, or sells or takes orders for the direct sale of products to the ultimate consumer.

Sec. 2. RCW 49.48.160 and 1992 c 177 s 2 are each amended to read as follows:

(1) A contract between a principal and a sales representative under which the sales representative is to solicit wholesale orders within this state must be in writing and must set forth the method by which the sales representative's commission is to be computed and paid. The principal shall provide the sales representative with a copy of the contract. A provision in the contract establishing venue for an action arising under the contract in a state other than this state, or establishing conditions for payment of a commission contrary to the provisions of this section, is void.

(2) When no written contract has been entered into, any agreement between a sales representative and a principal is deemed to incorporate the provisions of RCW 49.48.150 through 49.48.190.

(3)(a) During the course of the contract, a sales representative shall be paid the earned commission and all other moneys earned or payable in accordance with the agreed terms of the contract, but no later than thirty days after receipt of payment by the principal for products or goods sold on behalf of the principal by the sales representative.

(b) Upon termination of a contract, whether or not the agreement is in writing, all earned commissions due to the sales representative shall be paid within thirty days after receipt of payment by the principal for products or goods sold on behalf of the principal by the sales representative, including earned commissions not due when the contract is terminated.

(c) Where a sales representative's efforts prior to termination of a contract results in a sale, regardless of when the sale occurs, the termination may not affect whether a commission is considered earned.

(4) Failure to pay an earned commission is a wage payment violation under RCW 49.52.050.

Sec. 3. RCW 49.48.010 and 2010 c 8 s 12047 are each amended to read as follows:

When any employee shall cease to work for an employer, whether by discharge or by voluntary withdrawal, the wages due him or her on account of his or her employment shall be paid to him or her at the end of the established pay period: PROVIDED, HOWEVER, That this paragraph shall not apply when workers are engaged in an employment that normally involves working for several employers in the same industry interchangeably, and the several employers or some of them cooperate to establish a plan for the weekly payment

of wages at a central place or places and in accordance with a unified schedule of paydays providing for at least one payday each week; but this subsection shall not apply to any such plan until ten days after notice of their intention to set up such a plan shall have been given to the director of labor and industries by the employers who cooperate to establish the plan; and having once been established, no such plan can be abandoned except after notice of their intention to abandon such plan has been given to the director of labor and industries by the employers intending to abandon the plan: PROVIDED FURTHER, That the duty to pay an employee forthwith shall not apply if the labor-management agreement under which the employee has been employed provides otherwise.

It shall be unlawful for any employer to withhold or divert any portion of an employee's wages unless the deduction is:

- (1) Required by state or federal law; or
- (2) ~~((Specifically))~~ Except as prohibited under RCW 49.48.160, specifically agreed upon orally or in writing by the employee and employer; or
- (3) For medical, surgical, or hospital care or service, pursuant to any rule or regulation: PROVIDED, HOWEVER, That the deduction is openly, clearly, and in due course recorded in the employer's books and records.

Paragraph ~~((three))~~ two of this section shall not be construed to affect the right of any employer or former employer to sue upon or collect any debt owed to said employer or former employer by his or her employees or former employees.

Passed by the House February 16, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 85

[House Bill 2602]

RACE DISCRIMINATION--HAIR

AN ACT Relating to hair discrimination; and amending RCW 49.60.040.

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

Sec. 1. RCW 49.60.040 and 2018 c 176 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) "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur.

(2) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise,

services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution.

(3) "Commission" means the Washington state human rights commission.

(4) "Complainant" means the person who files a complaint in a real estate transaction.

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

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

(7)(a) "Disability" means the presence of a sensory, mental, or physical impairment that:

(i) Is medically cognizable or diagnosable; or

(ii) Exists as a record or history; or

(iii) Is perceived to exist whether or not it exists in fact.

(b) A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.

(c) For purposes of this definition, "impairment" includes, but is not limited to:

(i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including

speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or

(ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(d) Only for the purposes of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:

(i) The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or

(ii) The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

(e) For purposes of (d) of this subsection, a limitation is not substantial if it has only a trivial effect.

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

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

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

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

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

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

(14) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, sexual orientation, national origin, or with any sensory, mental, or physical disability, or

the use of a trained dog guide or service animal by a person with a disability, to be treated as not welcome, accepted, desired, or solicited.

(15) "Honorably discharged veteran or military status" means a person who is:

(a) A veteran, as defined in RCW 41.04.007; or

(b) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

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

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

(18) "National origin" includes "ancestry."

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

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

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

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

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

(24) "Service animal" means any dog or miniature horse, as discussed in RCW 49.60.214, that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by the service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks. This subsection does

not apply to RCW 49.60.222 through 49.60.227 with respect to housing accommodations or real estate transactions.

(25) "Sex" means gender.

(26) "Sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

(27) "Race" is inclusive of traits historically associated or perceived to be associated with race including, but not limited to, hair texture and protective hairstyles. For purposes of this subsection, "protective hairstyles" includes, but is not limited to, such hairstyles as afros, braids, locks, and twists.

Passed by the House February 12, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 86

[Substitute House Bill 2613]

UNEMPLOYMENT BENEFIT CHARGES--DISCHARGE REQUIRED BY LAW

AN ACT Relating to granting relief of unemployment benefit charges when discharge is required by law and removing outdated statutory language; amending RCW 50.12.200, 50.20.190, 50.29.021, 50.50.070, and 50A.05.070; creating a new section; and repealing RCW 50.29.020.

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

Sec. 1. RCW 50.12.200 and 1982 1st ex.s. c 18 s 1 are each amended to read as follows:

(1) The commissioner shall appoint a state advisory council composed of not more than nine men and women, of which three shall be representatives of employers, three shall be representatives of employees, and three shall be representatives of the general public. Such council shall aid the commissioner in formulating policies and discussing problems related to the administration of this title and of assuring impartiality and freedom from political influence in the solution of such problems. The council shall serve without compensation. The commissioner may also appoint committees, and industrial or other special councils, to perform appropriate services. Advisory councilmembers shall be reimbursed for travel expenses incurred in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) Beginning in 2021 and ending in 2030, the commissioner shall annually report to the state advisory council the amount of benefits that were not charged to employers as a direct consequence of RCW 50.29.021(3)(a)(viii).

Sec. 2. RCW 50.20.190 and 2013 c 189 s 4 are each amended to read as follows:

(1) An individual who is paid any amount as benefits under this title to which he or she is not entitled shall, unless otherwise relieved pursuant to this section, be liable for repayment of the amount overpaid. The department shall issue an overpayment assessment setting forth the reasons for and the amount of

the overpayment. The amount assessed, to the extent not collected, may be deducted from any future benefits payable to the individual: PROVIDED, That in the absence of a back pay award, a settlement affecting the allowance of benefits, fraud, misrepresentation, or willful nondisclosure, every determination of liability shall be mailed or personally served not later than two years after the close of or final payment made on the individual's applicable benefit year for which the purported overpayment was made, whichever is later, unless the merits of the claim are subjected to administrative or judicial review in which event the period for serving the determination of liability shall be extended to allow service of the determination of liability during the six-month period following the final decision affecting the claim.

(2) The commissioner may waive an overpayment if the commissioner finds that the overpayment was not the result of fraud, misrepresentation, willful nondisclosure, or fault attributable to the individual and that the recovery thereof would be against equity and good conscience. When determining whether the recovery would be against equity and good conscience, the department must consider whether the employer or employer's agent failed to respond timely and adequately to a written request of the department for information relating to the claim or claims without establishing good cause for the failure pursuant to RCW 50.29.021(~~((6))~~) (5). An overpayment waived under this subsection shall be charged against the individual's applicable entitlement for the eligibility period containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

(3) Any assessment herein provided shall constitute a determination of liability from which an appeal may be had in the same manner and to the same extent as provided for appeals relating to determinations in respect to claims for benefits: PROVIDED, That an appeal from any determination covering overpayment only shall be deemed to be an appeal from the determination which was the basis for establishing the overpayment unless the merits involved in the issue set forth in such determination have already been heard and passed upon by the appeal tribunal. If no such appeal is taken to the appeal tribunal by the individual within thirty days of the delivery of the notice of determination of liability, or within thirty days of the mailing of the notice of determination, whichever is the earlier, the determination of liability shall be deemed conclusive and final. Whenever any such notice of determination of liability becomes conclusive and final, the commissioner, upon giving at least twenty days' notice, using a method by which the mailing can be tracked or the delivery can be confirmed, may file with the superior court clerk of any county within the state a warrant in the amount of the notice of determination of liability plus a filing fee under RCW 36.18.012(10). The clerk of the county where the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the person(s) mentioned in the warrant, the amount of the notice of determination of liability, and the date when the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to, and any interest in, all real and personal property of the person(s) against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. A warrant so docketed shall be sufficient to support the issuance of writs of execution and

writs of garnishment in favor of the state in the manner provided by law for a civil judgment. A copy of the warrant shall be mailed within five days of its filing with the clerk to the person(s) mentioned in the warrant using a method by which the mailing can be tracked or the delivery can be confirmed.

(4) On request of any agency which administers an employment security law of another state, the United States, or a foreign government and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law, the commissioner may collect the amount of such benefits from the claimant to be refunded to the agency. In any case in which under this section a claimant is liable to repay any amount to the agency of another state, the United States, or a foreign government, such amounts may be collected without interest by civil action in the name of the commissioner acting as agent for such agency if the other state, the United States, or the foreign government extends such collection rights to the employment security department of the state of Washington, and provided that the court costs be paid by the governmental agency benefiting from such collection.

(5) Any employer who is a party to a back pay award or settlement due to loss of wages shall, within thirty days of the award or settlement, report to the department the amount of the award or settlement, the name and social security number of the recipient of the award or settlement, and the period for which it is awarded. When an individual has been awarded or receives back pay, for benefit purposes the amount of the back pay shall constitute wages paid in the period for which it was awarded. For contribution purposes, the back pay award or settlement shall constitute wages paid in the period in which it was actually paid. The following requirements shall also apply:

(a) The employer shall reduce the amount of the back pay award or settlement by an amount determined by the department based upon the amount of unemployment benefits received by the recipient of the award or settlement during the period for which the back pay award or settlement was awarded;

(b) The employer shall pay to the unemployment compensation fund, in a manner specified by the commissioner, an amount equal to the amount of such reduction;

(c) The employer shall also pay to the department any taxes due for unemployment insurance purposes on the entire amount of the back pay award or settlement notwithstanding any reduction made pursuant to (a) of this subsection;

(d) If the employer fails to reduce the amount of the back pay award or settlement as required in (a) of this subsection, the department shall issue an overpayment assessment against the recipient of the award or settlement in the amount that the back pay award or settlement should have been reduced; and

(e) If the employer fails to pay to the department an amount equal to the reduction as required in (b) of this subsection, the department shall issue an assessment of liability against the employer which shall be collected pursuant to the procedures for collection of assessments provided herein and in RCW 50.24.110.

(6) When an individual fails to repay an overpayment assessment that is due and fails to arrange for satisfactory repayment terms, the commissioner shall impose an interest penalty of one percent per month of the outstanding balance.

Interest shall accrue immediately on overpayments assessed pursuant to RCW 50.20.070 and shall be imposed when the assessment becomes final. For any other overpayment, interest shall accrue when the individual has missed two or more of the individual's monthly payments either partially or in full.

(7) The department shall: (a) Conduct social security number cross-match audits or engage in other more effective activities that ensure that individuals are entitled to all amounts of benefits that they are paid; and (b) engage in other detection and recovery of overpayment and collection activities.

Sec. 3. RCW 50.29.021 and 2019 c 13 s 65 are each amended to read as follows:

(1) ~~((This section applies to benefits charged to the experience rating accounts of employers for claims that have an effective date on or after January 4, 2004.~~

~~(2))~~(a) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

(b) Benefits paid to an eligible individual shall be charged to the experience rating accounts of each of such individual's employers during the individual's base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year, except as otherwise provided in this section.

(c) When the eligible individual's separating employer is a covered contribution paying base year employer, benefits paid to the eligible individual shall be charged to the experience rating account of only the individual's separating employer if the individual qualifies for benefits under:

(i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and became unemployed after having worked and earned wages in the bona fide work; or

(ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through (x).

~~((3))~~ (2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individual later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer, except as provided in subsection ~~((5))~~ (4) of this section.

(b) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer only if:

(i) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) Benefits paid to an individual who qualifies for benefits under RCW 50.20.050 (1)(b) (iv) or (xi) or (2)(b) (iv) or (xi), as applicable, shall not be charged to the experience rating account of any contribution paying employer.

(f) With respect to claims with an effective date on or after the first Sunday following April 22, 2005, benefits paid that exceed the benefits that would have been paid if the weekly benefit amount for the claim had been determined as one percent of the total wages paid in the individual's base year shall not be charged to the experience rating account of any contribution paying employer. This subsection ~~((3))~~ (2)(f) does not apply to the calculation of contribution rates under RCW 50.29.025 for rate year 2010 and thereafter.

(g) The forty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1201 and the twenty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1202 shall not be charged to the experience rating account of any contribution paying employer.

(h) With respect to claims where the minimum amount payable weekly is increased to one hundred fifty-five dollars pursuant to RCW 50.20.1201(3), benefits paid that exceed the benefits that would have been paid if the minimum amount payable weekly had been calculated pursuant to RCW 50.20.120 shall not be charged to the experience rating account of any contribution paying employer.

(i) Upon approval of an individual's training benefits plan submitted in accordance with RCW 50.22.155(2), an individual is considered enrolled in training, and regular benefits beginning with the week of approval shall not be charged to the experience rating account of any contribution paying employer.

(j) Training benefits paid to an individual under RCW 50.22.155 shall not be charged to the experience rating account of any contribution paying employer.

~~((4))~~ (3)(a) A contribution paying base year employer, except employers as provided in subsection ~~((6))~~ (5) of this section, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

(i) Last left the employ of such employer voluntarily for reasons not attributable to the employer;

(ii) Was discharged for misconduct or gross misconduct connected with his or her work not a result of inability to meet the minimum job requirements;

(iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster;

(iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base

year employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW;

(v) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who qualified for two consecutive unemployment claims where wages were attributable to at least one employer who employed the individual in both base years. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW;

(vi) Was hired to replace an employee who is a member of the military reserves or National Guard and was called to federal active military service by the president of the United States and is subsequently laid off when that employee is reemployed by their employer upon release from active duty within the time provided for reemployment in RCW 73.16.035; ~~((€))~~

(vii) Worked for an employer for twenty weeks or less, and was laid off at the end of temporary employment when that employee temporarily replaced a permanent employee receiving family or medical leave benefits under Title 50A RCW, and the layoff is due to the return of that permanent employee. This subsection ~~((4))~~ ~~(3)~~(a)(vii) applies to claims with an effective date on or after January 1, 2020; or

(viii) Was discharged because the individual was unable to satisfy a job prerequisite required by law or administrative rule.

(b) The employer requesting relief of charges under this subsection must request relief in writing within thirty days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

~~((5))~~ (4) When a benefit claim becomes invalid due to an amendment or adjustment of a report where the employer failed to report or inaccurately reported hours worked or remuneration paid, or both, all benefits paid will be charged to the experience rating account of the contribution paying employer or employers that originally filed the incomplete or inaccurate report or reports. An employer who reimburses the trust fund for benefits paid to workers and who fails to report or inaccurately reported hours worked or remuneration paid, or both, shall reimburse the trust fund for all benefits paid that are based on the originally filed incomplete or inaccurate report or reports.

~~((6))~~ (5) An employer's experience rating account may not be relieved of charges for a benefit payment and an employer who reimburses the trust fund for benefit payments may not be credited for a benefit payment if a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to the claim or claims without establishing good cause for the failure and the employer or employer's agent has a pattern of such failures. The commissioner has the authority to determine whether the employer has good cause under this subsection.

(a) For the purposes of this subsection, "adequately" means providing accurate information of sufficient quantity and quality that would allow a reasonable person to determine eligibility for benefits.

(b)(i) For the purposes of this subsection, "pattern" means a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to a claim or claims without establishing good cause for the failure, if the greater of the following calculations for an employer is met:

(A) At least three times in the previous two years; or

(B) Twenty percent of the total current claims against the employer.

(ii) If an employer's agent is utilized, a pattern is established based on each individual client employer that the employer's agent represents.

Sec. 4. RCW 50.50.070 and 2001 1st sp.s. c 11 s 9 are each amended to read as follows:

Unless specifically addressed in this chapter, Indian tribes or their tribal units are subject to the same terms and conditions as are other employers subject to contributions under (~~RCW 50.29.020~~) 50.29.021 or other units of government under RCW 50.44.030 that make payments in lieu of contributions.

Sec. 5. RCW 50A.05.070 and 2019 c 13 s 34 are each amended to read as follows:

(1) The family and medical leave insurance account is created in the custody of the state treasurer. All receipts from premiums imposed under this title must be deposited in the account. Expenditures from the account may be used only for the purposes of the family and medical leave program. Only the commissioner or the commissioner's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW. An appropriation is required for administrative expenses, but not for benefit payments.

(2) Money deposited in the account shall remain a part of the account until expended pursuant to the requirements of this title or transferred in accordance with subsection (3) of this section. The commissioner shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriations act or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the family and medical leave insurance account.

(3) Money shall be transferred from the family and medical leave insurance account and deposited in the unemployment trust fund solely for the repayment of benefits not charged to employers as defined in RCW 50.29.021(~~(4)~~) (3)(a)(vii). The commissioner shall direct the transfer, which must occur on or before the cut-off date as defined in RCW 50.29.010.

(4) Money transferred as provided in subsection (3) of this section for the repayment of benefits not charged to employers shall be deposited in the unemployment compensation fund and shall remain a part of the unemployment compensation fund until expended pursuant to RCW 50.16.030. The commissioner shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. Any money so deposited which

either will not be obligated within the period specified by the appropriation law or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the account of this state in the unemployment trust fund.

NEW SECTION. Sec. 6. RCW 50.29.020 (Experience rating accounts—Benefits not charged—Claims with an effective date before January 4, 2004) and 2004 c 110 s 3 & 2003 2nd sp.s. c 4 s 20 are each repealed.

NEW SECTION. Sec. 7. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

Passed by the House February 16, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 87

[Substitute House Bill 2673]

INFILL DEVELOPMENT EXEMPTIONS--STATE ENVIRONMENTAL POLICY ACT

AN ACT Relating to exemptions for infill development under the state environmental policy act; and amending RCW 43.21C.229.

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

Sec. 1. RCW 43.21C.229 and 2012 1st sp.s. c 1 s 304 are each amended to read as follows:

(1) In order to accommodate infill development and thereby realize the goals and policies of comprehensive plans adopted according to chapter 36.70A RCW, a city or county planning under RCW 36.70A.040 is authorized by this section to establish categorical exemptions from the requirements of this chapter. An exemption adopted under this section applies even if it differs from the categorical exemptions adopted by rule of the department under RCW 43.21C.110(1)(a). An exemption may be adopted by a city or county under this section if it meets the following criteria:

(a) It categorically exempts government action related to development proposed to fill in an urban growth area, designated according to RCW 36.70A.110, where current density and intensity of use in the area is roughly equal to or lower than called for in the goals and policies of the applicable comprehensive plan and the development is either:

(i) Residential development;

(ii) Mixed-use development; or

(iii) Commercial development up to sixty-five thousand square feet, excluding retail development;

(b) It does not exempt government action related to development that is inconsistent with the applicable comprehensive plan or would clearly exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan;

(c) The local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, planned action ordinance, or other local, state, or federal rules or laws; and

(d)(i) The city or county's applicable comprehensive plan was previously subjected to environmental analysis through an environmental impact statement under the requirements of this chapter prior to adoption; or

(ii) The city or county has prepared an environmental impact statement that considers the proposed use or density and intensity of use in the area proposed for an exemption under this section.

(2) Any categorical exemption adopted by a city or county under this section shall be subject to the rules of the department adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by the department.

Passed by the House February 17, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 88

[House Bill 2701]

FIRE AND SMOKE CONTROL SYSTEMS--INSPECTION AND TESTING

AN ACT Relating to inspection and testing of fire and smoke control systems and dampers; amending RCW 43.43.944; adding new sections to chapter 19.27 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. The definitions in this section apply throughout sections 2 through 5 of this act.

(1) "Combination fire and smoke damper" has the same meaning as provided in the International Fire Code as of January 1, 2020.

(2) "Fire damper" means a device installed in ducts and air transfer openings designed to close automatically upon detection of heat and resist the passage of flame.

(3) "Hospital" has the same meaning as provided in RCW 70.41.020.

(4) "Local authority" means a fire department or code official with the authority to conduct inspections and issue infractions in a jurisdiction.

(5) "Smoke control system" means an engineered system that includes all methods that can be used singly or in combination to modify smoke movement, including engineered systems that use mechanical fans to produce pressure differences across smoke barriers to inhibit smoke movement.

(6) "Smoke damper" means a device installed in ducts and air transfer openings designed to resist the passage of smoke.

NEW SECTION. Sec. 2. (1) At a minimum, owners of buildings equipped with fire dampers, smoke dampers, combination fire and smoke dampers, or smoke control systems must:

(a) Have all newly installed fire dampers, smoke dampers, combination fire and smoke dampers, and smoke control systems tested and inspected within twelve months of installation;

(b) Have all fire dampers, smoke dampers, and combination fire and smoke dampers tested and inspected at least once every four years, or every six years for hospitals, regardless of the date of initial installation; and

(c) Have all smoke control systems tested and inspected at least once every six to twelve months, as required by the applicable national fire protection association standard.

(2) All owners of buildings subject to this act must maintain full inspection and testing reports on the property and make such reports available for inspection upon request by the local authority.

(3) Fire dampers, smoke dampers, combination fire and smoke dampers, and smoke control systems must be installed, inspected, tested, and maintained in accordance with this act, manufacturers' guidelines, and the applicable industry standards.

(4) A building owner who fails to comply with the requirements of this section may be issued a civil infraction by the local authority in accordance with section 5 of this act.

NEW SECTION. Sec. 3. (1) Inspections and tests under this section must be performed by a contractor or engineer with the following qualifications:

(a) For inspection and testing of fire dampers, smoke dampers, and combination fire and smoke dampers, such inspector must have a current and valid certification to inspect and test fire dampers, smoke dampers, and combination fire and smoke dampers and hold certification from the international certification board as a fire life safety 1 or fire and smoke damper technician through a program accredited by the American national standards institute under the ISO/IEC 17024 standard.

(b) For inspection and testing of smoke control systems, such inspector must have a current and valid certification from the international certification board as a fire life safety 2 or smoke control system technician through a program accredited by the American national standards institute under the ISO/IEC 17024 standard.

(2) A building engineer or other person knowledgeable with the building system must be available in person or by phone to the inspector during the inspection and testing in order to provide building and systems access and information.

(3) If an inspection reveals compliance with the requirements of this section, the inspector shall issue a certificate of compliance, which includes the name of the inspector and the inspector's employer; the name of the building owner and address of the property; the location of all smoke dampers, fire dampers, combination fire and smoke dampers, and smoke control systems inspected or tested; and the date of the inspection or test.

(4) In the event an inspection or test reveals deficiencies in smoke dampers, fire dampers, combination fire and smoke dampers, or smoke control systems, the inspector shall prepare a deficiency report for the building owner identifying the nature of the deficiency and the reasons for noncompliance. The building owner shall, within one hundred twenty days of the date of the inspection, take necessary steps to ensure the defective equipment is replaced or repaired and reinspected to ensure that the deficiency is corrected and is in compliance with the requirements of all applicable standards pursuant to this act. The authority having jurisdiction shall have the authorization to extend the compliance period. The building owner shall provide documentation of when and how the deficiencies were corrected. If the building owner does not correct the deficiency within one hundred twenty days of the date of the inspection, the local authority may issue a citation as described in section 5 of this act.

(5) In addition to identifying the location and nature of a deficiency, the report shall contain the name of the inspector and the inspector's employer; the name of the building owner; address of the property; the location of all fire dampers, smoke dampers, combination fire and smoke dampers, and smoke control systems inspected or tested; and the date of the inspection or test.

(6) Tests and inspections of fire dampers, smoke dampers, combination fire and smoke dampers, and smoke control systems shall be conducted in accordance with the technical specifications and required time periods specified by national fire protection association standards 80, 90a, 90b, 92, and 105, as applicable.

NEW SECTION. Sec. 4. The state building code council shall work in conjunction with the director of fire protection to coordinate the implementation and enforcement of sections 2 and 3 of this act.

NEW SECTION. Sec. 5. (1) If a building owner has not complied with the testing schedule under section 2 of this act, or has not received a certificate of compliance within one hundred twenty days of an inspection under section 4 of this act that revealed a deficiency, then the building owner has committed a violation and may be issued a citation by the local authority. A violation of this section is a civil infraction, subject to all applicable local fees and other remedies for noncompliance. The monetary penalties in subsection (3) of this section apply when other penalties are not required by the local authority having jurisdiction.

(2) The authority having jurisdiction may require the building owner to conspicuously post the citation at all pedestrian entrances and exits until a certificate of compliance has been issued pursuant to section 3 of this act or the citation has been dismissed.

(3) After the issuance of an initial citation, additional citations may be issued if the violations are not corrected:

(a) If the violations are not corrected within one hundred twenty days of the initial citation, a second citation may be issued with a monetary penalty of five cents per square foot of occupied space;

(b) If the violations are not corrected within two hundred forty days of the initial citation, a third citation may be issued with an additional monetary penalty of ten cents per square foot of occupied space and shall require mandatory in-person attendance by the building's head facilities manager at a

four-hour fire life safety course given by the international certification board or equivalent provider of fire life safety programs accredited by the American national standards institute; and

(c) After the issuance of a citation pursuant to (b) of this subsection, additional citations may be issued every sixty days until any and all prior violations are resolved and all penalties imposed are satisfied. Each citation issued under this subsection (3)(c) shall assess a penalty of ten cents per square foot of occupied space.

(4) Revenue from the penalties in subsection (2) of this section shall be forwarded to the state treasurer for deposit in the fire service training account under RCW 43.43.944.

Sec. 6. RCW 43.43.944 and 2012 c 173 s 1 are each amended to read as follows:

(1) The fire service training account is hereby established in the state treasury. The primary purpose of the account is firefighter training for both volunteer and career firefighters. The fund shall consist of:

(a) All fees received by the Washington state patrol for fire service training;

(b) All grants and bequests accepted by the Washington state patrol under RCW 43.43.940;

(c) Twenty percent of all moneys received by the state on fire insurance premiums; ~~((and))~~

(d) Revenue from penalties established under section 5 of this act; and

(e) General fund—state moneys appropriated into the account by the legislature.

(2) Moneys in the account may be appropriated for: (a) Fire service training; (b) school fire prevention activities within the Washington state patrol; and (c) the maintenance, operations, and capital projects of the state fire training academy. However, expenditures for purposes of (b) and (c) of this subsection may only be made to the extent that these expenditures do not adversely affect expenditures for the purpose of (a) of this subsection. The state patrol may use amounts appropriated from the fire service training account under this section to contract with the Washington state firefighters apprenticeship trust for the operation of the firefighter joint apprenticeship training program. The contract may call for payments on a monthly basis.

(3) Any general fund—state moneys appropriated into the account shall be allocated solely to the firefighter joint apprenticeship training program. The Washington state patrol may contract with outside entities for the administration and delivery of the firefighter joint apprenticeship training program.

NEW SECTION. Sec. 7. Sections 1 through 5 of this act are each added to chapter 19.27 RCW and codified with the subchapter heading of "fire and smoke control systems testing."

NEW SECTION. Sec. 8. This act takes effect July 1, 2021.

Passed by the House March 7, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 89

[House Bill 2763]

INTEREST ARBITRATION--DEPARTMENT OF CORRECTIONS--MARINE DEPARTMENT
EMPLOYEES

AN ACT Relating to interest arbitration for department of corrections employees; and amending RCW 41.80.200.

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

Sec. 1. RCW 41.80.200 and 2019 c 233 s 1 are each amended to read as follows:

(1) In order to maintain dedicated and uninterrupted services to the supervision of criminal offenders that are in state correctional facilities and on community supervision, it is the legislature's intent to grant certain employees of the department of corrections interest arbitration rights as an alternative means of settling disputes.

(2) This section applies only to employees covered by chapter 41.06 RCW working for the department of corrections, except confidential employees as defined in RCW 41.80.005, members of the Washington management service, and internal auditors~~((and nonsupervisory marine department employees))~~.

(3) Negotiations between the employer and the exclusive bargaining representative of a unit of employees shall be commenced at least five months before submission of the budget to the legislature. If no agreement has been reached sixty days after the commencement of such negotiations then, at any time thereafter, either party may declare that an impasse exists and may submit the dispute to the commission for mediation, with or without the concurrence of the other party. The commission shall appoint a mediator, who shall promptly meet with the representatives of the parties, either jointly or separately, and shall take such other steps as he or she may deem appropriate in order to persuade the parties to resolve their differences and effect an agreement. A mediator, however, does not have a power of compulsion. The mediator may consider only matters that are subject to bargaining under this chapter.

(4) If an agreement is not reached following a reasonable period of negotiations and mediation, and the director, upon recommendation of the assigned mediator, finds that the parties remain at impasse, then an arbitrator must be appointed to resolve the dispute. The issues for determination by the arbitrator must be limited to the issues certified by the executive director.

(5) Within ten working days after the first Monday in September of every odd-numbered year, the governor or the governor's designee and the bargaining representatives for any bargaining units covered by this section shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. The parties will select an arbitrator by mutual agreement or by alternatively striking names from a regional list of seven qualified arbitrators provided by the federal mediation and conciliation service.

(a) The fees and expenses of the arbitrator, the court reporter, if any, and the cost of the hearing room, if any, will be shared equally between the parties. Each party is responsible for the costs of its attorneys, representatives and witnesses, and all other costs related to the development and presentation of their case.

(b) Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for a potential hearing between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates, absent an agreement to the contrary.

(c) The parties shall execute a written agreement before December 15th of the odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration.

(d)(i) The arbitrator must hold a hearing and provide reasonable notice of the hearing to the parties to the dispute. The hearing must be informal and each party has the opportunity to present evidence and make arguments. The arbitrator may not present the case for a party to the proceedings.

(ii) The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the arbitrator may be received in evidence. A recording of the proceedings must be taken.

(iii) The arbitrator may administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents deemed by the arbitrator to be material to a just determination of the issues in dispute. If a person refuses to obey a subpoena issued by the arbitrator, or refuses to be sworn or to make an affirmation to testify, or a witness, party, or attorney for a party is guilty of contempt while in attendance at a hearing, the arbitrator may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court may issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof.

(6) The arbitrator may consider only matters that are subject to bargaining under RCW 41.80.020(1), and may not consider those subjects listed under RCW 41.80.020 (2) and (3) and 41.80.040.

(a) In making its determination, the arbitrator shall take into consideration the following factors:

(i) The financial ability of the department of corrections to pay for the compensation and benefit provisions of a collective bargaining agreement;

(ii) The constitutional and statutory authority of the employer;

(iii) Stipulations of the parties;

(iv) Comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like state government employers of similar size in the western United States;

(v) The ability of the department of corrections to retain employees;

(vi) The overall compensation presently received by department of corrections employees, including direct wage compensation, vacations, holidays, and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received;

(vii) Changes in any of the factors listed in this subsection during the pendency of the proceedings; and

(viii) Such other factors which are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under RCW 41.80.020(1).

(b) The decision of an arbitrator under this section is subject to RCW 41.80.010(3).

(7) During the pendency of the proceedings before the arbitrator, existing wages, hours, and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his or her rights or position under chapter 41.56 RCW.

(8)(a) If the representative of either or both the employees and the state refuses to submit to the procedures set forth in subsections (3), (4), and (5) of this section, the parties, or the commission on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and the court may issue an appropriate order. A failure to obey the order may be punished by the court as a contempt thereof.

(b) A decision of the arbitrator is final and binding on the parties, and may be enforced at the instance of either party, the arbitrator, or the commission in the superior court for the county where the dispute arose. However, the decision of the arbitrator is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to the compensation and fringe benefit provision of an interest arbitration award, the provisions are not binding on the state or department of corrections.

(9) Subject to the provisions of this section, the parties shall follow the commission's procedures for interest arbitration.

Passed by the House February 16, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 90

[Substitute House Bill 2787]

EARLY SUPPORT FOR INFANTS AND TODDLERS PROGRAM--TRANSFER

AN ACT Relating to completing the transfer of the early support for infants and toddlers program from the office of the superintendent of public instruction to the department of children, youth, and families; amending RCW 28A.155.065, 28A.150.390, 43.216.020, 43.216.576, 28A.225.225, 28A.225.270, and 43.216.015; adding a new section to chapter 43.216 RCW; creating a new section; recodifying RCW 28A.155.065; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 28A.155.065 and 2017 3rd sp.s. c 6 s 216 are each amended to read as follows:

(1) ~~((Each school district shall provide or contract for))~~ The department is the state lead agency for Part C of the federal individuals with disabilities education act. The department shall administer the early support for infants and toddlers program, to provide early intervention services to all eligible children with disabilities from birth to three years of age. Eligibility shall be determined according to Part C of the federal individuals with disabilities education act or other applicable federal and state laws, and as specified in the Washington Administrative Code adopted by the ~~((state lead agency, which is the))~~ department ~~((of children, youth, and families. School districts shall provide or contract, or both, for early intervention services in partnership with local birth-~~

~~to three lead agencies and birth to three providers)). Services provided under this section shall not supplant services or funding currently provided in the state for early intervention services to eligible children with disabilities from birth to three years of age. ((The state designated birth to three lead agency shall be))~~

(2)(a) Funding for the early support for infants and toddlers program shall be appropriated to the department based on the annual average headcount of children ages birth to three who are eligible for and receiving early intervention services, multiplied by the total statewide allocation generated by the distribution formula under RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation under RCW 28A.150.415, per the statewide full-time equivalent enrollment in common schools, multiplied by 1.15.

(b) The department shall distribute funds to early intervention services providers, and, when appropriate, to county lead agencies.

(c) For the purposes of this subsection (2), a child is receiving early intervention services if the child has received services within a month prior to the monthly count day.

(3) Federal funds associated with Part C of the federal individuals with disabilities education act shall be subject to payor of last resort requirements pursuant to 34 C.F.R. Sec. 303.510 (2020) for birth-to-three early intervention services provided under this section.

~~((2)(a) By October 1, 2016, the office of the superintendent of public instruction shall provide the department of early learning, in its role as state lead agency, with a full accounting of the school district expenditures from the 2013-14 and 2014-15 school years, disaggregated by district, for birth to three early intervention services provided under this section.~~

~~(b) The reported expenditures must include, but are not limited to per student allocations, per student expenditures, the number of children served, detailed information on services provided by school districts and contracted for by school districts, coordination and transition services, and administrative costs.~~

~~(3))~~ (4) The services in this section are not part of the state's program of basic education pursuant to Article IX of the state Constitution.

NEW SECTION. Sec. 2. RCW 28A.155.065 is recodified as a section in chapter 43.216 RCW.

Sec. 3. RCW 28A.150.390 and 2019 c 387 s 4 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 (4)(a), (5), (6), and (8) and 28A.150.415.

(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))~~ three and four and those five year olds not yet enrolled in kindergarten

who are eligible for and receiving special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15;

(b)(i) Subject to the limitation in (b)(ii) of this subsection (2), a district's annual average enrollment of resident students who are eligible for and receiving special education, excluding students ages ~~((birth through))~~ three and four and those five year olds not yet enrolled in kindergarten, multiplied by the district's base allocation per full-time equivalent student, multiplied by the special education cost multiplier rate of:

(A) In the 2019-20 school year, 0.995 for students eligible for and receiving special education.

(B) Beginning in the 2020-21 school year, either:

(I) 1.0075 for students eligible for and receiving special education and reported to be in the general education setting for eighty percent or more of the school day; or

(II) 0.995 for students eligible for and receiving special education and reported to be in the general education setting for less than eighty percent of the school day.

(ii) If the enrollment percent exceeds thirteen and five-tenths percent, the excess cost allocation calculated under (b)(i) of this subsection must be adjusted by multiplying the allocation by thirteen and five-tenths percent divided by the enrollment percent.

(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 (4)(a), (5), (6), and (8) and the allocation under RCW 28A.150.415, 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 annual average enrollment of students who are eligible for and receiving special education, excluding students ages ~~((birth through))~~ three and four and those five year olds not yet enrolled in kindergarten and students enrolled in institutional education programs, as a percent of the district's annual average full-time equivalent basic education enrollment.

Sec. 4. RCW 43.216.020 and 2017 3rd sp.s. c 6 s 202 are each amended to read as follows:

(1) The department shall implement state early learning policy and 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 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 such care;

(f) To apply data already collected comparing the following factors and make biennial recommendations to the legislature regarding working connections subsidy and state-funded preschool rates and compensation models that would attract and retain high quality early learning professionals:

(i) State-funded early learning subsidy rates and market rates of licensed early learning homes and centers;

(ii) Compensation of early learning educators in licensed centers and homes and early learning teachers at state higher education institutions;

(iii) State-funded preschool program compensation rates and Washington state head start program compensation rates; and

(iv) State-funded preschool program compensation to compensation in similar comprehensive programs in other states;

(g) To administer the early support for infants and toddlers program in RCW 28A.155.065 (as recodified by this act), serve as the state lead agency for Part C of the federal individuals with disabilities education act (IDEA), and ~~((t))~~ develop and adopt rules that establish minimum requirements for the services offered through Part C programs, including allowable allocations and expenditures for transition into Part B of the federal individuals with disabilities education act (IDEA);

(h) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(i) 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;

(j) To work cooperatively and in coordination with the early learning council;

(k) 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;

(l) To develop and adopt rules for administration of the program of early learning established in RCW 43.216.555;

(m) 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; and

(n) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information and provider comments through the internet and other means.

(2) When additional funds are appropriated for the specific purpose of home visiting and parent and caregiver support, the department must reserve at least eighty percent for home visiting services to be deposited into the home visiting services account and up to twenty percent of the new funds for other parent or caregiver support.

(3) Home visiting services must include programs that serve families involved in the child welfare system.

(4) 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.

Sec. 5. RCW 43.216.576 and 1992 c 198 s 16 are each amended to read as follows:

~~((State agencies providing or paying for early intervention services))~~ The department shall enter into formal interagency agreements, where appropriate, with ~~((each other and where appropriate, with))~~ school districts, counties, and other providers, to define their relationships and financial and service responsibilities. Local agencies or entities, including local school districts, counties, and service providers receiving public money for providing or paying for early intervention services shall enter into formal interagency agreements with each other that define their relationships and financial responsibilities to provide services within each county. In establishing priorities, school districts, counties, and other service providers shall give due regard to the needs of children birth to three years of age and shall ensure that they continue to participate in providing services and collaborate with each other. The interagency agreements shall include procedures for resolving disputes, provisions for establishing maintenance requirements, and all additional components necessary to ensure collaboration and coordination.

Sec. 6. RCW 28A.225.225 and 2013 2nd sp.s. c 18 s 511 are each amended to read as follows:

(1) Except for students who reside out-of-state and students under RCW 28A.225.217, a district shall accept applications from nonresident students who are the children of full-time certificated and classified school employees, and those children shall be permitted to enroll:

(a) At the school to which the employee is assigned;

(b) At a school forming the district's K through 12 continuum which includes the school to which the employee is assigned; or

(c) At a school in the district that provides early intervention services pursuant to RCW 28A.155.065 (as recodified by this act) or preschool services pursuant to RCW 28A.155.070, if the student is eligible for such services.

(2) A district may reject applications under this section if:

(a) The student's disciplinary records indicate a history of convictions for offenses or crimes, violent or disruptive behavior, or gang membership;

(b) The student has been expelled or suspended from a public school for more than ten consecutive days. Any policy allowing for readmission of expelled or suspended students under this subsection (2)(b) must apply uniformly to both resident and nonresident applicants;

(c) Enrollment of a child under this section would displace a child who is a resident of the district, except that if a child is admitted under subsection (1) of this section, that child shall be permitted to remain enrolled at that school, or in that district's kindergarten through twelfth grade continuum, until he or she has completed his or her schooling; or

(d) The student has repeatedly failed to comply with requirements for participation in an online school program, such as participating in weekly direct contact with the teacher or monthly progress evaluations.

(3) A nonhigh district that is participating in an innovation academy cooperative may not accept an application from a high school student that conflicts with RCW 28A.340.080.

(4) Except as provided in subsection (1) of this section, all districts accepting applications from nonresident students or from students receiving home-based instruction for admission to the district's schools shall consider equally all applications received. Each school district shall adopt a policy establishing rational, fair, and equitable standards for acceptance and rejection of applications by June 30, 1990. The policy may include rejection of a nonresident student if:

(a) Acceptance of a nonresident student would result in the district experiencing a financial hardship;

(b) The student's disciplinary records indicate a history of convictions for offenses or crimes, violent or disruptive behavior, or gang membership;

(c) Accepting of the nonresident student would conflict with RCW 28A.340.080; or

(d) The student has been expelled or suspended from a public school for more than ten consecutive days. Any policy allowing for readmission of expelled or suspended students under this subsection (4)(d) must apply uniformly to both resident and nonresident applicants.

For purposes of subsections (2)(a) and (4)(b) of this section, "gang" means a group which: (i) Consists of three or more persons; (ii) has identifiable leadership; and (iii) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(5) The district shall provide to applicants written notification of the approval or denial of the application in a timely manner. If the application is rejected, the notification shall include the reason or reasons for denial and the right to appeal under RCW 28A.225.230(3).

Sec. 7. RCW 28A.225.270 and 2008 c 192 s 2 are each amended to read as follows:

(1) Each school district in the state shall adopt and implement a policy allowing intradistrict enrollment options no later than June 30, 1990. Each district shall establish its own policy establishing standards on how the intradistrict enrollment options will be implemented.

(2) A district shall permit the children of full-time certificated and classified school employees to enroll at:

(a) The school to which the employee is assigned;

(b) A school forming the district's K through 12 continuum which includes the school to which the employee is assigned; or

(c) A school in the district that provides early intervention services pursuant to RCW 28A.155.065 (as recodified by this act) or preschool services pursuant to RCW 28A.155.070, if the student is eligible for such services.

(3) For the purposes of this section, "full-time employees" means employees who are employed for the full number of hours and days for their job description.

NEW SECTION. Sec. 8. Between September 1, 2020, and September 1, 2021, contracts for the provision of early intervention services are exempt from the requirements for performance-based contracts in RCW 43.216.015.

Sec. 9. RCW 43.216.015 and 2019 c 429 s 1 are each amended to read as follows:

(1)(a) The department of children, youth, and families is created as an executive branch agency. The department is vested with all powers and duties transferred to it under chapter 6, Laws of 2017 3rd sp. sess. and such other powers and duties as may be authorized by law. The vision for the department is that Washington state's children and youth grow up safe and healthy—thriving physically, emotionally, and academically, nurtured by family and community.

(b) The department, in partnership with state and local agencies, tribes, and communities, shall protect children and youth from harm and promote healthy development with effective, high quality prevention, intervention, and early education services delivered in an equitable manner. An important role for the department shall be to provide preventative services to help secure and preserve families in crisis. The department shall partner with the federally recognized Indian tribes to develop effective services for youth and families while respecting the sovereignty of those tribes and the government-to-government relationship. Nothing in chapter 6, Laws of 2017 3rd sp. sess. alters the duties, requirements, and policies of the federal Indian child welfare act, 25 U.S.C. Secs. 1901 through 1963, as amended, or the Indian child welfare act, chapter 13.38 RCW.

(2) Beginning July 1, 2018, the department must develop definitions for, work plans to address, and metrics to measure the outcomes for children, youth, and families served by the department and must work with state agencies to ensure services for children, youth, and families are science-based, outcome-driven, data-informed, and collaborative.

(3)(a) Beginning July 1, 2018, the department must establish short and long-term population level outcome measure goals, including metrics regarding reducing disparities by family income, race, and ethnicity in each outcome.

(b) The department must report to the legislature on outcome measures, actions taken, progress toward these goals, and plans for the future year, no less than annually, beginning December 1, 2018.

(c) The outcome measures must include, but are not limited to:

(i) Improving child development and school readiness through voluntary, high quality early learning opportunities as measured by: (A) Increasing the number and proportion of children kindergarten-ready as measured by the Washington kindergarten inventory of developing skills (WAKids) assessment including mathematics; (B) increasing the proportion of children in early learning programs that have achieved the level 3 or higher early achievers

quality standard; and (C) increasing the available supply of licensed child care in both child care centers and family homes, including providers not receiving state subsidy;

(ii) Preventing child abuse and neglect;

(iii) Improving child and youth safety, permanency, and well-being as measured by: (A) Reducing the number of children entering out-of-home care; (B) reducing a child's length of stay in out-of-home care; (C) reducing maltreatment of youth while in out-of-home care; (D) licensing more foster homes than there are children in foster care; (E) reducing the number of children that reenter out-of-home care within twelve months; (F) increasing the stability of placements for children in out-of-home care; and (G) developing strategies to demonstrate to foster families that their service and involvement is highly valued by the department, as demonstrated by the development of strategies to consult with foster families regarding future placement of a foster child currently placed with a foster family;

(iv) Improving reconciliation of children and youth with their families as measured by: (A) Increasing family reunification; and (B) increasing the number of youth who are reunified with their family of origin;

(v) In collaboration with county juvenile justice programs, improving adolescent outcomes including reducing multisystem involvement and homelessness; and increasing school graduation rates and successful transitions to adulthood for youth involved in the child welfare and juvenile justice systems;

(vi) Reducing future demand for mental health and substance use disorder treatment for youth involved in the child welfare and juvenile justice systems;

(vii) In collaboration with county juvenile justice programs, reducing criminal justice involvement and recidivism as measured by: (A) An increase in the number of youth who successfully complete the terms of diversion or alternative sentencing options; (B) a decrease in the number of youth who commit subsequent crimes; and (C) eliminating the discharge of youth from institutional settings into homelessness; and

(viii) Reducing racial and ethnic disproportionality and disparities in system involvement and across child and youth outcomes in collaboration with other state agencies.

(4) Beginning July 1, 2018, the department must:

(a) Lead ongoing collaborative work to minimize or eliminate systemic barriers to effective, integrated services in collaboration with state agencies serving children, youth, and families;

(b) Identify necessary improvements and updates to statutes relevant to their responsibilities and proposing legislative changes to the governor no less than biennially;

(c) Help create a data-focused environment in which there are aligned outcomes and shared accountability for achieving those outcomes, with shared, real-time data that is accessible to authorized persons interacting with the family, child, or youth to identify what is needed and which services would be effective;

(d) Lead the provision of state services to adolescents, focusing on key transition points for youth, including exiting foster care and institutions, and coordinating with the office of homeless youth prevention and protection programs to address the unique needs of homeless youth; and

(e) Create and annually update a list of the rights and responsibilities of foster parents in partnership with foster parent representatives. The list of foster parent rights and responsibilities must be posted on the department's web site, provided to individuals participating in a foster parent orientation before licensure, provided to foster parents in writing at the time of licensure, and provided to foster parents applying for license renewal.

(5) The department is accountable to the public. To ensure transparency, beginning December 30, 2018, agency performance data for the services provided by the department, including outcome data for contracted services, must be available to the public, consistent with confidentiality laws, federal protections, and individual rights to privacy. Publicly available data must include budget and funding decisions, performance-based contracting data, including data for contracted services, and performance data on metrics identified in this section. The board must work with the secretary and director to develop the most effective and cost-efficient ways to make department data available to the public, including making this data readily available on the department's web site.

(6) ~~((The))~~ Except as provided in section 8 of this act, the department shall ensure that all new and renewed contracts for services are performance-based.

(7) The department must execute all new and renewed contracts for services in accordance with this section and consistent with RCW 74.13B.020. When contracted services are managed through a network administrator or other third party, the department must execute data-sharing agreements with the entities managing the contracts to track provider performance measures. Contracts with network administrators or other third parties must provide the contract administrator the ability to shift resources from one provider to another, to evaluate individual provider performance, to add or delete services in consultation with the department, and to reinvest savings from increased efficiencies into new or improved services in their catchment area. Whenever possible, contractor performance data must be made available to the public, consistent with confidentiality laws and individual rights to privacy.

(8)(a) The board shall begin its work and call the first meeting of the board on or after July 1, 2018. The board shall immediately assume the duties of the legislative children's oversight committee, as provided for in RCW 74.13.570 and assume the full functions of the board as provided for in this section by July 1, 2019. The office of innovation, alignment, and accountability shall provide quarterly updates regarding the implementation of the department to the board between July 1, 2018, and July 1, 2019.

(b) The office of the family and children's ombuds shall establish the board. The board is authorized for the purpose of monitoring and ensuring that the department achieves the stated outcomes of chapter 6, Laws of 2017 3rd sp. sess., and complies with administrative acts, relevant statutes, rules, and policies pertaining to early learning, juvenile rehabilitation, juvenile justice, and children and family services.

(9)(a) The board shall consist of the following members:

(i) Two senators and two representatives from the legislature with one member from each major caucus;

(ii) One nonvoting representative from the governor's office;

(iii) One subject matter expert in early learning;

(iv) One subject matter expert in child welfare;

- (v) One subject matter expert in juvenile rehabilitation and justice;
- (vi) One subject matter expert in reducing disparities in child outcomes by family income and race and ethnicity;
- (vii) One tribal representative from west of the crest of the Cascade mountains;
- (viii) One tribal representative from east of the crest of the Cascade mountains;
- (ix) One current or former foster parent representative;
- (x) One representative of an organization that advocates for the best interest of the child;
- (xi) One parent stakeholder group representative;
- (xii) One law enforcement representative;
- (xiii) One child welfare caseworker representative;
- (xiv) One early childhood learning program implementation practitioner;
- (xv) One current or former foster youth under age twenty-five;
- (xvi) One individual under age twenty-five with current or previous experience with the juvenile justice system;
- (xvii) One physician with experience working with children or youth; and
- (xviii) One judicial representative presiding over child welfare court proceedings or other children's matters.

(b) The senate members of the board shall be appointed by the leaders of the two major caucuses of the senate. The house of representatives members of the board shall be appointed by the leaders of the two major caucuses of the house of representatives. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year.

(c) The remaining board members shall be nominated by the governor, subject to the approval of the appointed legislators by majority vote, and serve four-year terms. When nominating and approving members after July 28, 2019, the governor and appointed legislators must ensure that at least five of the board members reside east of the crest of the Cascade mountains.

(10) The board has the following powers, which may be exercised by majority vote of the board:

- (a) To receive reports of the office of the family and children's ombuds;
- (b) To obtain access to all relevant records in the possession of the office of the family and children's ombuds, except as prohibited by law;
- (c) To select its officers and adoption of rules for orderly procedure;
- (d) To request investigations by the office of the family and children's ombuds of administrative acts;
- (e) To request and receive information, outcome data, documents, materials, and records from the department relating to children and family welfare, juvenile rehabilitation, juvenile justice, and early learning;
- (f) To determine whether the department is achieving the performance measures;

(g) If final review is requested by a licensee, to review whether department licensors appropriately and consistently applied agency rules in child care facility licensing compliance agreements as defined in RCW 43.216.395 that do not involve a violation of health and safety standards as defined in RCW 43.216.395 in cases that have already been reviewed by the internal review

process described in RCW 43.216.395 with the authority to overturn, change, or uphold such decisions;

(h) To conduct annual reviews of a sample of department contracts for services from a variety of program and service areas to ensure that those contracts are performance-based and to assess the measures included in each contract; and

(i) Upon receipt of records or data from the office of the family and children's ombuds or the department, the board is subject to the same confidentiality restrictions as the office of the family and children's ombuds is under RCW 43.06A.050. The provisions of RCW 43.06A.060 also apply to the board.

(11) The board has general oversight over the performance and policies of the department and shall provide advice and input to the department and the governor.

(12) The board must no less than twice per year convene stakeholder meetings to allow feedback to the board regarding contracting with the department, departmental use of local, state, private, and federal funds, and other matters as relating to carrying out the duties of the department.

(13) The board shall review existing surveys of providers, customers, parent groups, and external services to assess whether the department is effectively delivering services, and shall conduct additional surveys as needed to assess whether the department is effectively delivering services.

(14) The board is subject to the open public meetings act, chapter 42.30 RCW, except to the extent disclosure of records or information is otherwise confidential under state or federal law.

(15) Records or information received by the board is confidential to the extent permitted by state or federal law. This subsection does not create an exception for records covered by RCW 13.50.100.

(16) The board members shall receive no compensation for their service on the board, but shall be reimbursed for travel expenses incurred while conducting business of the board when authorized by the board and within resources allocated for this purpose, except appointed legislators who shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(17) The board shall select, by majority vote, an executive director who shall be the chief administrative officer of the board and shall be responsible for carrying out the policies adopted by the board. The executive director is exempt from the provisions of the state civil service law, chapter 41.06 RCW, and shall serve at the pleasure of the board established in this section.

(18) The board shall maintain a staff not to exceed one full-time equivalent employee. The board-selected executive director of the board is responsible for coordinating staff appointments.

(19) The board shall issue an annual report to the governor and legislature by December 1st of each year with an initial report delivered by December 1, 2019. The report must review the department's progress towards meeting stated performance measures and desired performance outcomes, and must also include a review of the department's strategic plan, policies, and rules.

(20) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Board" means the oversight board for children, youth, and families established in subsection (8) of this section.

(b) "Director" means the director of the office of innovation, alignment, and accountability.

(c) "Performance-based contract" means results-oriented contracting that focuses on the quality or outcomes that tie at least a portion of the contractor's payment, contract extensions, or contract renewals to the achievement of specific measurable performance standards and requirements.

NEW SECTION. Sec. 10. This act takes effect September 1, 2020.

NEW SECTION. Sec. 11. Sections 8 and 9 of this act expire December 31, 2021.

Passed by the House February 13, 2020.

Passed by the Senate March 7, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 91

[Substitute House Bill 2868]

HISTORIC PROPERTY SPECIAL VALUATION--EXTENSIONS

AN ACT Relating to allowing for extensions of the special valuation of historic property for certain properties; amending RCW 84.26.070 and 84.26.050; and creating a new section.

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

Sec. 1. RCW 84.26.070 and 1986 c 221 s 5 are each amended to read as follows:

(1) The county assessor shall, for ten consecutive assessment years following the calendar year in which application is made, place a special valuation on property classified as eligible historic property.

(2) The entitlement of property to the special valuation provisions of this section shall be determined as of January 1. If property becomes disqualified for the special valuation for any reason, the property shall receive the special valuation for that part of any year during which it remained qualified or the owner was acting in the good faith belief that the property was qualified.

(3) At the conclusion of special valuation, the cost shall be considered as new construction.

(4)(a) A property is eligible for two seven-year extensions of the special valuation if:

(i) The property is located in a county that is listed as a distressed area as reported by the state employment security department and the city is under twenty thousand in population; and

(ii) The property continues to meet the criteria provided in RCW 84.26.030.

(b) Extensions must be applied for by the owner, upon forms prescribed by the department of revenue and supplied by the county assessor, at least ninety days prior to the expiration of the special valuation.

(c) All extensions must be reviewed by the local review board and may be approved or denied at the local review board's discretion.

(d) No extension may be provided under this subsection on or after January 1, 2057.

Sec. 2. RCW 84.26.050 and 1986 c 221 s 4 are each amended to read as follows:

(1) Within ten days after the filing of the application in the county assessor's office, the county assessor shall refer each application for classification to the local review board.

(2) The review board shall approve the application if the property meets the criterion of RCW 84.26.030 and is not altered in a way which adversely affects those elements which qualify it as historically significant, and the owner enters into an agreement with the review board which requires the owner for the ten-year period of the classification to:

(a) Monitor the property for its continued qualification for the special valuation;

(b) Comply with rehabilitation plans and minimum standards of maintenance as defined in the agreement;

(c) Make the historic aspects of the property accessible to public view one day a year, if the property is not visible from the public right-of-way;

(d) Apply to the local review board for approval or denial of any demolition or alteration; and

(e) Comply with any other provisions in the original agreement as may be appropriate.

(3) Once an agreement between an owner and a review board has become effective pursuant to this chapter, there shall be no changes in standards of maintenance, public access, alteration, or report requirements, or any other provisions of the agreement, during the period of the classification without the approval of all parties to the agreement.

(4) An application for classification as an eligible historic property shall be approved or denied by the local review board before December 31st of the calendar year in which the application is made.

(5) The local review board is authorized to examine the records of applicants.

(6) No new applications may be approved on or after January 1, 2031.

NEW SECTION. Sec. 3. (1) This section is the tax preference performance statement for the tax preference contained in sections 1 and 2, chapter . . ., Laws of 2020 (sections 1 and 2 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals as provided in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to promote the revitalization of historic properties.

(4) If the review finds that the number of taxpayers claiming this preference increases, then the legislature intends to extend the expiration date of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state.

Passed by the House February 13, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 92

[Engrossed Substitute Senate Bill 5385]

TELEMEDICINE REIMBURSEMENT RATES

AN ACT Relating to reimbursing for telemedicine services at the same rate as in person; amending RCW 48.43.735, 41.05.700, 74.09.325, and 28B.20.830; and declaring an emergency.

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

Sec. 1. RCW 48.43.735 and 2017 c 219 s 1 are each amended to read as follows:

(1)(a) For health plans issued or renewed on or after January 1, 2017, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

((+)) (i) The plan provides coverage of the health care service when provided in person by the provider;

((b)) (ii) The health care service is medically necessary;

((+)) (iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015; and

((+)) (iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information.

(b)(i) Except as provided in (b)(ii) of this subsection, for health plans issued or renewed on or after January 1, 2021, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine at the same rate as if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate a reimbursement rate for telemedicine services that differs from the reimbursement rate for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

~~(2)((a) If the service is provided through store and forward technology there must be an associated office visit between the covered person and the referring health care provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.~~

(b)) For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health carrier and the health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

- (a) Hospital;
- (b) Rural health clinic;
- (c) Federally qualified health center;
- (d) Physician's or other health care provider's office;
- (e) Community mental health center;
- (f) Skilled nursing facility;
- (g) Home or any location determined by the individual receiving the service; or
- (h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the health carrier. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A health carrier may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A health carrier may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require a health carrier to reimburse:

- (a) An originating site for professional fees;
- (b) A provider for a health care service that is not a covered benefit under the plan; or
- (c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Health care service" has the same meaning as in RCW 48.43.005;

(c) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(d) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(e) "Provider" has the same meaning as in RCW 48.43.005;

(f) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(g) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time

communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

Sec. 2. RCW 41.05.700 and 2018 c 260 s 30 are each amended to read as follows:

(1)(a) A health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2017, shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

~~((a))~~ (i) The plan provides coverage of the health care service when provided in person by the provider;

~~((b))~~ (ii) The health care service is medically necessary;

~~((c))~~ (iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015; and

~~((d))~~ (iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information.

(b)(i) Except as provided in (b)(ii) of this subsection, a health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2021, shall reimburse a provider for a health care service provided to a covered person through telemedicine at the same rate as if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate a reimbursement rate for telemedicine services that differs from the reimbursement rate for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

~~(2)((a) If the service is provided through store and forward technology there must be an associated office visit between the covered person and the referring health care provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.~~

~~(b))~~ For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health plan and health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;

(e) Community mental health center;

(f) Skilled nursing facility;

(g) Home or any location determined by the individual receiving the service; or

(h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the health plan. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) The plan may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) The plan may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require the plan to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Health care service" has the same meaning as in RCW 48.43.005;

(c) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(d) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(e) "Provider" has the same meaning as in RCW 48.43.005;

(f) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(g) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

Sec. 3. RCW 74.09.325 and 2017 c 219 s 3 are each amended to read as follows:

(1)(a) Upon initiation or renewal of a contract with the Washington state health care authority to administer a medicaid managed care plan, a managed health care system shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

~~((a))~~ (i) The medicaid managed care plan in which the covered person is enrolled provides coverage of the health care service when provided in person by the provider;

~~((b))~~ (ii) The health care service is medically necessary;

~~((c))~~ (iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015; and

~~((d))~~ (iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information.

(b)(i) Except as provided in (b)(ii) of this subsection, upon initiation or renewal of a contract with the Washington state health care authority to administer a medicaid managed care plan, a managed health care system shall reimburse a provider for a health care service provided to a covered person through telemedicine at the same rate as if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate a reimbursement rate for telemedicine services that differs from the reimbursement rate for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

~~(2)((a) If the service is provided through store and forward technology there must be an associated visit between the covered person and the referring health care provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.~~

~~(b))~~ For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the managed health care system and health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;

(e) Community mental health center;

(f) Skilled nursing facility;

(g) Home or any location determined by the individual receiving the service; or

(h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the managed health care system. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A managed health care system may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A managed health care system may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require a managed health care system to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Health care service" has the same meaning as in RCW 48.43.005;

(c) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(d) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under this chapter and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(e) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(f) "Provider" has the same meaning as in RCW 48.43.005;

(g) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(h) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

(9) To measure the impact on access to care for underserved communities and costs to the state and the medicaid managed health care system for reimbursement of telemedicine services, the Washington state health care authority, using existing data and resources, shall provide a report to the

appropriate policy and fiscal committees of the legislature no later than December 31, 2018.

Sec. 4. RCW 28B.20.830 and 2018 c 256 s 1 are each amended to read as follows:

(1) The collaborative for the advancement of telemedicine is created to enhance the understanding and use of health services provided through telemedicine and other similar models in Washington state. The collaborative shall be hosted by the University of Washington telehealth services and shall be comprised of one member from each of the two largest caucuses of the senate and the house of representatives, and representatives from the academic community, hospitals, clinics, and health care providers in primary care and specialty practices, carriers, and other interested parties.

(2) By July 1, 2016, the collaborative shall be convened. The collaborative shall develop recommendations on improving reimbursement and access to services, including originating site restrictions, provider to provider consultative models, and technologies and models of care not currently reimbursed; identify the existence of telemedicine best practices, guidelines, billing requirements, and fraud prevention developed by recognized medical and telemedicine organizations; and explore other priorities identified by members of the collaborative. After review of existing resources, the collaborative shall explore and make recommendations on whether to create a technical assistance center to support providers in implementing or expanding services delivered through telemedicine technologies.

(3) The collaborative must submit an initial progress report by December 1, 2016, with follow-up policy reports including recommendations by December 1, 2017, December 1, 2018, and December 1, 2021. The reports shall be shared with the relevant professional associations, governing boards or commissions, and the health care committees of the legislature.

(4) The collaborative shall study store and forward technology, with a focus on:

(a) Utilization;

(b) Whether store and forward technology should be paid for at parity with in-person services;

(c) The potential for store and forward technology to improve rural health outcomes in Washington state; and

(d) Ocular services.

(5) The meetings of the board shall be open public meetings, with meeting summaries available on a web page.

~~((5))~~ (6) The future of the collaborative shall be reviewed by the legislature with consideration of ongoing technical assistance needs and opportunities. The collaborative terminates December 31, 2021.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 9, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 93

[Engrossed Senate Bill 6032]

WASHINGTON APPLES SPECIAL LICENSE PLATE

AN ACT Relating to creating a Washington apples special license plate; reenacting and amending RCW 46.18.200, 46.17.220, and 46.68.420; adding a new section to chapter 46.04 RCW; and providing an effective date.

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

Sec. 1. RCW 46.18.200 and 2019 c 384 s 1 and 2019 c 177 s 1 are each reenacted and amended to read as follows:

- (1) Special license plate series reviewed and approved by the department:
 - (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 department.
- (2) The department approves and shall issue the following special license plates:

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
4-H Armed forces collection	Displays the "4-H" logo. 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.
Breast cancer awareness	Displays a pink ribbon symbolizing breast cancer awareness.
Endangered wildlife	Displays a symbol or artwork symbolizing endangered wildlife in Washington state.
Fred Hutch Gonzaga University alumni association	Displays the Fred Hutch logo. 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.
Music matters	Displays the "Music Matters" logo.
Professional firefighters and paramedics	Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.
San Juan Islands	Displays a symbol or artwork recognizing the San Juan Islands.
Seattle Mariners	Displays the "Seattle Mariners" logo.
Seattle Seahawks	Displays the "Seattle Seahawks" logo.
Seattle Sounders FC	Displays the "Seattle Sounders FC" logo.
Seattle Storm	Displays the "Seattle Storm" logo.
Seattle University	Recognizes Seattle University.
Share the road	Recognizes an organization that promotes bicycle safety and awareness education.
Ski & ride Washington	Recognizes the Washington snowsports industry.
State flower	Recognizes the Washington state flower.
Volunteer firefighters	Recognizes volunteer firefighters.
<u>Washington apples</u>	<u>Displays the Washington apple logo that recognizes the state's apple industry, the growers and shippers who produce and pack the world famous apples, and the tree fruit community.</u>
Washington farmers and ranchers	Recognizes farmers and ranchers in Washington state.
Washington lighthouses	Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.
Washington state aviation	Displays a Stearman biplane in the foreground with an image of Mount Rainier in the background.
Washington state parks	Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.
Washington state wrestling	Promotes and supports college wrestling in the state of Washington.

Washington tennis	Builds awareness and year-round opportunities for tennis in Washington state. Displays a symbol or artwork recognizing tennis in Washington state.
Washington's fish collection	Recognizes Washington's fish.
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.

(3) Applicants for initial and renewal professional firefighters and paramedics special license plates must show proof of eligibility by providing a certificate of current membership from the Washington state council of firefighters.

(4) Applicants for initial volunteer firefighters special license plates must (a) have been a volunteer firefighter for at least ten years or be a volunteer firefighter for one or more years and (b) have documentation of service from the district of the appropriate fire service. If the volunteer firefighter leaves firefighting service before ten years of service have been completed, the volunteer firefighter shall surrender the license plates to the department on the registration renewal date. If the volunteer firefighter stays in service for at least ten years and then leaves, the license plate may be retained by the former volunteer firefighter and as long as the license plate is retained for use the person will continue to pay the future registration renewals. A qualifying volunteer firefighter may have no more than one set of license plates per vehicle, and a maximum of two sets per applicant, for their personal vehicles. If the volunteer firefighter is convicted of a violation of RCW 46.61.502 or a felony, the license plates must be surrendered upon conviction.

Sec. 2. RCW 46.17.220 and 2019 c 384 s 2 and 2019 c 177 s 2 are each reenacted and amended to read as follows:

In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16A 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
(1) 4-H	\$ 40.00	\$ 30.00	RCW 46.68.420
(2) Amateur radio license	\$ 5.00	N/A	RCW 46.68.070
(3) Armed forces	\$ 40.00	\$ 30.00	RCW 46.68.425
(4) Breast cancer awareness	\$ 40.00	\$ 30.00	RCW 46.68.425
(5) Collector vehicle	\$ 35.00	N/A	RCW 46.68.030
(6) Collegiate	\$ 40.00	\$ 30.00	RCW 46.68.430
(7) Endangered wildlife	\$ 40.00	\$ 30.00	RCW 46.68.425
(8) Fred Hutch	\$ 40.00	\$ 30.00	RCW 46.68.420
(9) Gonzaga University alumni association	\$ 40.00	\$ 30.00	RCW 46.68.420
(10) Helping kids speak	\$ 40.00	\$ 30.00	RCW 46.68.420
(11) Horseless carriage	\$ 35.00	N/A	RCW 46.68.030
(12) Keep kids safe	\$ 45.00	\$ 30.00	RCW 46.68.425
(13) Law enforcement memorial	\$ 40.00	\$ 30.00	RCW 46.68.420
(14) Military affiliate radio system	\$ 5.00	N/A	RCW 46.68.070
(15) Music matters	\$ 40.00	\$ 30.00	RCW 46.68.420
(16) Professional firefighters and paramedics	\$ 40.00	\$ 30.00	RCW 46.68.420
(17) Purple Heart	\$ 40.00	\$ 30.00	RCW 46.68.425
(18) Ride share	\$ 25.00	N/A	RCW 46.68.030
(19) San Juan Islands	\$ 40.00	\$ 30.00	RCW 46.68.420
(20) Seattle Mariners	\$ 40.00	\$ 30.00	RCW 46.68.420
(21) Seattle Seahawks	\$ 40.00	\$ 30.00	RCW 46.68.420
(22) Seattle Sounders FC	\$ 40.00	\$ 30.00	RCW 46.68.420
(23) Seattle Storm	\$ 40.00	\$ 30.00	RCW 46.68.420
(24) Seattle University	\$ 40.00	\$ 30.00	RCW 46.68.420
(25) Share the road	\$ 40.00	\$ 30.00	RCW 46.68.420
(26) Ski & ride Washington	\$ 40.00	\$ 30.00	RCW 46.68.420
(27) Square dancer	\$ 40.00	N/A	RCW 46.68.070
(28) State flower	\$ 40.00	\$ 30.00	RCW 46.68.420
(29) Volunteer firefighters	\$ 40.00	\$ 30.00	RCW 46.68.420
(30) <u>Washington apples</u>	\$ 40.00	\$ 30.00	<u>RCW 46.68.420</u>
<u>(31)</u> Washington farmers and ranchers	\$ 40.00	\$ 30.00	RCW 46.68.420
((31)) <u>(32)</u> Washington lighthouses	\$ 40.00	\$ 30.00	RCW 46.68.420
((32)) <u>(33)</u> Washington state aviation	\$ 40.00	\$ 30.00	RCW 46.68.420
((33)) <u>(34)</u> Washington state parks	\$ 40.00	\$ 30.00	RCW 46.68.425
((34)) <u>(35)</u> Washington state wrestling	\$ 40.00	\$ 30.00	RCW 46.68.420

((35)) (36) Washington tennis	\$ 40.00	\$ 30.00	RCW 46.68.420
((36)) (37) Washington's fish collection	\$ 40.00	\$ 30.00	RCW 46.68.425
((37)) (38) Washington's national parks	\$ 40.00	\$ 30.00	RCW 46.68.420
((38)) (39) Washington's wildlife collection	\$ 40.00	\$ 30.00	RCW 46.68.425
((39)) (40) We love our pets	\$ 40.00	\$ 30.00	RCW 46.68.420
((40)) (41) Wild on Washington	\$ 40.00	\$ 30.00	RCW 46.68.425

Sec. 3. RCW 46.68.420 and 2019 c 384 s 3 and 2019 c 177 s 3 are each reenacted and amended to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under RCW 46.17.220;

(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 fund))~~ 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 fee amounts for each special license plate to the following appropriate account as created in this section in the custody of the state treasurer:

ACCOUNT	CONDITIONS FOR USE OF FUNDS
4-H programs	Support Washington 4-H programs
Fred Hutch	Support cancer research at the Fred Hutchinson cancer research center
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
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
Music matters awareness	Promote music education in schools throughout Washington
San Juan Islands programs	Provide funds to the Madrona institute
Seattle Mariners	Provide funds to the sports mentoring program and to support the Washington world fellows program in the following manner: (a) Seventy-five percent to the office of the lieutenant governor solely to administer the sports mentoring program established under RCW 43.15.100, to encourage youth who have economic needs or face adversities to experience spectator sports or get involved in youth sports, and (b) up to twenty-five percent to the office of the lieutenant governor solely to administer the Washington world fellows program, an equity focused program
Seattle Seahawks	Provide funds to InvestED and to support the Washington world fellows program in the following manner: (a) Seventy-five percent, to InvestED, to encourage secondary students who have economic needs to stay in school, return to school, or get involved within their learning community; and (b) twenty-five percent to the office of the lieutenant governor solely to administer the Washington world fellows program, including the provision of fellowships

Seattle Sounders FC	Provide funds to Washington state mentors and the association of Washington generals created in RCW 43.15.030 in the following manner: (a) Seventy percent and the remaining proceeds, if any, to Washington state mentors, to increase the number of mentors in the state by offering mentoring grants throughout Washington state that foster positive youth development and academic success, with up to twenty percent of these proceeds authorized for program administration costs; and (b) up to thirty percent, not to exceed forty-thousand dollars annually as adjusted for inflation by the office of financial management, to the association of Washington generals, to develop Washington state educational, veterans, international relations, and civics projects and to recognize the outstanding public service of individuals or groups in the state of Washington
Seattle Storm	Provide funds to the Washington state legislative youth advisory council and the association of Washington generals created in RCW 43.15.030 in the following manner: Twenty-five thousand dollars per year of the net proceeds to the legislative youth advisory council, or its successor organization; and the remaining net proceeds on an annual basis, to the association of Washington generals for the purpose of providing grants to support and enhance athletic, recreational, and other opportunities for women and girls, and especially those with disabilities
Seattle University	Fund scholarships for students attending or planning to attend Seattle University
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
State flower	Support Meerkerk Rhododendron Gardens and provide for grants to other qualified nonprofit organizations' efforts to preserve rhododendrons
Volunteer firefighters	Receive and disseminate funds for purposes on behalf of volunteer firefighters, their families, and others deemed in need
<u>Washington apples</u>	<u>Provide scholarship funding to the tree fruit industry's official charity, the Washington apple education foundation, which provides financial support, professional employment preparedness training, and mentorship to students with ties to the apple industry pursuing a higher education</u>
Washington farmers and ranchers	Provide funds to the Washington FFA Foundation for educational programs in Washington state
Washington state aviation	Provide funds to the department of transportation to support infrastructure improvements at public use airports in Washington state
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 state wrestling	Provide funds to the Washington state wrestling foundation to fund new and existing college wrestling programs

Washington tennis	Provide funds to cities to assist in the construction and maintenance of a public tennis facility with at least four indoor tennis courts. A city is eligible for construction funds if the city does not already have a public or private facility with at least four indoor tennis courts. Funds for construction must first be made available to the most populous eligible city, according to the most recent census, for a time period not to exceed five years after January 1, 2017. After the five-year time period, the funds for construction must be made available to the next most populous eligible city. Funds for the maintenance of a public tennis facility with at least four indoor tennis courts must first be made available to the first eligible city that utilizes funds for construction provided by chapter 16, Laws of 2016
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) Except as otherwise provided in this section, 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) Except as otherwise provided in this section, 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) Funds from the Seattle Seahawks account may be provided to the lieutenant governor solely for the purpose of administering the Washington world fellows program. Of the amounts received by the lieutenant governor's

office under this subsection, at least ninety percent must be provided as fellowships under the program.

(6) Beginning January 1, 2019, funds from the Seattle Mariners account may be provided to the office of lieutenant governor solely for the purpose of administering the sports mentoring program. Of the amounts received by the office of lieutenant governor, at least ninety percent must be applied towards services directly provided to youth participants.

(7) 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 46.18.100(1).

NEW SECTION. Sec. 4. A new section is added to chapter 46.04 RCW to read as follows:

"Washington apples license plate" means a special license plate under RCW 46.18.200 that displays the Washington apple logo.

NEW SECTION. Sec. 5. This act takes effect July 1, 2020.

Passed by the Senate February 13, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 94

[Substitute Senate Bill 6058]

FIRE PROTECTION DISTRICTS--HEALTH CLINIC SERVICES

AN ACT Relating to fire district health clinic services; and amending RCW 52.02.020.

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

Sec. 1. RCW 52.02.020 and 2010 c 136 s 1 are each amended to read as follows:

(1) Fire protection districts for the provision of fire prevention services, fire suppression services, emergency medical services, and for the protection of life and property are authorized to be established as provided in this title.

(2) In addition to other services authorized under this section, fire protection districts that share a common border with Canada and are surrounded on three sides by water or are bounded on the north by Bremerton, on the west by Mason county, on the south by Pierce county, and on the east by the Puget Sound or are in Pierce county and surrounded by Case Inlet, Drayton Passage, Pitt Passage, and Carr Inlet, may also establish or participate in the provision of health clinic services.

Passed by the Senate February 19, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 95

[Senate Bill 6102]

SCHOOL BUS STOP SIGNAL WARNING DEVICES

AN ACT Relating to stop signal warning devices on school buses; and amending RCW 46.37.190.

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

Sec. 1. RCW 46.37.190 and 2005 c 183 s 8 are each amended to read as follows:

(1) Every authorized emergency vehicle shall, in addition to any other equipment and distinctive marking required by this chapter, be equipped with at least one lamp capable of displaying a red light visible from at least five hundred feet in normal sunlight and a siren capable of giving an audible signal.

(2) Every school bus and private carrier bus shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a "stop" signal upon a background not less than fourteen by eighteen inches displaying the word "stop" in letters of distinctly contrasting colors not less than ~~((eight))~~ five and nine-tenths inches high, and shall further be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level and these lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight.

(3) Vehicles operated by public agencies whose law enforcement duties include the authority to stop and detain motor vehicles on the public highways of the state may be equipped with a siren and lights of a color and type designated by the state patrol for that purpose. The state patrol may prohibit the use of these sirens and lights on vehicles other than the vehicles described in this subsection.

(4) The lights described in this section shall not be mounted nor used on any vehicle other than a school bus, a private carrier bus, or an authorized emergency or law enforcement vehicle.

(5) The use of the signal equipment described in this section and RCW 46.37.670, except the signal preemption devices used by public transit vehicles and department of transportation, city, or county maintenance vehicles that are not used in conjunction with emergency equipment, shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in RCW 46.61.210, 46.61.370, and 46.61.350.

Passed by the Senate February 12, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 96

[Engrossed Substitute Senate Bill 6217]

AIRPORT AND AIR NAVIGATION FACILITY EMPLOYEES--LABOR STANDARDS

AN ACT Relating to minimum labor standards for certain employees working at an airport or air navigation facility; and amending RCW 14.08.120.

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

Sec. 1. RCW 14.08.120 and 2010 c 155 s 1 are each amended to read as follows:

(1) In addition to the general powers conferred in this chapter, and without limitation thereof, a municipality that has established or may hereafter establish airports, restricted landing areas, or other air navigation facilities, or that has acquired or set apart or may hereafter acquire or set apart real property for that purpose or purposes is authorized:

~~((1))~~ (a) To vest authority for the construction, enlargement, improvement, maintenance, equipment, operation, and regulation thereof in an officer, a board, or body of the municipality by ordinance or resolution that prescribes the powers and duties of the officer, board, or body; and the municipality may also vest authority for industrial and commercial development in a municipal airport commission consisting of at least five resident taxpayers of the municipality to be appointed by the governing board of the municipality by an ordinance or resolution that includes ~~((1))~~ (i) the terms of office, which may not exceed six years and which shall be staggered so that not more than three terms will expire in the same year, ~~((2))~~ (ii) the method of appointment and filling vacancies, ~~((3))~~ (iii) a provision that there shall be no compensation but may provide for a per diem of not to exceed twenty-five dollars per day plus travel expenses for time spent on commission business, ~~((4))~~ (iv) the powers and duties of the commission, and ~~((5))~~ (v) any other matters necessary to the exercise of the powers relating to industrial and commercial development. The expense of the construction, enlargement, improvement, maintenance, equipment, industrial and commercial development, operation, and regulation are the responsibility of the municipality.

~~((2))~~ (b) To adopt and amend all needed rules, regulations, and ordinances for the management, government, and use of any properties under its control, whether within or outside the territorial limits of the municipality; to provide fire protection for the airport, including the acquisition and operation of fire protection equipment and facilities, and the right to contract with any private body or political subdivision of the state for the furnishing of such fire protection; to appoint airport guards or police, with full police powers; to fix by ordinance or resolution, as may be appropriate, penalties for the violation of the rules, regulations, and ordinances, and enforce those penalties in the same manner in which penalties prescribed by other rules, regulations, and ordinances of the municipality are enforced. For the purposes of such management and government and direction of public use, that part of all highways, roads, streets, avenues, boulevards, and territory that adjoins the limits of any airport or restricted landing area acquired or maintained under the provisions of this chapter is under like control and management of the municipality. It may also adopt and enact rules, regulations, and ordinances designed to safeguard the public upon or beyond the limits of private airports or landing strips within the municipality or its police jurisdiction against the perils and hazards of instrumentalities used in aerial navigation. Rules, regulations, and ordinances shall be published as provided by general law or the charter of the municipality for the publication of similar rules, regulations, and ordinances. They shall conform to and be consistent with the laws of this state and the rules of the state department of transportation and shall be kept in conformity, as nearly as may be, with the then current federal legislation governing aeronautics and the

regulations duly promulgated thereunder and the rules and standards issued from time to time pursuant thereto.

~~((3))~~ (c) To create a special airport fund, and provide that all receipts from the operation of the airport be deposited in the fund, which fund shall remain intact from year to year and may be pledged to the payment of aviation bonds, or kept for future maintenance, construction, or operation of airports or airport facilities.

~~((4))~~ (d) To lease airports or other air navigation facilities, or real property acquired or set apart for airport purposes, to private parties, any municipal or state government or the national government, or any department thereof, for operation; to lease or assign to private parties, any municipal or state government or the national government, or any department thereof, for operation or use consistent with the purposes of this chapter, space, area, improvements, or equipment of such airports; to authorize its lessees to construct, alter, repair, or improve the leased premises at the cost of the lessee and to reimburse its lessees for such cost, provided the cost is paid solely out of funds fully collected from the airport's tenants; to sell any part of such airports, other air navigation facilities or real property to any municipal or state government, or to the United States or any department or instrumentality thereof, for aeronautical purposes or purposes incidental thereto, and to confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities: PROVIDED, That in each case in so doing the public is not deprived of its rightful, equal, and uniform use thereof.

~~((5))~~ (e) Acting through its governing body, to sell or lease any property, real or personal, acquired for airport purposes and belonging to the municipality, which, in the judgment of its governing body, may not be required for aircraft landings, aircraft takeoffs or related aeronautic purposes, in accordance with the laws of this state, or the provisions of the charter of the municipality, governing the sale or leasing of similar municipally owned property. The municipal airport commission, if one has been organized and appointed under ~~((subsection (1)))~~ (a) of this ~~((section))~~ subsection, may lease any airport property for aircraft landings, aircraft takeoffs, or related aeronautic purposes. If there is a finding by the governing body of the municipality that any airport property, real or personal, is not required for aircraft landings, aircraft takeoffs, or related aeronautic purposes, then the municipal airport commission may lease such space, land, area, or improvements, or construct improvements, or take leases back for financing purposes, grant concessions on such space, land, area, or improvements, all for industrial or commercial purposes, by private negotiation and under such terms and conditions that seem just and proper to the municipal airport commission. Any such lease of real property for aircraft manufacturing or aircraft industrial purposes or to any manufacturer of aircraft or aircraft parts or for any other business, manufacturing, or industrial purpose or operation relating to, identified with, or in any way dependent upon the use, operation, or maintenance of the airport, or for any commercial or industrial purpose may be made for any period not to exceed seventy-five years, but any such lease of real property made for a longer period than ten years shall contain provisions requiring the municipality and the lessee to permit the rentals for each five-year period thereafter, to be readjusted at the commencement of each such period if written request for readjustment is given by either party to the other at least

thirty days before the commencement of the five-year period for which the readjustment is requested. If the parties cannot agree upon the rentals for the five-year period, they shall submit to have the disputed rentals for the period adjusted by arbitration. The lessee shall pick one arbitrator, and the governing body of the municipality shall pick one, and the two so chosen shall select a third. After a review of all pertinent facts the board of arbitrators may increase or decrease such rentals or continue the previous rate thereof.

The proceeds of the sale of any property the purchase price of which was obtained by the sale of bonds shall be deposited in the bond sinking fund. If all the proceeds of the sale are not needed to pay the principal of bonds remaining unpaid, the remainder shall be paid into the airport fund of the municipality. The proceeds of sales of property the purchase price of which was paid from appropriations of tax funds shall be paid into the airport fund of the municipality.

~~((6))~~ (f) To determine the charges or rental for the use of any properties under its control and the charges for any services or accommodations, and the terms and conditions under which such properties may be used: PROVIDED, That in all cases the public is not deprived of its rightful, equal, and uniform use of the property. Charges shall be reasonable and uniform for the same class of service and established with due regard to the property and improvements used and the expense of operation to the municipality. The municipality shall have and may enforce liens, as provided by law for liens and enforcement thereof, for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges. As used in this subsection (1)(f), the term "charges" does not refer to any minimum labor standard imposed by a municipality pursuant to subsection (2) of this section.

~~((7))~~ (g) To impose a customer facility charge upon customers of rental car companies accessing the airport for the purposes of financing, designing, constructing, operating, and maintaining consolidated rental car facilities and common use transportation equipment and facilities which are used to transport the customer between the consolidated car rental facilities and other airport facilities. The airport operator may require the rental car companies to collect the facility charges, and any facility charges so collected shall be deposited in a trust account for the benefit of the airport operator and remitted at the direction of the airport operator, but no more often than once per month. The charge shall be calculated on a per-day basis. Facility charges may not exceed the reasonable costs of financing, designing, constructing, operating, and maintaining the consolidated car rental facilities and common use transportation equipment and facilities and may not be used for any other purpose. For the purposes of this subsection ~~((7))~~ (1)(g), if an airport operator makes use of its own funds to finance the consolidated rental car facilities and common use transportation equipment and facilities, the airport operator ~~((a))~~ (i) is entitled to earn a rate of return on such funds no greater than the interest rate that the airport operator would pay to finance such facilities in the appropriate capital market, provided that the airport operator establish the rate of return in consultation with the rental car companies, and ~~((b))~~ (ii) may use the funds earned under ~~((a))~~ (g)(i) of this subsection for purposes other than those associated with the consolidated rental car facilities and common use transportation equipment and facilities.

~~((8))~~ (h) To make airport property available for less than fair market rental value under very limited conditions provided that prior to the lease or contract

authorizing such use the airport operator's board, commission, or council has ~~((a))~~ (i) adopted a policy that establishes that such lease or other contract enhances the public acceptance of the airport and serves the airport's business interest and ~~((b))~~ (ii) adopted procedures for approval of such lease or other contract.

~~((9))~~ (i) If the airport operator has adopted the policy and procedures under ~~((subsection (8)))~~ (h) of this ~~((section))~~ subsection, to lease or license the use of property belonging to the municipality and acquired for airport purposes at less than fair market rental value as long as the municipality's council, board, or commission finds that the following conditions are met:

~~((a))~~ (i) The lease or license of the subject property enhances public acceptance of the airport in a community in the immediate area of the airport;

~~((b))~~ (ii) The subject property is put to a desired public recreational or other community use by the community in the immediate area of the airport;

~~((c))~~ (iii) The desired community use and the community goodwill that would be generated by such community use serves the business interest of the airport in ways that can be articulated and demonstrated;

~~((d))~~ (iv) The desired community use does not adversely affect the capacity, security, safety, or operations of the airport;

~~((e))~~ (v) At the time the community use is contemplated, the subject property is not reasonably expected to be used by an aeronautical tenant or otherwise be needed for airport operations in the foreseeable future;

~~((f))~~ (vi) At the time the community use is contemplated, the subject property would not reasonably be expected to produce more than de minimis revenue;

~~((g))~~ (vii) If the subject property can be reasonably expected to produce more than de minimis revenue, the community use is permitted only where the revenue to be earned from the community use would approximate the revenue that could be generated by an alternate use;

~~((h))~~ (viii) Leases for community use must not preclude reuse of the subject property for airport purposes if, in the opinion of the airport owner, reuse of the subject property would provide greater benefits to the airport than continuation of the community use;

~~((i))~~ (ix) The airport owner ensures that airport revenue does not support the capital or operating costs associated with the community use;

~~((j))~~ (x) The lease or other contract for community use is not to a for-profit organization or for the benefit of private individuals;

~~((k))~~ (xi) The lease or other contract for community use is subject to the requirement that if the term of the lease is for a period that exceeds ten years, the lease must contain a provision allowing for a readjustment of the rent every five years after the initial ten-year term;

~~((l))~~ (xii) The lease or other contract for community use is subject to the requirement that the term of the lease must not exceed fifty years; and

~~((m))~~ (xiii) The lease or other contract for community use is subject to the requirement that if the term of the lease exceeds one year, the lease or other contract obligations must be secured by rental insurance, bond, or other security satisfactory to the municipality's board, council, or commission in an amount equal to at least one year's rent, or as consistent with chapter 53.08 RCW. However, the municipality's board, council, or commission may waive the rent

security requirement or lower the amount of the rent security requirement for good cause.

~~((+0))~~ (j) To exercise all powers necessarily incidental to the exercise of the general and special powers granted in this section.

(2)(a) A municipality that controls or operates an airport having more than twenty million annual commercial air service passenger enplanements that is located within the boundaries of a city that has passed a local law or ordinance setting a minimum labor standard that applies to certain employers operating or providing goods and services at the airport is authorized to enact a minimum labor standard that applies to employees working at the airport, so long as the minimum labor standard meets, but does not exceed, the minimum labor standard in the city's law or ordinance.

(b) A municipality's authority to establish a minimum labor standard pursuant to (a) of this subsection may be imposed only on employers that are excluded from the minimum labor standard established by such city because the type of good or service provided by the employer is expressly excluded in the text of the city's law or ordinance.

(c) This section does not authorize a municipality to establish a minimum labor standard for an employer who was excluded from the city's law or ordinance because it is a certificated air carrier performing services for itself or based on the employer's size or number of employees.

(d) The authority granted under (a) of this subsection shall only apply to employers who provide the goods or services at the airport from facilities that are located on property owned by the municipality and within the boundaries of the city that enacted the minimum labor standard.

Passed by the Senate February 17, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 97

[Senate Bill 6218]

WASHINGTON STATE PATROL RETIREMENT SYSTEM--SALARY DEFINITION

AN ACT Relating to the definition of salary for the Washington state patrol retirement system; amending RCW 43.43.120; and creating a new section.

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

NEW SECTION. Sec. 1. (1) In 2001, the legislature passed chapter 329, Laws of 2001 which, beginning July 1, 2001, removed the ability for newly commissioned officers in the Washington state patrol to include certain types of earnings in their final average salary used for calculating their pension at the time of retirement. Chapter 329, Laws of 2001 also created the Washington state patrol retirement system plan 2 which applied to commissioned employees who first become members of the system on or after January 1, 2003.

(2) The legislature intends to allow state patrol troopers who were commissioned between July 1, 2001, and December 31, 2002, to include unused vacation, annual leave, and holiday pay in their salary average at retirement.

Sec. 2. RCW 43.43.120 and 2017 c 181 s 1 are each amended to read as follows:

As used in this section and RCW 43.43.130 through 43.43.320, unless a different meaning is plainly required by the context:

(1) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(2) "Annual increase" means as of July 1, 1999, seventy-seven cents per month per year of service which amount shall be increased each subsequent July 1st by three percent, rounded to the nearest cent.

(3)(a) "Average final salary," for members commissioned prior to January 1, 2003, shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(b) "Average final salary," for members commissioned on or after January 1, 2003, shall mean the average monthly salary received by a member for the highest consecutive sixty service credit months; or if the member has less than sixty months of service, then the average monthly salary received by the member during the member's total months of service.

(c) In calculating average final salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief; and

(ii) Any compensation forgone by a member during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief. Reductions to current pay shall not include elimination of previously agreed upon future salary reductions.

(4) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(5)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrol officers; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehouse workers.

(6) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under chapter 41.45 RCW.

(7) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(9) "Director" means the director of the department of retirement systems.

(10) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.040.

(11) "Employee" means any commissioned employee of the Washington state patrol.

(12) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(13) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(14) "Member" means any person included in the membership of the retirement fund.

(15) "Plan 2" means the Washington state patrol retirement system plan 2, providing the benefits and funding provisions covering commissioned employees who first become members of the system on or after January 1, 2003.

(16) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(17) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(18) "Retirement board" means the board provided for in this chapter.

(19) "Retirement fund" means the Washington state patrol retirement fund.

(20) "Retirement system" means the Washington state patrol retirement system.

(21)(a) "Salary," for members commissioned prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, or any voluntary overtime, earned on or after July 1, 2001, and prior to July 1, 2017. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(b) "Salary," for members commissioned ~~((on or after))~~ from July 1, 2001, to December 31, 2002, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, earned prior to July 1, 2017, lump sum payments for deferred annual sick leave, ~~((unused accumulated vacation, unused accumulated annual leave, holiday pay,))~~ or any form of severance pay. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(c) "Salary," for members commissioned on or after January 1, 2003, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, earned prior to July 1, 2017, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay. On or after July 1, 2017, salary shall

exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(d) The addition of overtime earnings related to RCW 47.46.040 or any voluntary overtime earned on or after July 1, 2017, in chapter 181, Laws of 2017 is a benefit improvement that increases the member maximum contribution rate under RCW 41.45.0631(1) by 1.10 percent.

(22) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(23) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(24) "State treasurer" means the treasurer of the state of Washington.

Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender.

Passed by the Senate February 17, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 98

[Substitute Senate Bill 6267]

LONG-TERM SERVICES AND SUPPORTS TRUST PROGRAM--VARIOUS PROVISIONS

AN ACT Relating to modifying the long-term services and supports trust program by clarifying the ability for individuals with existing long-term care insurance to opt-out of the premium assessment and making technical corrections; amending RCW 50B.04.010, 50B.04.020, 50B.04.050, 50B.04.080, 50B.04.090, and 50B.04.120; and adding a new section to chapter 50B.04 RCW.

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

Sec. 1. RCW 50B.04.010 and 2019 c 363 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) "Account" means the long-term services and supports trust account created in RCW 50B.04.100.

(2) "Approved service" means long-term services and supports including, but not limited to:

- (a) Adult day services;
- (b) Care transition coordination;
- (c) Memory care;

- (d) Adaptive equipment and technology;
- (e) Environmental modification;
- (f) Personal emergency response system;
- (g) Home safety evaluation;
- (h) Respite for family caregivers;
- (i) Home delivered meals;
- (j) Transportation;
- (k) Dementia supports;
- (l) Education and consultation;
- (m) Eligible relative care;
- (n) Professional services;
- (o) Services that assist paid and unpaid family members caring for eligible individuals, including training for individuals providing care who are not otherwise employed as long-term care workers under RCW 74.39A.074;
- (p) In-home personal care;
- (q) Assisted living services;
- (r) Adult family home services; and
- (s) Nursing home services.

(3) "Benefit unit" means up to one hundred dollars paid by the department of social and health services to a long-term services and supports provider as reimbursement for approved services provided to an eligible beneficiary on a specific date. The benefit unit must be adjusted annually at a rate no greater than the Washington state consumer price index, as determined solely by the council. Any changes adopted by the council shall be subject to revision by the legislature.

(4) "Commission" means the long-term services and supports trust commission established in RCW 50B.04.030.

(5) "Council" means the long-term services and supports trust council established in RCW 50B.04.040.

(6) "Eligible beneficiary" means a qualified individual who is age eighteen or older, residing in the state of Washington, was not disabled before the age of eighteen, has been determined to meet the minimum level of assistance with activities of daily living necessary to receive benefits through the trust program, as established in this chapter, and who has not exhausted the lifetime limit of benefit units.

(7) "Employee" has the meaning provided in RCW (~~50A.04.010~~) 50A.05.010.

(8) "Employer" has the meaning provided in RCW (~~50A.04.010~~) 50A.05.010.

(9) "Employment" has the meaning provided in RCW (~~50A.04.010~~) 50A.05.010.

(10) "Long-term services and supports provider" means an entity that meets the qualifications applicable in law to the approved service they provide, including a qualified or certified home care aide, licensed assisted living facility, licensed adult family home, licensed nursing home, licensed in-home services agency, adult day services program, vendor, instructor, qualified family member, or other entities as registered by the department of social and health services.

(11) "Premium" or "premiums" means the payments required by RCW 50B.04.080 and paid to the employment security department for deposit in the account created in RCW 50B.04.100.

(12) "Program" means the long-term services and supports trust program established in this chapter.

(13) "Qualified family member" means a relative of an eligible beneficiary qualified to meet requirements established in state law for the approved service they provide that would be required of any other long-term services and supports provider to receive payments from the state.

(14) "Qualified individual" means an individual who meets the duration of payment requirements, as established in this chapter.

(15) "State actuary" means the office of the state actuary created in RCW 44.44.010.

(16) (~~"Wages" has the meaning provided in RCW 50A.04.010, except that~~) "Wage or wages" means all remuneration paid by an employer to an employee. Remuneration has the meaning provided in RCW 50A.05.010. All wages are subject to a premium assessment and not limited by the commissioner of the employment security department, as provided under RCW ((50A.04.115)) 50A.10.030(4).

(17) "Exempt employee" means a person who has been granted a premium assessment exemption by the employment security department.

Sec. 2. RCW 50B.04.020 and 2019 c 363 s 3 are each amended to read as follows:

(1) The health care authority, the department of social and health services, the office of the state actuary, and the employment security department each have distinct responsibilities in the implementation and administration of the program. In the performance of their activities, they shall actively collaborate to realize program efficiencies and provide persons served by the program with a well-coordinated experience.

(2) The health care authority shall:

(a) Track the use of lifetime benefit units to verify the individual's status as an eligible beneficiary as determined by the department of social and health services;

(b) Ensure approved services are provided through audits or service verification processes within the service provider payment system for registered long-term services and supports providers and recoup any inappropriate payments;

(c) Establish criteria for the payment of benefits to registered long-term services and supports providers under RCW 50B.04.070;

(d) Establish rules and procedures for benefit coordination when the eligible beneficiary is also funded for medicaid and other long-term services and supports, including medicare, coverage through the department of labor and industries, and private long-term care coverage; and

(e) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(3) The department of social and health services shall:

(a) Make determinations regarding an individual's status as an eligible beneficiary under RCW 50B.04.060;

(b) Approve long-term services and supports eligible for payment as approved services under the program, as informed by the commission;

(c) Register long-term services and supports providers that meet minimum qualifications;

(d) Discontinue the registration of long-term services and supports providers that: (i) Fail to meet the minimum qualifications applicable in law to the approved service that they provide; or (ii) violate the operational standards of the program;

(e) Disburse payments of benefits to registered long-term services and supports providers, utilizing and leveraging existing payment systems for the provision of approved services to eligible beneficiaries under RCW 50B.04.070;

(f) Prepare and distribute written or electronic materials to qualified individuals, eligible beneficiaries, and the public as deemed necessary by the commission to inform them of program design and updates;

(g) Provide customer service and address questions and complaints, including referring individuals to other appropriate agencies;

(h) Provide administrative and operational support to the commission;

(i) Track data useful in monitoring and informing the program, as identified by the commission; and

(j) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(4) The employment security department shall:

(a) Collect and assess employee premiums as provided in RCW 50B.04.080;

(b) Assist the commission, council, and state actuary in monitoring the solvency and financial status of the program;

(c) Perform investigations to determine the compliance of premium payments in RCW 50B.04.080 in coordination with the same activities conducted under the family and medical leave act, (~~chapter 50A.04~~) Title 50A RCW, to the extent possible;

(d) Make determinations regarding an individual's status as a qualified individual under RCW 50B.04.050; and

(e) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(5) The office of the state actuary shall:

(a) Beginning January 1, 2024, and biennially thereafter, perform an actuarial audit and valuation of the long-term services and supports trust fund. Additional or more frequent actuarial audits and valuations may be performed at the request of the council;

(b) Make recommendations to the council and the legislature on actions necessary to maintain trust solvency. The recommendations must include options to redesign or reduce benefit units, approved services, or both, to prevent or eliminate any unfunded actuarially accrued liability in the trust or to maintain solvency; and

(c) Select and contract for such actuarial, research, technical, and other consultants as the actuary deems necessary to perform its duties under chapter 363, Laws of 2019.

Sec. 3. RCW 50B.04.050 and 2019 c 363 s 6 are each amended to read as follows:

(1) The employment security department shall deem a person to be a qualified individual as provided in this chapter if the person has paid the long-term services and supports premiums required by RCW 50B.04.080 for the equivalent of either:

(a) A total of ten years without interruption of five or more consecutive years; or

(b) Three years within the last six years.

(2) When deeming a person to be a qualified individual, the employment security department shall require that the person have worked at least five hundred hours during each of the ten years in subsection (1)(a) of this section ~~((and))~~ or each of the three years in subsection (1)(b) of this section.

(3) An exempt employee may never be deemed to be a qualified individual.

Sec. 4. RCW 50B.04.080 and 2019 c 363 s 9 are each amended to read as follows:

(1) Beginning January 1, 2022, the employment security department shall assess for each individual in employment with an employer a premium based on the amount of the individual's wages. The initial premium rate is fifty-eight hundredths of one percent of the individual's wages. Beginning January 1, 2024, and biennially thereafter, the premium rate shall be set by the pension funding council at a rate no greater than fifty-eight hundredths of one percent. In addition, the pension funding council must set the premium rate at the lowest amount necessary to maintain the actuarial solvency of the long-term services and supports trust account created in RCW 50B.04.100 in accordance with recognized insurance principles and designed to attempt to limit fluctuations in the premium rate. To facilitate the premium rate setting the office of the state actuary must perform a biennial actuarial audit and valuation of the fund and make recommendations to the pension funding council.

(2)(a) The employer must collect from the employees the premiums provided under this section through payroll deductions and remit the amounts collected to the employment security department.

(b) In collecting employee premiums through payroll deductions, the employer shall act as the agent of the employees and shall remit the amounts to the employment security department as required by this chapter.

(3) Nothing in this chapter requires any party to a collective bargaining agreement in existence on October 19, 2017, to reopen negotiations of the agreement or to apply any of the responsibilities under this chapter unless and until the existing agreement is reopened or renegotiated by the parties or expires.

(4)(a) Premiums shall be collected in the manner and at such intervals as provided in this chapter and directed by the employment security department.

(b) To the extent feasible, the employment security department shall use the premium assessment, collection, and reporting procedures in ~~((chapter 50A.04))~~ Title 50A RCW.

(5) The employment security department shall deposit all premiums collected in this section in the long-term services and supports trust account created in RCW 50B.04.100.

(6) Premiums collected in this section are placed in the trust account for the individuals who become eligible for the program.

(7) If the premiums established in this section are increased, the legislature shall notify each qualified individual by mail that the person's premiums have

been increased, describe the reason for increasing the premiums, and describe the plan for restoring the funds so that premiums are returned to fifty-eight hundredths of one percent of the individual's wages.

~~((8) An employee who demonstrates that the employee has long-term care insurance is exempt from the premium assessment in this section.))~~

Sec. 5. RCW 50B.04.090 and 2019 c 363 s 10 are each amended to read as follows:

(1) Beginning January 1, 2022, any self-employed person, including a sole proprietor, independent contractor, partner, or joint venturer, may elect coverage under this chapter. Those electing coverage under this subsection are responsible for payment of one hundred percent of all premiums assessed to an employee under RCW 50B.04.080. The self-employed person must file a notice of election in writing with the employment security department, in the manner required by the employment security department in rule. The self-employed person is eligible for benefits after paying the long-term services and supports premium for the time required under RCW 50B.04.050.

(2) A self-employed person who has elected coverage may withdraw from coverage, at such times as the employment security department may adopt by rule, by filing a notice of withdrawal in writing with the employment security department, with the withdrawal to take effect not sooner than thirty days after filing the notice with the employment security department.

(3) The employment security department may cancel elective coverage if the self-employed person fails to make required payments or file reports. The employment security department may collect due and unpaid premiums and may levy an additional premium for the remainder of the period of coverage. The cancellation must be effective no later than thirty days from the date of the notice in writing advising the self-employed person of the cancellation.

(4) Those electing coverage are considered employers or employees where the context so dictates.

(5) For the purposes of this section, "independent contractor" means an individual excluded from the definition of "employment" in RCW 50B.04.010~~((8))~~.

(6) The employment security department shall adopt rules for determining the hours worked and the wages of individuals who elect coverage under this section and rules for enforcement of this section.

Sec. 6. RCW 50B.04.120 and 2019 c 363 s 13 are each amended to read as follows:

(1) Determinations made by the health care authority or the department of social and health services under this chapter, including determinations regarding functional eligibility or related to registration of long-term services and supports providers, are subject to appeal in accordance with chapter 34.05 RCW. In addition, the standards and procedures adopted for these appeals must address the following:

- (a) Timelines;
- (b) Eligibility and benefit determination;
- (c) Judicial review; and
- (d) Fees.

(2) Determinations made by the employment security department under this chapter are subject to appeal in accordance with the appeal procedures under ~~((chapter 50A.04))~~ Title 50A RCW. The employment security department shall adopt standards and procedures for appeals for persons aggrieved by any determination or redetermination made by the department. The standards and procedures must be consistent with those adopted for the family and medical leave program under ~~((chapter 50A.04))~~ Title 50A RCW and must address topics including:

- (a) Premium liability;
- (b) Premium collection;
- (c) Judicial review; and
- (d) Fees.

NEW SECTION. Sec. 7. A new section is added to chapter 50B.04 RCW to read as follows:

(1) An employee who attests that the employee has long-term care insurance may apply for an exemption from the premium assessment under RCW 50B.04.080. An exempt employee may not become a qualified individual or eligible beneficiary and is permanently ineligible for coverage under this title.

(2)(a) The employment security department must accept applications for exemptions only from October 1, 2021, through December 31, 2022.

(b) Only employees who are eighteen years of age or older may apply for an exemption.

(3) The employment security department is not required to verify the attestation of an employee that the employee has long-term care insurance.

(4) Approved exemptions will take effect on the first day of the quarter immediately following the approval of the exemption.

(5) Exempt employees are not entitled to a refund of any premium deductions made before the effective date of an approved exemption.

(6) An exempt employee must provide written notification to all current and future employers of an approved exemption.

(7) If an exempt employee fails to notify an employer of an exemption, the exempt employee is not entitled to a refund of any premium deductions made before notification is provided.

(8) Employers must not deduct premiums after being notified by an employee of an approved exemption.

(a) Employers must retain written notifications of exemptions received from employees.

(b) An employer who deducts premiums after being notified by the employee of an exemption is solely responsible for refunding to the employee any premiums deducted after the notification.

(c) The employer is not entitled to a refund from the employment security department for any premiums remitted to the employment security department that were deducted from exempt employees.

(9) The department must adopt rules necessary to implement and administer the activities specified in this section related to the program, including rules on the submission and processing of applications under this section.

Passed by the Senate February 17, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 19, 2020.
Filed in Office of Secretary of State March 19, 2020.

CHAPTER 99

[Substitute Senate Bill 6415]

PERMANENT FIRE PROTECTION DISTRICT BENEFIT CHARGES

AN ACT Relating to allowing a permanent fire protection district benefit charge with voter approval; and amending RCW 52.18.050 and 52.26.220.

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

Sec. 1. RCW 52.18.050 and 2017 c 196 s 4 are each amended to read as follows:

(1)(a) The initial imposition of a benefit charge authorized by this chapter must be approved by not less than sixty percent of the voters of the district voting at a general election or at a special election called by the district for that purpose.

(b) An election held for the initial imposition of a benefit charge must be held not more than twelve months prior to the date on which the first charge is to be assessed.

(c) A benefit charge approved at an election expires in six or fewer years as authorized by the voters unless subsequently reapproved by the voters.

(2) Ballot measures calling for the initial imposition of a benefit charge must be submitted so as to enable voters favoring the authorization of a benefit charge to vote "Yes" and those opposed to vote "No," and the ballot question must be as follows:

"Shall county fire protection district No. be authorized to impose benefit charges each year for . . . (insert number of years not to exceed six) years, not to exceed an amount equal to sixty percent of its operating budget, and be prohibited from imposing an additional property tax under RCW 52.16.160?

YES

NO

(3)(a) The continued imposition of a benefit charge authorized by this chapter may be approved for six consecutive years, ten consecutive years, or permanently.

A ballot measure calling for the continued imposition of a benefit charge for six consecutive years or ten consecutive years must be approved by a majority of the voters of the district voting at a general election or at a special election called by the district for that purpose.

A ballot measure calling for the continued imposition of a benefit charge as a permanent benefit charge must be approved by not less than sixty percent of the voters of the district voting at a general election or at a special election called by the district for that purpose.

(b) Ballot measures calling for the continued imposition of a benefit charge must be submitted so as to enable voters favoring the continued imposition of

the benefit charge to vote "Yes" and those opposed to vote "No." The ballot question must be substantially in the following form:

"Shall county fire protection district No. be authorized to continue voter-authorized benefit charges (insert "each year for six consecutive years", "each year for ten consecutive years," or "permanently"), not to exceed an amount equal to sixty percent of its operating budget, and be prohibited from imposing an additional property tax under RCW 52.16.160?

YES

NO

Sec. 2. RCW 52.26.220 and 2017 c 196 s 1 are each amended to read as follows:

(1)(a) The initial imposition of a benefit charge authorized by this chapter must be approved by not less than sixty percent majority of the voters of the regional fire protection service authority voting at a general election or at a special election called by the authority for that purpose. Ballot measures containing an authorization to impose benefit charges that are approved by the voters pursuant to RCW 52.26.060 satisfy the proposition approval requirement of this subsection and subsection (2) of this section.

(b) An election held for the initial imposition of a benefit charge must be held not more than twelve months prior to the date on which the first charge is to be assessed.

(c) A benefit charge approved at an election expires in six or fewer years as authorized by the voters, unless subsequently reapproved by the voters.

(2) Ballot measures calling for the initial imposition of a benefit charge must be submitted so as to enable voters favoring the authorization of a benefit charge to vote "Yes" and those opposed to vote "No." The ballot question is as follows:

"Shall the regional fire protection service authority composed of (insert the participating fire protection jurisdictions) be authorized to impose benefit charges each year for (insert number of years not to exceed six) years, not to exceed an amount equal to sixty percent of its operating budget, and be prohibited from imposing an additional property tax under RCW 52.26.140(1)(c)?

YES

NO

(3)(a) The continued imposition of a benefit charge authorized by this chapter may be approved for six consecutive years, ten consecutive years, or permanently. A ballot measure calling for the continued imposition of a benefit charge for six consecutive years or ten consecutive years must be approved by a majority of the voters of the regional fire protection service authority voting at a general election or at a special election called by the authority for that purpose. A ballot measure calling for the continued imposition of a benefit charge as a permanent benefit charge must be approved by not less than sixty percent of the

voters of the regional fire protection service authority voting at a general election or at a special election called by the authority for that purpose.

(b) Ballot measures calling for the continued imposition of a benefit charge must be submitted so as to enable voters favoring the continued imposition of the benefit charge to vote "Yes" and those opposed to vote "No." The ballot question must be substantially in the following form:

"Shall the regional fire protection service authority composed of (insert the participating fire protection jurisdictions) be authorized to continue voter-authorized benefit charges (insert "each year for six consecutive years," "each year for ten consecutive years," or "permanently"), not to exceed an amount equal to sixty percent of its operating budget, and be prohibited from imposing an additional property tax under RCW 52.26.140(1)(c)?

YES

NO

Passed by the Senate February 18, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 100

[Engrossed Substitute Senate Bill 6473]

ASBESTOS-CONTAINING BUILDING MATERIALS

AN ACT Relating to asbestos-containing building materials; amending RCW 70.310.020; adding new sections to chapter 70.310 RCW; adding a new section to chapter 49.17 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 70.310 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, the use of asbestos-containing building materials in new construction or renovations is prohibited.

(2) Subsection (1) of this section does not apply to:

(a) The use of asbestos-containing building materials in residential construction;

(b) The use of asbestos-containing building materials that are, as of the effective date of this section, already ordered by a contractor or currently in the possession of the contractor; or

(c) The use of asbestos-containing building materials if complying with subsection (1) of this section would result in the breach of a contract existing as of the effective date of this section.

Sec. 2. RCW 70.310.020 and 2013 c 51 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) "Asbestos" includes the asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentine), crocidolite (riebeckite), anthophyllite, and any of these minerals that have been chemically treated or altered. The chemical abstracts service registry number for each is as follows: Asbestos (1332-21-4), actinolite (13768-00-8), amosite (12172-73-5), tremolite (14567-73-8), chrysotile (12001-29-5), crocidolite (12001-28-4), and anthophyllite (17068-78-9).

(2) "Asbestos-containing building material" means ~~((any))~~:

(a) Until January 1, 2025, any building material to which asbestos is deliberately added in any concentration or that contains more than one percent asbestos by weight or area as determined using the United States environmental protection agency method for the determination of asbestos in building materials, EPA/600/R-93/116, July 1993; and

(b) Beginning January 1, 2025, any building material to which asbestos is deliberately added in any concentration or that contains more than one-tenth of one percent asbestos by weight or area as determined using the United States environmental protection agency method for the determination of asbestos in building materials, EPA/600/R-93/116, July 1993.

(3) "Building material" includes materials designed for, or used in, construction, renovation, repair, or maintenance of institutional, commercial, public, industrial, or residential buildings and structures. The term does not include automobiles, recreational vehicles, boats, or other mobile means of transportation.

(4) "Consumer" means any person that acquires a building material for direct use or ownership, rather than for resale or use in production and manufacturing.

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

(6) "Person" means any individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(7) "Retailer" means any person that sells goods or commodities directly to consumers.

(8) "Interested party" means any contractor, subcontractor, or worker that performs, or is reasonably expected to perform, work at a facility covered under section 3 of this act or any organization whose members perform, or are reasonably expected to perform, work at a facility covered under section 3 of this act.

(9) "Residential construction" means construction, alteration, repair, improvement, or maintenance of single-family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including the basement.

NEW SECTION. Sec. 3. A new section is added to chapter 70.310 RCW to read as follows:

(1) Every owner of a facility that is engaged in activities described in codes 31 through 33 of the North American industry classification system must:

(a) Perform an inspection of the facility to determine whether asbestos-containing building materials are present and, if asbestos-containing building materials are found during the initial inspection, reinspect asbestos-containing building materials every five years thereafter. The inspections must be

conducted by persons meeting the accreditation requirements of the federal toxic substances control act, 15 U.S.C. Sec. 2646 (b) or (c); and

(b) Develop, maintain, and update an asbestos management plan and keep a copy at the facility. The asbestos management plan must be updated every five years and after any material changes in asbestos-containing building materials in the facility. The asbestos management plan must include:

(i) The name and address of the facility and whether the facility has asbestos-containing building materials, and the type of asbestos-containing building material;

(ii) The date of the original facility inspection;

(iii) A plan for reinspections;

(iv) A blueprint of the facility that clearly identifies the location of asbestos-containing building materials;

(v) A description of any response action or prevention measures taken to reduce asbestos exposure;

(vi) A copy of the analysis of any building or facility, and the name and address of any laboratory that sampled the material;

(vii) The name, address, and telephone number of a designated contact to whom the owner has assigned responsibility for ensuring that the duties of the owner are carried out; and

(viii) A description of steps taken to inform workers about inspections, reinspections, response actions, and periodic surveillance of the asbestos-containing building materials.

(2) Upon request, the asbestos management plan required under subsection (1)(b) of this section must be made available to the department, the department of labor and industries, local air pollution control authorities in jurisdictions where they have been created under this chapter, and any interested party. In addition to the penalties established by this chapter, failure to create or maintain a required asbestos management plan is a violation of chapter 49.17 RCW and subject to the penalties established under RCW 49.17.180 and 49.17.190.

NEW SECTION. Sec. 4. A new section is added to chapter 49.17 RCW to read as follows:

(1) The asbestos plan requirements in section 3(1)(b) of this act are an industrial health or safety standard adopted under the authority of this chapter.

(2) A violation of the requirements of section 3(1)(b) of this act is subject to the penalties established under RCW 49.17.180 and 49.17.190 for violations of safety or health standards adopted under the authority of this chapter.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate March 7, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 19, 2020.

Filed in Office of Secretary of State March 19, 2020.

CHAPTER 101

[Substitute House Bill 1251]

ELECTION SYSTEMS AND DATA--SECURITY BREACHES

AN ACT Relating to security breaches of election systems or election data including by foreign entities; amending RCW 29A.12.070; adding a new section to chapter 29A.12 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 public confidence in state elections systems and election data are of paramount consideration to the integrity of the voting process. The legislature also finds that recent events have revealed an intentional and persistent effort by foreign entities to influence election systems and other cyber networks. Therefore, the legislature intends to review the state's electoral systems and processes and take appropriate measures to identify whether foreign entities were responsible for the intrusions.

NEW SECTION. Sec. 2. A new section is added to chapter 29A.12 RCW to read as follows:

(1) The secretary of state must annually consult with the Washington state fusion center, state chief information officer, and each county auditor to identify instances of security breaches of election systems or election data.

(2) To the extent possible, the secretary of state must identify whether the source of a security breach, if any, is a foreign entity, domestic entity, or both.

(3) By December 31st of each year, the secretary of state must submit a report to the governor, state chief information officer, Washington state fusion center, and the chairs and ranking members of the appropriate legislative committees from the senate and house of representatives that includes information on any instances of security breaches identified under subsection (1) of this section and options to increase the security of the election systems and election data, and to prevent future security breaches. The report, and any related material, data, or information provided pursuant to subsection (1) of this section or used to assemble the report, may only be distributed to, or otherwise shared with, the individuals specifically mentioned in this subsection (3).

(4) For the purposes of this section:

(a) "Foreign entity" means an entity that is not organized or formed under the laws of the United States, or a person who is not domiciled in the United States or a citizen of the United States.

(b) "Security breach" means a breach of the election system or associated data where the system or associated data has been penetrated, accessed, or manipulated by an unauthorized person.

Sec. 3. RCW 29A.12.070 and 2003 c 111 s 307 are each amended to read as follows:

An agreement to purchase or lease a voting system or a component of a voting system is subject to that system or component passing ~~((and))~~:

(1) An acceptance test sufficient to demonstrate that the equipment is the same as that certified by the secretary of state and that the equipment is operating correctly as delivered to the county; and

(2) A vulnerability test conducted by a federal or state public entity which includes participation by local elections officials.

Passed by the House March 7, 2020.

Passed by the Senate March 4, 2020.
Approved by the Governor March 25, 2020.
Filed in Office of Secretary of State March 26, 2020.

CHAPTER 102

[Engrossed Substitute House Bill 1608]

HEALTH CARE PROVIDERS--PROVIDING INFORMATION TO PATIENTS

AN ACT Relating to protecting patient care; adding a new section to chapter 43.70 RCW; and adding a new chapter to Title 70 RCW.

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

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

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

(2) "Health care entity" means an entity that supervises, controls, grants privileges to, directs the practice of, or directly or indirectly restricts the practice of, a health care provider.

(3) "Health care provider" has the same meaning as in RCW 70.02.010.

(4) "Medically accurate" means information that is verified or supported by research in compliance with scientific methods, is published in peer-reviewed journals, where appropriate, and is recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field.

NEW SECTION. Sec. 2. (1) If a health care provider is acting in good faith, within the provider's scope of practice, education, training, and experience, including specialty areas of practice and board certification, and within the accepted standard of care, a health care entity may not:

(a) Limit the health care provider's provision of:

(i) Medically accurate and comprehensive information and counseling to a patient regarding the patient's health status including, but not limited to, diagnosis, prognosis, recommended treatment, treatment alternatives, and any potential risks to the patient's health or life; and

(ii) Information about available services and about what relevant resources are available in the community and how to access those resources for obtaining the care of the patient's choice;

(b) Limit the health care provider's provision of information about and regarding Washington's death with dignity act, chapter 70.245 RCW, information about what relevant resources are available in the community, and how to access those resources for obtaining the care of the patient's choice.

(2) A health care entity may not discharge, demote, suspend, discipline, or otherwise discriminate against a health care provider for providing information in compliance with this section.

(3) If any part of this section is found to be in conflict with federal requirements which are a prescribed condition to the receipts of federal funds to the state, the conflicting part of this section is inoperative solely to the extent of the conflict with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of the section.

NEW SECTION. Sec. 3. A health care entity must provide the information prepared by the department under section 4(1) of this act at the time of hiring,

contracting with, or privileging health care providers and staff, and on a yearly basis thereafter. Hospitals must also provide information to clearly inform health care providers and staff of the provisions of the federal emergency medical treatment and labor act (42 U.S.C. Sec. 1395dd), including obligations to screen, stabilize, and transfer patients, at the time of hiring, contracting with, or privileging health care providers and staff, and on a yearly basis thereafter.

NEW SECTION. Sec. 4. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department must design, prepare, and make available online, written materials to clearly inform health care providers and staff of the provisions of, and authority to act under, chapter 70.--- RCW (the new chapter created in section 5 of this act).

(2) The department must design, prepare, and make available online, written materials to provide information to providers and patients regarding Washington's death with dignity act, chapter 70.245 RCW.

NEW SECTION. Sec. 5. Sections 1 through 3 of this act constitute a new chapter in Title 70 RCW.

Passed by the House February 17, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 103

[Second Substitute House Bill 1661]

HIGHER EDUCATION RETIREMENT PLANS--FUNDING

AN ACT Relating to the higher education retirement plans; amending RCW 28B.10.423, 41.45.050, 41.45.060, and 41.50.075; reenacting and amending RCW 43.84.092; adding a new section to chapter 41.50 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) Chapter 47, Laws of 2011 1st sp. sess. (Engrossed Substitute House Bill No. 1981) established a framework to allow the state's institutions of higher education to begin funding the unfunded portion of the defined benefit component of the higher education retirement plans.

(b) Moneys in the fund are being invested in short-term assets with low rates of return because there is no stated or clear pathway for when these funds will be used to pay benefits and that a stated strategy would allow these funds to be invested at a higher rate of return.

(c) The first actuarial analysis of the plans was completed in 2016, which provided information about projected future costs and potential institution specific rates that would allow benefits to be paid from the fund beginning in 2035.

(2) Therefore, the legislature intends the following:

(a) To establish institution specific contribution rates for each institutions of higher education supplemental benefit plan.

(b) The pension funding council will adjust the institution specific rates periodically based on updated experience and actuarial analyses to maintain

progress towards funding the actuarial liabilities of each institution and to allow payment from the funds by 2035.

(c) Future contribution rates represent the cost of paying on a combined prefunded and pay-as-you-go basis in a way that reduces the year-to-year changes in cost that the higher education retirement plan supplemental benefit has under current law.

(d) The department of retirement systems assumes responsibility for administering the higher education retirement plan supplemental benefit fund when sufficient assets have been accumulated, as determined by the pension funding council.

(e) When sufficient funding has been accumulated to begin making benefit payments that the payments be made solely from that institution's portion of the higher education retirement plan supplemental benefit fund.

(f) That moneys in the fund be invested in a way to maximize returns.

Sec. 2. RCW 28B.10.423 and 2012 c 229 s 516 are each amended to read as follows:

(1) For employees who are first employed by an institution of higher education in a position eligible for participation in an old age annuities or retirement income plan under this chapter prior to July 1, 2011, it is the intent of RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, and 28B.10.420((~~7~~)) and ((~~28B.10.423~~)) this section that the retirement income resulting from the contributions described herein from the state of Washington and the employee shall be projected actuarially so that it shall not exceed sixty percent of the average of the highest two consecutive years salary. Periodic review of the retirement systems established pursuant to RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, and 28B.10.420((~~7~~)) and ((~~28B.10.423~~)) this section will be undertaken at such time and in such manner as determined by the committees on ways and means of the senate and of the house of representatives, the select committee on pension policy, and the pension funding council, and joint contribution rates will be adjusted if necessary to accomplish this intent.

(2) Beginning July 1, 2011, state funding for annuity or retirement income plans under RCW 28B.10.400 shall not exceed six percent of salary. The state board for community and technical colleges and the student achievement council are exempt from the provisions of this subsection (2).

(3) By June 30, 2013, and every two years thereafter, each institution of higher education that is responsible for payment of supplemental amounts under RCW 28B.10.400(1)(c) shall contract with the state actuary under chapter 41.44 RCW for an actuarial valuation of their supplemental benefit plan. By June 30, 2013, and at least once every six years thereafter, each institution shall also contract with the state actuary under chapter 41.44 RCW for an actuarial experience study of the mortality, service, compensation, and other experience of the annuity or retirement income plans created in this chapter, and into the financial condition of each system. At the discretion of the state actuary, the valuation or experience study may be performed by the state actuary or by an outside actuarial firm under contract to the office of the state actuary. Each institution of higher education is required to provide the data and information required for the performance of the valuation or experience study to the office of the state actuary or to the actuary performing the study on behalf of the state actuary. The state actuary may charge each institution for the actual cost of the

valuation or experience study through an interagency agreement. Upon completion of the valuation or experience study, the state actuary shall provide copies of the study to the institution of higher education and to the select committee on pension policy and the pension funding council.

~~(4)(a) ((A higher education retirement plan supplemental benefit fund is created in the custody of the state treasurer for the purpose of funding future benefit obligations of higher education retirement plan supplemental benefits. The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the fund.~~

~~(b))~~ From January 1, 2012, through June 30, 2013, an employer contribution rate of one-quarter of one percent of salary is established to begin prefunding the unfunded future obligations of the supplemental benefit established in RCW 28B.10.400.

~~((c))~~ (b) Beginning July 1, 2013, an employer contribution rate of one-half of one percent of salary is established to prefund the unfunded future obligations of the supplemental benefit established in RCW 28B.10.400.

~~((d))~~ (c)(i) Beginning July 1, 2020, the employer contribution rates for each state institution of higher education are as follows:

University of Washington: 0.38 percent

Washington State University: 0.30 percent

Western Washington University: 0.21 percent

Eastern Washington University: 0.28 percent

Central Washington University: 0.28 percent

The Evergreen State College: 0.23 percent

State board for community and technical colleges: 0.13 percent

(ii) The contribution rates established in this section may be changed by rates adopted by the pension funding council beginning July 1, 2021, consistent with (e) of this subsection.

(iii) The rates in this subsection (4) are subject to the limit established in subsection (2) of this section.

(d) Consistent with chapter 41.50 RCW, the department of retirement systems shall collect the employer contribution rates established in this section from each state institution of higher education, and deposit those contributions into the higher education retirement plan supplemental benefit fund under RCW 41.50.075(6). The contributions made by each employer into the higher education retirement plan supplemental benefit fund and the earnings on those contributions shall be accounted for separately within the fund.

(e) Following the completion and review of the ~~((initial))~~ actuarial valuations and experience study conducted pursuant to subsection (3) of this section, the pension funding council may~~(~~

~~(i Adopt)~~, by July 31, 2020, and every two years thereafter, adopt and make changes to the employer contribution rates established in this subsection consistent with the procedures established in chapter 41.45 RCW. If the actuarial valuations of the higher education retirement plans of each institution contributing to the higher education retirement plan supplemental benefit fund suggest that different contribution rates are appropriate for each institution, different rates may be adopted. Rates adopted by the pension funding council are subject to revision by the legislature~~(~~

~~(ii) Recommend legislation that will, upon accumulation of sufficient funding in the higher education retirement plan supplemental benefit fund, transfer the responsibility for making supplemental benefit payments to the department of retirement systems, and adjust employer contribution rates to reflect the transfer of responsibility).~~

(f)(i) The rates adopted by the pension funding council must be designed to keep the cost of the higher education retirement plan supplemental benefits at a more level percentage of pay than a pay-as-you-go method. This more level percentage of pay of costs means a combination of the cost of supplemental benefits paid by the institution directly, plus the cost of contributions to the higher education retirement plan supplemental benefit fund. Contributions shall continue until the projected value of the funds equals the projected cost of future benefits for the institution.

(ii) Funds are anticipated to be accumulated in the higher education retirement plan supplemental benefit fund, and not expended on benefits until approximately the year 2035.

(iii) The pension funding council, in consultation with the state actuary, may choose and occasionally revise, a funding method designed to achieve these objectives.

Sec. 3. RCW 41.45.050 and 2004 c 242 s 38 are each amended to read as follows:

(1) Employers of members of the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the public safety employees' retirement system, ~~((and))~~ the Washington state patrol retirement system, and the higher education retirement plans shall make contributions to those systems and plans based on the rates established in RCW 41.45.060 and 41.45.070.

(2) The state shall make contributions to the law enforcement officers' and firefighters' retirement system plan 2 based on the rates established in RCW 41.45.060 and 41.45.070. The state treasurer shall transfer the required contributions each month on the basis of salary data provided by the department.

(3) The department shall bill employers, and the state shall make contributions to the law enforcement officers' and firefighters' retirement system plan 2, using the combined rates established in RCW 41.45.060 and 41.45.070 regardless of the level of appropriation provided in the biennial budget. Any member of an affected retirement system may, by mandamus or other appropriate proceeding, require the transfer and payment of funds as directed in this section.

(4) The contributions received for the public employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the public employees' retirement system combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the public employees' retirement system combined plan 2 and plan 3 employer contribution shall first be deposited in the public employees' retirement system combined plan 2 and plan 3 fund. All remaining public employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(5) The contributions received for the teachers' retirement system shall be allocated between the plan 1 fund and the combined plan 2 and plan 3 fund as

follows: The contributions necessary to fully fund the combined plan 2 and plan 3 employer contribution shall first be deposited in the combined plan 2 and plan 3 fund. All remaining teachers' retirement system employer contributions shall be deposited in the plan 1 fund.

(6) The contributions received for the school employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the school employees' retirement system combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the combined plan 2 and plan 3 employer contribution shall first be deposited in the combined plan 2 and plan 3 fund. All remaining school employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(7) The contributions received for the law enforcement officers' and firefighters' retirement system plan 2 shall be deposited in the law enforcement officers' and firefighters' retirement system plan 2 fund.

(8) The contributions received for the public safety employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the public safety employees' retirement system plan 2 fund as follows: The contributions necessary to fully fund the plan 2 employer contribution shall first be deposited in the plan 2 fund. All remaining public safety employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(9) The contributions received for the higher education retirement plan supplemental benefit fund shall be deposited in the higher education retirement plan supplemental benefit fund and amounts received from each institution accounted for separately and shall only be used to make benefit payments to the beneficiaries of that institution's plan.

Sec. 4. RCW 41.45.060 and 2009 c 561 s 3 are each amended to read as follows:

(1) The state actuary shall provide preliminary actuarial valuation results based on the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035.

(2) Not later than July 31, 2008, and every two years thereafter, consistent with the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035, the council shall adopt and may make changes to:

(a) A basic state contribution rate for the law enforcement officers' and firefighters' retirement system plan 1;

(b) Basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system; and

(c) Basic employer contribution rates for the school employees' retirement system and the public safety employees' retirement system for funding both those systems and the public employees' retirement system plan 1.

The council may adopt annual rate changes for any plan for any rate-setting period. The contribution rates adopted by the council shall be subject to revision by the legislature.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the law enforcement officers' and firefighters' retirement system plan 1 not later than June 30, 2024;

(b) To fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the public safety employees' retirement system plan 2, and the school employees' retirement system plans 2 and 3 in accordance with RCW 41.45.061, 41.45.067, and this section; and

(c) To fully fund the public employees' retirement system plan 1 and the teachers' retirement system plan 1 in accordance with RCW 41.45.070, 41.45.150, and this section.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan 2 and 3 normal cost, a Washington state patrol retirement system normal cost, and a public safety employees' retirement system normal cost.

(5) A modified entry age normal cost method, as set forth in this chapter, shall be used to calculate employer contributions to the public employees' retirement system plan 1 and the teachers' retirement system plan 1.

(6) The employer contribution rate for the public employees' retirement system and the school employees' retirement system shall equal the sum of:

(a) The amount required to pay the combined plan 2 and plan 3 normal cost for the system, subject to any minimum rates applied pursuant to RCW 41.45.155; plus

(b) The amount required to amortize the unfunded actuarial accrued liability in plan 1 of the public employees' retirement system over a rolling ten-year period using projected future salary growth and growth in system membership, and subject to any minimum or maximum rates applied pursuant to RCW 41.45.150; plus

(c) The amounts required to amortize the costs of any benefit improvements in plan 1 of the public employees' retirement system that become effective after June 30, 2009. The cost of each benefit improvement shall be amortized over a fixed ten-year period using projected future salary growth and growth in system membership. The amounts required under this subsection are not subject to, and are collected in addition to, any minimum or maximum rates applied pursuant to RCW 41.45.150.

(7) The employer contribution rate for the public safety employees' retirement system shall equal the sum of:

(a) The amount required to pay the normal cost for the system, subject to any minimum rates applied pursuant to RCW 41.45.155; plus

(b) The amount required to amortize the unfunded actuarial accrued liability in plan 1 of the public employees' retirement system over a rolling ten-year period using projected future salary growth and growth in system membership, and subject to any minimum or maximum rates applied pursuant to RCW 41.45.150; plus

(c) The amounts required to amortize the costs of any benefit improvements in plan 1 of the public employees' retirement system that become effective after June 30, 2009. The cost of each benefit improvement shall be amortized over a fixed ten-year period using projected future salary growth and growth in system membership. The amounts required under this subsection are not subject to, and are collected in addition to, any minimum or maximum rates applied pursuant to RCW 41.45.150.

(8) The employer contribution rate for the teachers' retirement system shall equal the sum of:

(a) The amount required to pay the combined plan 2 and plan 3 normal cost for the system, subject to any minimum rates applied pursuant to RCW 41.45.155; plus

(b) The amount required to amortize the unfunded actuarial accrued liability in plan 1 of the teachers' retirement system over a rolling ten-year period using projected future salary growth and growth in system membership, and subject to any minimum or maximum rates applied pursuant to RCW 41.45.150; plus

(c) The amounts required to amortize the costs of any benefit improvements in plan 1 of the teachers' retirement system that become effective after June 30, 2009. The cost of each benefit improvement shall be amortized over a fixed ten-year period using projected future salary growth and growth in system membership. The amounts required under this subsection are not subject to, and are collected in addition to, any minimum or maximum rates applied pursuant to RCW 41.45.150.

(9) The employer contribution rate for each of the institutions of higher education for the higher education supplemental retirement benefits must be sufficient to fund, as a level percentage of pay, a portion of the projected cost of the supplemental retirement benefits for the institution beginning in 2035, with the other portion supported on a pay-as-you-go basis, either as direct payments by each institution to retirees, or as contributions to the higher education retirement plan supplemental benefit fund. Contributions must continue until the council determines that the institution for higher education supplemental retirement benefit liabilities are satisfied.

(10) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

~~((40))~~ (11) The director shall collect those rates adopted by the council. The rates established in RCW 41.45.062, or by the council, shall be subject to revision by the legislature.

~~((44))~~ (12) The state actuary shall prepare final actuarial valuation results based on the economic assumptions, asset value smoothing technique, and contribution rates included in or adopted under RCW 41.45.030, 41.45.035, and this section.

Sec. 5. RCW 41.50.075 and 2004 c 242 s 44 are each amended to read as follows:

(1) Two funds are hereby created and established in the state treasury to be known as the Washington law enforcement officers' and firefighters' system plan 1 retirement fund, and the Washington law enforcement officers' and firefighters' system plan 2 retirement fund which shall consist of all moneys paid into them in accordance with the provisions of this chapter and chapter 41.26 RCW, whether such moneys take the form of cash, securities, or other assets. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and firefighters' retirement system plan 1, and the plan 2 fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and firefighters' retirement system plan 2.

(2) All of the assets of the Washington state teachers' retirement system shall be credited according to the purposes for which they are held, to two funds to be maintained in the state treasury, namely, the teachers' retirement system plan 1 fund and the teachers' retirement system combined plan 2 and 3 fund. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan 1, and the combined plan 2 and 3 fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan 2 and 3.

(3) There is hereby established in the state treasury two separate funds, namely the public employees' retirement system plan 1 fund and the public employees' retirement system combined plan 2 and plan 3 fund. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan 1, and the combined plan 2 and plan 3 fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plans 2 and 3.

(4) There is hereby established in the state treasury the school employees' retirement system combined plan 2 and 3 fund. The combined plan 2 and 3 fund shall consist of all moneys paid to finance the benefits provided to members of the school employees' retirement system plan 2 and plan 3.

(5) There is hereby established in the state treasury the public safety employees' retirement system plan 2 fund. The plan 2 fund shall consist of all moneys paid to finance the benefits provided to members of the public safety employees' retirement system plan 2.

(6)(a)(i) There is hereby established in the state treasury the higher education retirement plan supplemental benefit fund. The higher education retirement plan supplemental benefit fund shall consist of all moneys paid to finance the benefits provided to members of each of the higher education retirement plans.

(ii) The fund in this subsection (6) was originally created under chapter 47, Laws of 2011 1st sp. sess. (Engrossed Substitute House Bill No. 1981).

(b) The office of financial management must create individual accounts for each institution of higher education within the higher education retirement plan supplemental benefit fund. For fiscal year 2021, the office of financial management must transfer all the assets of the higher education retirement plan supplemental benefit fund into the individual accounts for each institution that will be used to manage the accounting for each benefit plan. The higher education retirement plan supplemental benefit fund will include all the amounts in the individual accounts created in this subsection.

NEW SECTION. Sec. 6. A new section is added to chapter 41.50 RCW to read as follows:

(1) On July 1st of the fiscal year following a determination by the pension funding council that a higher education institution has sufficiently funded the liabilities of that institution through contributions to the higher education retirement plan supplemental benefit fund, the department shall assume responsibility for making benefit payments to higher education retirement plan supplemental beneficiaries for that institution from the portion of the higher education retirement plan supplemental benefit fund attributed to the individual institution.

(2) Immediately following the determination by the pension funding council under RCW 41.45.060(9) that an institution participating in the higher education retirement plan supplemental benefits has sufficiently funded the benefits of the plan that higher education institution:

(a) Must provide any data and assistance requested by the department to facilitate the transition of responsibility for making benefit payments to higher education retirement plan members eligible for supplemental benefit payments; and

(b) Is governed by the provisions of RCW 41.50.110.

(3) On the date that the department assumes responsibility for benefit payments under subsection (1) of this section, the department shall assess contributions to the department of retirement systems' expense fund under RCW 41.50.110(3) for active participants in the higher education retirement plan. Contributions to the expense fund for higher education retirement plan members must end when there are no longer retirees or beneficiaries from an institution receiving payments administered by the department.

(4)(a) Upon the department's assumption of responsibility for making benefit payments from an institution's higher education retirement plan, the institution shall submit to the department the benefit level for current higher education retirement plan supplemental beneficiaries, and each month following the department's assumption of responsibility for making benefit payments to an institution's higher education retirement plan supplemental beneficiaries, the institution shall submit to the department information on any new retirees covered by the higher education retirement plan supplemental benefit. The submission shall include all data relevant to the calculation of a supplemental benefit for each retiree, and the benefit that the institution determines the individual qualifies to receive. No later than January 1st, following the funding determination in RCW 41.45.060(9) that begins the transition of responsibility for benefit payments to the department, the department shall provide the institution with a notice of what data will be required to determine higher education retirement plan supplemental benefit determinations for future retirees.

(b) The department shall review the information provided by the institution for each retiring higher education retirement plan member eligible for the supplemental benefit and determine the supplemental benefit amount the member is eligible to receive, if any.

(c) In the event that the department is not provided with all data required by the notice in (a) of this subsection, the institution of higher education will remain responsible for payment of higher education retirement plan supplemental benefits to that member. In addition, the collection of overpayments and error correction provisions of this chapter apply in the event that the department makes supplemental benefit payments based on incomplete or inaccurate data provided by an institution.

Sec. 7. RCW 43.84.092 and 2019 c 421 s 15, 2019 c 403 s 14, 2019 c 365 s 19, 2019 c 287 s 19, and 2019 c 95 s 6 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 abandoned recreational vehicle disposal account, the aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement 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 Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of licensing tuition recovery trust fund, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle 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 mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the industrial insurance premium refund account, the Interstate 405 and state route number 167 express toll lanes 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 marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability 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 mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, 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 state wildlife account, the statewide broadband account, the statewide tourism marketing account, the student achievement council tuition recovery trust fund, 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 toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, 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 voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education 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 administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond 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, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(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. 8.** This act takes effect July 1, 2020.

Passed by the House March 12, 2020.

Passed by the Senate March 11, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 104

[House Bill 1702]

COMMUNITY AND TECHNICAL COLLEGES--LOW-COST COURSE MATERIAL--NOTICE

AN ACT Relating to informing students of low-cost course materials for community and technical college courses; and amending RCW 28B.50.789.

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

Sec. 1. RCW 28B.50.789 and 2017 c 98 s 2 are each amended to read as follows:

(1) To the maximum extent practicable, but no later than the first full quarter after a community or technical college has implemented the ctcLink system, a community or technical college shall provide the following information to students during registration by displaying it in the online course description or

by providing a link that connects to the bookstore's web site or other web site where students can search and view:

(a) The cost of any required textbook or other course materials; ~~((and))~~

(b) Whether a course uses open educational resources; and

(c) Whether a course uses low-cost required instructional materials. For the purposes of this subsection, "low-cost" means the required instructional materials equal fifty dollars or less.

(2) If a course's required textbooks and course materials are not determined prior to registration due to an unassigned faculty member, the textbooks' and course materials' cost must be provided as soon as feasible after a faculty member is assigned.

(3) Each community and technical college shall report to the college board which courses provided textbooks' and course materials' costs to students during registration, and what percent of total classes this equaled. The college board shall report the information to the legislature in accordance with RCW 43.01.036 by January 1st of each biennium, beginning with January 1, 2019.

Passed by the House January 22, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 105

[Substitute House Bill 1847]

AIRCRAFT NOISE ABATEMENT--VARIOUS PROVISIONS

AN ACT Relating to aircraft noise abatement; and amending RCW 53.54.010, 53.54.020, and 53.54.030.

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

Sec. 1. RCW 53.54.010 and 1974 ex.s. c 121 s 1 are each amended to read as follows:

A port district operating an airport serving more than ~~((twenty))~~ nine hundred scheduled jet aircraft flights per day may undertake any of the programs or combinations of such programs, as authorized by this chapter, for the purpose of alleviating and abating the impact of jet aircraft noise on areas surrounding such airport.

Sec. 2. RCW 53.54.020 and 1984 c 193 s 1 are each amended to read as follows:

(1) Prior to initiating programs as authorized in this chapter, the port commission shall undertake the investigation and monitoring of aircraft noise impact to determine the nature and extent of the impact. The port commission shall adopt a program of noise impact abatement based upon the investigations and as amended periodically to conform to needs demonstrated by the monitoring programs ~~((: PROVIDED, That))~~. In no case may the port district undertake any of the programs ~~((of))~~ prescribed in this chapter in an area ~~((which))~~ that is:

(a) More than ~~((six))~~ ten miles beyond the paved north end of any runway;

(b) More than thirteen miles beyond the paved south end of any runway; or

~~(c) More than ((one)) two miles~~ from the centerline of any runway ~~((or from an imaginary runway centerline extending six))~~ ten miles north and thirteen miles south from the paved end of such runway.

~~(2)~~ Such areas as determined ~~((above))~~ in this section, shall be known as "impacted areas."

Sec. 3. RCW 53.54.030 and 1993 c 150 s 1 are each amended to read as follows:

~~(1)~~ For the purposes of this chapter, in developing a remedial program, the port commission may ~~((utilize))~~ take steps as appropriate including, but not limited to, one or more of the following programs:

~~((+))~~ (a) Acquisition of property or property rights within the impacted area, which shall be deemed necessary to accomplish a port purpose. The port district may purchase such property or property rights by time payment notwithstanding the time limitations provided for in RCW 53.08.010. The port district may mortgage or otherwise pledge any such properties acquired to secure such transactions. The port district may assume any outstanding mortgages.

~~((+))~~ (b) Transaction assistance programs, including assistance with real estate fees and mortgage assistance, and other neighborhood remedial programs as compensation for impacts due to aircraft noise and noise associated conditions. Any such programs shall be in connection with properties located within an impacted area and shall be provided upon terms and conditions as the port district shall determine appropriate.

~~((+))~~ (c) Programs of soundproofing structures located within an impacted area. Such programs may be executed without regard to the ownership, provided the owner waives damages and conveys an easement for the operation of aircraft, and for noise and noise associated conditions therewith, to the port district.

~~((+))~~ (d) Mortgage insurance of private owners of lands or improvements within such noise impacted area where such private owners are unable to obtain mortgage insurance solely because of noise impact. In this regard, the port district may establish reasonable regulations and may impose reasonable conditions and charges upon the granting of such mortgage insurance~~((= PROVIDED, That))~~. Such mortgage insurance fees and charges shall at no time exceed fees established for federal mortgage insurance programs for like service.

~~((5))~~ ~~An individual property may be provided benefits by the port district under each of the programs described in subsections (1) through (4) of this section. However, an individual property may not be provided benefits under any one of these programs more than once, unless the property is subjected to increased aircraft noise or differing aircraft noise impacts that would have afforded different levels of mitigation, even if the property owner had waived all damages and conveyed a full and unrestricted easement.~~

~~((6))~~ (e) Management of all lands, easements, or development rights acquired, including but not limited to the following:

~~((+))~~ (i) Rental of any or all lands or structures acquired;

~~((+))~~ (ii) Redevelopment of any such lands for any economic use consistent with airport operations, local zoning and the state environmental policy;

~~((+))~~ (iii) Sale of such properties for cash or for time payment and subjection of such property to mortgage or other security transaction:

PROVIDED, That any such sale shall reserve to the port district by covenant an unconditional right of easement for the operation of all aircraft and for all noise or noise conditions associated therewith.

~~((7))~~ (2) An individual property may be provided benefits by the port district under each of the programs described in subsection (1) of this section. However, an individual property may not be provided benefits under any one of these programs more than once, unless the property is subjected to increased aircraft noise or differing aircraft noise impacts that would have afforded different levels of mitigation, even if the property owner had waived all damages and conveyed a full and unrestricted easement.

(3) A property shall be considered within the impacted area if any part thereof is within the impacted area.

Passed by the House January 30, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 106

[Second Substitute House Bill 1888]

PUBLIC AGENCY EMPLOYEES--PERSONAL INFORMATION--PUBLIC RECORDS ACT

AN ACT Relating to protecting employee information from public disclosure; and reenacting and amending RCW 42.56.250.

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

Sec. 1. RCW 42.56.250 and 2019 c 349 s 2 and 2019 c 229 s 1 are each reenacted and 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 other than for vacancies in elective office, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

(3) Professional growth plans (PGPs) in educator license renewals submitted through the eCert system in the office of the superintendent of public instruction;

(4) The following information held by any public agency in personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency: Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, driver's license numbers, identicard numbers, payroll deductions including the amount and identification of the deduction, 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 email addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency. For purposes of this

subsection, "employees" includes independent provider home care workers as defined in RCW 74.39A.240;

(5) 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;

(6) Investigative records compiled by an employing agency in connection with an investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws or an employing agency's internal policies prohibiting discrimination or harassment in employment. Records are exempt in their entirety while the investigation is active and ongoing. After the agency has notified the complaining employee of the outcome of the investigation, the records may be disclosed only if the names of complainants, other accusers, and witnesses are redacted, unless a complainant, other accuser, or witness has consented to the disclosure of his or her name. The employing agency must inform a complainant, other accuser, or witness that his or her name will be redacted from the investigation records unless he or she consents to disclosure;

(7) Criminal history records checks for board staff finalist candidates conducted pursuant to RCW 43.33A.025;

(8) Photographs and month and year of birth in the personnel files of employees or volunteers of a public agency, including 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;

(9) The global positioning system data that would indicate the location of the residence of a public employee or volunteer using the global positioning system recording device; ~~(and)~~

(10) Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots; and

(11) Voluntarily submitted information collected and maintained by a state agency or higher education institution that identifies an individual state employee's personal demographic details. "Personal demographic details" means race or ethnicity, sexual orientation as defined by RCW 49.60.040(26), immigration status, national origin, or status as a person with a disability. This exemption does not prevent the release of state employee demographic information in a deidentified or aggregate format.

(12) Upon receipt of a request for information located exclusively in an employee's personnel, payroll, supervisor, or training file, the agency must provide notice to the employee, to any union representing the employee, and to the requestor. The notice must state:

(a) The date of the request;

(b) The nature of the requested record relating to the employee;

(c) That the agency will release any information in the record which is not exempt from the disclosure requirements of this chapter at least ten days from the date the notice is made; and

(d) That the employee may seek to enjoin release of the records under RCW 42.56.540.

Passed by the House March 9, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 107

[House Bill 2051]

FIREFIGHTERS AND LAW ENFORCEMENT OFFICERS PENSION AND DISABILITY BOARDS--MEMBERSHIP

AN ACT Relating to firefighters and law enforcement officers pension and disability boards; amending RCW 41.16.010, 41.16.020, 41.18.015, 41.20.010, and 41.26.030; and reenacting and amending RCW 41.18.010 and 41.26.110.

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

Sec. 1. RCW 41.16.010 and 2009 c 521 s 88 are each amended to read as follows:

For the purpose of this chapter, unless clearly indicated by the context, words and phrases shall have the following meaning:

(1) "Beneficiary" shall mean any person or persons designated by a firefighter in a writing filed with the board, and who shall be entitled to receive any benefits of a deceased firefighter under this chapter.

(2) "Board" shall mean the municipal firefighters' pension board.

(3) "Child or children" shall mean a child or children unmarried and under eighteen years of age.

(4) "Contributions" shall mean and include all sums deducted from the salary of firefighters and paid into the fund as hereinafter provided.

(5) "Disability" shall mean and include injuries or sickness sustained as a result of the performance of duty.

(6) "Firefighter" shall mean any person regularly or temporarily, or as a substitute, employed and paid as a member of a fire department, who has passed a civil service examination for firefighter and who is actively employed as a firefighter; and shall include any "prior firefighter."

(7) "Fire department" shall mean the regularly organized, full time, paid, and employed force of firefighters of the municipality.

(8) "Fund" shall mean the firefighters' pension fund created herein.

(9) "Municipality" shall mean every city (~~and~~), town, and regional fire protection service authority, having a regularly organized full time, paid, fire department employing firefighters.

(10) "Performance of duty" shall mean the performance of work and labor regularly required of firefighters and shall include services of an emergency nature rendered while off regular duty, but shall not include time spent in traveling to work before answering roll call or traveling from work after dismissal at roll call.

(11) "Prior firefighter" shall mean a firefighter who was actively employed as a firefighter of a fire department prior to the first day of January, 1947, and who continues such employment thereafter.

(12) "Retired firefighter" shall mean and include a person employed as a firefighter and retired under the provisions of chapter 50, Laws of 1909, as amended.

(13) "Widow or widower" means the surviving wife, husband, or state registered domestic partner of a retired firefighter who was retired on account of length of service and who was lawfully married to, or in a state registered domestic partnership with, such firefighter; and whenever that term is used with reference to the wife or former wife, husband or former husband, or current or former state registered domestic partner of a retired firefighter who was retired because of disability, it shall mean his or her lawfully married wife, husband, or state registered domestic partner on the date he or she sustained the injury or contracted the illness that resulted in his or her disability. Said term shall not mean or include a surviving wife, husband, or state registered domestic partner who by process of law within one year prior to the retired firefighter's death, collected or attempted to collect from him or her funds for the support of herself or himself or for his or her children.

Sec. 2. RCW 41.16.020 and 2007 c 218 s 19 are each amended to read as follows:

(1) There is hereby created in each city and town a municipal firefighters' pension board to consist of the following five members, ex officio, the mayor, or in a city of the first class, the mayor or a designated representative who shall be an elected official of the city, who shall be chairperson of the board, the city comptroller or clerk, the chairperson of finance of the city council, or if there is no chairperson of finance, the city treasurer, and in addition, two regularly employed or retired firefighters elected by secret ballot of those employed and retired firefighters who are subject to the jurisdiction of the board. The members to be elected by the firefighters shall be elected annually for a two year term. The two firefighters elected as members shall, in turn, select a third eligible member who shall serve as an alternate in the event of an absence of one of the regularly elected members. In case a vacancy occurs in the membership of the firefighters or retired members, the members shall in the same manner elect a successor to serve the unexpired term. The board may select and appoint a secretary who may, but need not be, a member of the board. In case of absence or inability of the chairperson to act, the board may select a chairperson pro tempore who shall during such absence or inability perform the duties and exercise the powers of the chairperson. A majority of the members of the board shall constitute a quorum and have power to transact business.

(2) If no eligible regularly employed or retired firefighters are willing or able to be elected to the board under subsection (1) of this section, then the following individuals may be elected to the board under subsection (1) of this section:

(a) Any active or retired firefighters who reside within the jurisdiction served by the board. This includes active and retired firefighters under this chapter and chapters 41.18, 41.26, and 52.26 RCW;

(b) The widow or widower of a firefighter subject to the jurisdiction of the board.

Sec. 3. RCW 41.18.010 and 2009 c 521 s 90 are each reenacted and amended to read as follows:

For the purpose of this chapter, unless clearly indicated otherwise by the context, words and phrases shall have the meaning hereinafter ascribed.

(1) "Basic salary" means the basic monthly salary, including longevity pay, attached to the rank held by the retired firefighter at the date of his or her retirement, without regard to extra compensation which such firefighter may have received for special duties assignments not acquired through civil service examination: PROVIDED, That such basic salary shall not be deemed to exceed the salary of a battalion chief.

(2) "Beneficiary" shall mean any person or persons designated by a firefighter in a writing filed with the board, and who shall be entitled to receive any benefits of a deceased firefighter under this chapter.

(3) "Board" shall mean the municipal firefighters' pension board.

(4) "Child" or "children" means a firefighter's child or children under the age of eighteen years, unmarried, and in the legal custody of such firefighter at the time of his death or her death.

(5) "Contributions" shall mean and include all sums deducted from the salary of firefighters and paid into the fund as hereinafter provided.

(6) "Disability" shall mean and include injuries or sickness sustained by a firefighter.

(7) "Earned interest" means and includes all annual increments to the firefighters' pension fund from income earned by investment of the fund. The earned interest payable to any firefighter when he or she leaves the service and accepts his or her contributions, shall be that portion of the total earned income of the fund which is directly attributable to each individual firefighter's contributions. Earnings of the fund for the preceding year attributable to individual contributions shall be allocated to individual firefighters' accounts as of January 1st of each year.

(8) "Fire department" shall mean the regularly organized, full time, paid, and employed force of firefighters of the municipality.

(9) "Firefighter" means any person hereafter regularly or temporarily, or as a substitute newly employed and paid as a member of a fire department, who has passed a civil service examination for firefighters and who is actively employed as a firefighter or, if provided by the municipality by appropriate local legislation, as a fire dispatcher: PROVIDED, Nothing in chapter 209, Laws of 1969 ex. sess. shall impair or permit the impairment of any vested pension rights of persons who are employed as fire dispatchers at the time chapter 209, Laws of 1969 ex. sess. takes effect; and any person heretofore regularly or temporarily, or as a substitute, employed and paid as a member of a fire department, and who has contributed under and been covered by the provisions of chapter 41.16 RCW as now or hereafter amended and who has come under the provisions of this chapter in accordance with RCW 41.18.170 and who is actively engaged as a firefighter or as a member of the fire department as a firefighter or fire dispatcher.

(10) "Fund" shall have the same meaning as in RCW 41.16.010 as now or hereafter amended. Such fund shall be created in the manner and be subject to the provisions specified in chapter 41.16 RCW as now or hereafter amended.

(11) "Municipality" shall mean every city, town ~~((and))~~, fire protection district, or regional fire protection service authority having a regularly organized full time, paid, fire department employing firefighters.

(12) "Performance of duty" shall mean the performance of work or labor regularly required of firefighters and shall include services of an emergency nature normally rendered while off regular duty.

(13) "Retired firefighter" means and includes a person employed as a firefighter and retired under the provisions of this chapter.

(14) "Widow or widower" means the surviving spouse of a firefighter and shall include the surviving wife, husband, or state registered domestic partner of a firefighter, retired on account of length of service, who was lawfully married to, or in a state registered domestic partnership with, him or to her for a period of five years prior to the time of his or her retirement; and the surviving wife, husband, or state registered domestic partner of a firefighter, retired on account of disability, who was lawfully married to, or in a state registered domestic partnership with, him or her at and prior to the time he or she sustained the injury or contracted the illness resulting in his or her disability. The word shall not mean the divorced wife or husband or former state registered domestic partner of an active or retired firefighter.

Sec. 4. RCW 41.18.015 and 2007 c 218 s 42 are each amended to read as follows:

(1) There is hereby created in each fire protection district which qualifies under this chapter, a firefighters' pension board to consist of the following five members, the chairperson of the fire commissioners for said district who shall be chairperson of the board, the county auditor, county treasurer, and in addition, two regularly employed or retired firefighters elected by secret ballot of the employed and retired firefighters. Retired members who are subject to the jurisdiction of the pension board have both the right to elect and the right to be elected under this section. The first members to be elected by the firefighters shall be elected annually for a two-year term. The two firefighter elected members shall, in turn, select a third eligible member who shall serve in the event of an absence of one of the regularly elected members. In case a vacancy occurs in the membership of the firefighter or retired members, the members shall in the same manner elect a successor to serve the unexpired term. The board may select and appoint a secretary who may, but need not be a member of the board. In case of absence or inability of the chairperson to act, the board may select a chairperson pro tempore who shall during such absence or inability perform the duties and exercise the powers of the chairperson. A majority of the members of said board shall constitute a quorum and have power to transact business.

(2) If no eligible regularly employed or retired firefighters are willing or able to be elected to the board under subsection (1) of this section, then the following individuals may be elected to the board under subsection (1) of this section:

(a) Any active or retired firefighters who reside within the jurisdiction served by the board. This includes active and retired firefighters under this chapter and chapters 41.16, 41.26, and 52.26 RCW;

(b) The widow or widower of a firefighter subject to the jurisdiction of the board.

Sec. 5. RCW 41.20.010 and 2012 c 117 s 20 are each amended to read as follows:

(1) The mayor or his or her designated representative who shall be an elected official of the city, and the clerk, treasurer, president of the city council or mayor pro tem of each city of the first class, or in case any such city has no city council, the commissioner who has supervision of the police department, together with three active or retired members of the police department, to be elected as herein provided, in addition to the duties now required of them, are constituted a board of trustees of the relief and pension fund of the police department of each such city, and shall provide for the disbursement of the fund, and designate the beneficiaries thereof.

(2) The police department and the retired law enforcement officers of each city of the first class shall elect three members to act as members of the board. Members shall be elected for three year terms. Existing members shall continue in office until replaced as provided for in this section.

(3) Such election shall be held in the following manner. Not more than thirty nor less than fifteen days preceding the first day of June in each year, written notice of the nomination of any member or retired member of the department for membership on the board may be filed with the secretary of the board. Each notice of nomination shall be signed by not less than five members or retired members of the department, and nothing herein contained shall prevent any member or retired member of the department from signing more than one notice of nomination. The election shall be held on a date to be fixed by the secretary during the month of June. Notice of the dates upon which notice of nomination may be filed and of the date fixed for the election of such members of the board shall be given by the secretary of the board by posting written notices thereof in a prominent place in the police headquarters. For the purpose of such election, the secretary of the board shall prepare and furnish printed or typewritten ballots in the usual form, containing the names of all persons regularly nominated for membership and shall furnish a ballot box for the election. Each member and each retired member of the police department shall be entitled to vote at the election for one nominee as a member of the board. The chief of the department shall appoint two members to act as officials of the election, who shall be allowed their regular wages for the day, but shall receive no additional compensation therefor. The election shall be held in the police headquarters of the department and the polls shall open at 7:30 a.m. and close at 8:30 p.m. The one nominee receiving the highest number of votes shall be declared elected to the board and his or her term shall commence on the first day of July succeeding the election. In the first election the nominee receiving the greatest number of votes shall be elected to the three year term, the second greatest to the two year term and the third greatest to the one year term. Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. Ballots shall contain all names of those nominated, both active and retired. Notice of nomination and voting by retired members shall be conducted by the board.

(4) If no eligible active or retired members of the police department are willing or able to be elected to the board under subsection (3) of this section, then the following individuals may be elected to the board under subsection (3) of this section:

(a) Any active or retired law enforcement officers who reside within the jurisdiction served by the board. This includes active and retired law enforcement officers under this chapter and chapter 41.26 RCW;

(b) The widow or widower of a law enforcement officer subject to the jurisdiction of the board.

Sec. 6. RCW 41.26.030 and 2018 c 230 s 1 are each amended to read as follows:

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

(1) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(2) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(3) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(4)(a) "Basic salary" for plan 1 members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(7) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(8) "Director" means the director of the department.

(9) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(10) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(11) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(12) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.020.

(13) "Employee" means any law enforcement officer or firefighter as defined in subsections (17) and (19) of this section.

(14)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, ~~((or))~~ district, or regional fire protection service authority or the elected officials of any municipal corporation that employs any law enforcement officer and/or firefighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the firefighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or firefighters as defined in this chapter.

(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or firefighter:

(i) The legislative authority of any city, town, county, district, ~~((or))~~ public corporation, or regional fire protection service authority established under RCW 35.21.730 to provide emergency medical services as defined in RCW 18.73.030;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency;

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996; or

(v) The department of social and health services or the department of corrections when employing firefighters serving at a prison or civil commitment center on an island.

(c) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an "employer." The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an "employer," but is based solely on the relationship between a government contractor's employee and an "employer" under this chapter.

(15)(a) "Final average salary" for plan 1 members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(c) In calculating final average salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; and

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of

reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(16) "Fire department" includes a fire station operated by the department of social and health services or the department of corrections when employing firefighters serving a prison or civil commitment center on an island.

(17) "Firefighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for firefighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time firefighter where the fire department does not have a civil service examination;

(c) Supervisory firefighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (17)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (17)(e) shall not apply to plan 2 members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for firefighter;

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW; and

(h) Any person who is employed on a full-time, fully compensated basis by an employer as an emergency medical technician that meets the requirements of RCW 18.71.200 or 18.73.030(12), and whose duties include providing emergency medical services as defined in RCW 18.73.030.

(18) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the

state liquor and cannabis board, and the state department of corrections. A general authority law enforcement agency under this chapter does not include a government contractor.

(19) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (19)(d) shall not apply to plan 2 members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (19)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(20) "Medical services" for plan 1 members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses," provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopathic physician and surgeon licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic X-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(21) "Member" means any firefighter, law enforcement officer, or other person as would apply under subsection((s)) (17) or (19) of this section whose membership is transferred to the Washington law enforcement officers' and firefighters' retirement system on or after March 1, 1970, and every law enforcement officer and firefighter who is employed in that capacity on or after such date.

(22) "Plan 1" means the law enforcement officers' and firefighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(23) "Plan 2" means the law enforcement officers' and firefighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(24) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(25) "Regular interest" means such rate as the director may determine.

(26) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(27) "Retirement fund" means the "Washington law enforcement officers' and firefighters' retirement system fund" as provided for herein.

(28) "Retirement system" means the "Washington law enforcement officers' and firefighters' retirement system" provided herein.

(29)(a) "Service" for plan 1 members, means all periods of employment for an employer as a firefighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in

duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a firefighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(b) "Service" for plan 2 members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(30) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(31) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(34) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

Sec. 7. RCW 41.26.110 and 2013 c 213 s 1 and 2013 c 23 s 69 are each reenacted and amended to read as follows:

(1) All claims for disability shall be acted upon and either approved or disapproved by either type of disability board authorized to be created in this section.

(a) Each city having a population of twenty thousand or more shall establish a disability board having jurisdiction over all members employed by those cities and composed of the following five members: Two members of the city legislative body to be appointed by the mayor; one active or retired firefighter employed by or retired from the city to be elected by the firefighters employed by or retired from the city who are subject to the jurisdiction of the board; one active or retired law enforcement officer employed by or retired from the city to be elected by the law enforcement officers employed by or retired from the city who are subject to the jurisdiction of the board; and one member from the public at large who resides within the city to be appointed by the other four members designated in this subsection. Only those active or retired firefighters and law enforcement officers who are subject to the jurisdiction of the board have the right to elect under this section. All firefighters and law enforcement officers employed by or retired from the city are eligible for election. Each of the elected members shall serve a two year term. If there are either no firefighters or law enforcement officers under the jurisdiction of the board eligible to vote, a second eligible employee representative shall be elected by the law enforcement officers or firefighters eligible to vote. The members appointed pursuant to this subsection shall serve for two year terms: PROVIDED, That cities of the first class only, shall retain existing firefighters' pension boards established pursuant to RCW 41.16.020 and existing boards of trustees of the relief and pension fund of the police department as established pursuant to RCW 41.20.010 which such boards shall have authority to act upon and approve or disapprove claims for disability by firefighters or law enforcement officers as provided under the Washington law enforcement officers' and firefighters' retirement system act.

(b) If no eligible active or retired firefighter or law enforcement officer is willing or able to be elected to the board under (a) of this subsection, then the following individuals may be elected to the board under (a) of this subsection:

(i) Any active or retired firefighter under this chapter or chapters 41.16, 41.18, and 52.26 RCW or law enforcement officers under this chapter or chapter 41.20 RCW who resides within the jurisdiction served by the board;

(ii) The surviving spouse or domestic partner of a firefighter or law enforcement officer subject to the jurisdiction of the board.

(c) Each county shall establish a disability board having jurisdiction over all members employed by or retired from an employer within the county and not employed by a city in which a disability board is established. The county disability board so created shall be composed of five members to be chosen as follows: One member of the legislative body of the county to be appointed by

the county legislative body; one member of a city or town legislative body located within the county which does not contain a city disability board established pursuant to (a) of this subsection to be chosen by a majority of the mayors of such cities and towns within the county which does not contain a city disability board; one active firefighter or retired firefighter employed by or retired from an employer within the county to be elected by the firefighters employed or retired from an employer within the county (~~who are not employed by or retired from a city in which a disability board is established and~~) who are subject to the jurisdiction of that board; one law enforcement officer or retired law enforcement officer employed by or retired from an employer within the county to be elected by the law enforcement officers employed in or retired from an employer within the county (~~who are not employed by or retired from a city in which a disability board is established and~~) who are subject to the jurisdiction of that board; and one member from the public at large who resides within the county but does not reside within a city in which a city disability board is established, to be appointed by the other four members designated in this subsection. However, in counties with a population less than sixty thousand, the member of the disability board appointed by a majority of the mayors of the cities and towns within the county that do not contain a city disability board must be a resident of one of the cities and towns but need not be a member of a city or town legislative body. Only those active or retired firefighters and law enforcement officers who are subject to the jurisdiction of the board have the right to elect under this section. All firefighters and law enforcement officers employed by or retired from an employer within the county (~~who are not employed by or retired from a city in which a disability board is established~~) are eligible for election. All members appointed or elected pursuant to this subsection shall serve for two year terms. If there are no firefighters under the jurisdiction of the board eligible to vote, a second eligible employee representative shall be elected by the law enforcement officers eligible to vote. If there are no law enforcement officers under the jurisdiction of the board eligible to vote, a second eligible representative shall be elected by the firefighters eligible to vote.

(d) If no eligible active or retired firefighter or law enforcement officer is willing or able to be elected to the board under (c) of this subsection, then the following individuals may be elected to the board under (c) of this subsection:

(i) Any active or retired firefighter under this chapter or chapters 41.16, 41.18, and 52.26 RCW or law enforcement officers under this chapter or chapter 41.20 RCW who resides within the jurisdiction served by the board;

(ii) The surviving spouse or domestic partner of a firefighter or law enforcement officer subject to the jurisdiction of the board.

(2) The members of both the county and city disability boards shall not receive compensation for their service upon the boards but the members shall be reimbursed by their respective county or city for all expenses incidental to such service as to the amount authorized by law.

(3) The disability boards authorized for establishment by this section shall perform all functions, exercise all powers, and make all such determinations as specified in this chapter.

Passed by the House March 9, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 25, 2020.
Filed in Office of Secretary of State March 26, 2020.

CHAPTER 108

[House Bill 2189]

COMPETENCY RESTORATION WORKERS--PUBLIC SAFETY EMPLOYEES' RETIREMENT SYSTEM

AN ACT Relating to including specified competency restoration workers at department of social and health services institutional and residential sites in the public safety employees retirement system; and amending RCW 41.37.010.

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

Sec. 1. RCW 41.37.010 and 2019 c 470 s 7 are each amended to read as follows:

The definitions in this section apply throughout this chapter(7) unless the context clearly requires otherwise.

(1) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(3) "Adjustment ratio" means the value of index A divided by index B.

(4) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(5)(a) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.37.290.

(b) In calculating average final compensation under (a) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; and

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(6) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(7)(a) "Compensation earnable" for members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement, which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided in this subsection, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.37.060;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(9) "Director" means the director of the department.

(10) "Eligible position" means any permanent, full-time position included in subsection (19) of this section.

(11) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(12) "Employer" means the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state

gambling commission, the Washington state patrol, the Washington state department of natural resources, the Washington state liquor and cannabis board, the Washington state department of veterans affairs, the Washington state department of children, youth, and families, and the Washington state department of social and health services; any county corrections department; any city corrections department not covered under chapter 41.28 RCW; and any public corrections entity created under RCW 39.34.030 by counties, cities not covered under chapter 41.28 RCW, or both. Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an employer. The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an employer, but is based solely on the relationship between a government contractor's employee and an employer under this chapter.

(13) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(14) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(15) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(16) "Index B" means the index for the year prior to index A.

(17) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (10) of this section.

(18) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(19) "Member" means any employee employed by an employer on a full-time basis:

(a) Who is in a position that requires completion of a certified criminal justice training course and is authorized by their employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job;

(b) Whose primary responsibility is to ensure the custody and security of incarcerated or probationary individuals as a corrections officer, probation officer, or jailer;

(c) Who is a limited authority Washington peace officer, as defined in RCW 10.93.020, for an employer;

(d) Whose primary responsibility is to provide nursing care to, or to ensure the custody and safety of, offender, adult probationary, or patient populations; and who is in a position that requires completion of defensive tactics training or de-escalation training; and who is employed by one of the following state institutions or centers operated by the department of social and health services or the department of children, youth, and families:

(i) Juvenile rehabilitation administration institutions, not including community facilities;

(ii) Mental health hospitals;

(iii) Child study and treatment centers; or

(iv) Institutions or residential sites that serve developmentally disabled patients or offenders, or perform competency restoration services, except for state-operated living alternatives facilities;

(e) Whose primary responsibility is to provide nursing care to offender and patient populations in institutions and centers operated by the following employers: A city or county corrections department as set forth in subsection (12) of this section, a public corrections entity as set forth in subsection (12) of this section, the Washington state department of corrections, or the Washington state department of veterans affairs; or

(f) Whose primary responsibility is to supervise members eligible under this subsection.

(20) "Membership service" means all service rendered as a member.

(21) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(22) "Plan" means the Washington public safety employees' retirement system plan 2.

(23) "Regular interest" means such rate as the director may determine.

(24) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(25) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(26) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(27) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

(28) "Separation from service" occurs when a person has terminated all employment with an employer.

(29) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(a) Service in any state elective position shall be deemed to be full-time service.

(b) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(30) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(31) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(34) "State treasurer" means the treasurer of the state of Washington.

Passed by the House February 12, 2020.

Passed by the Senate March 10, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 109

[House Bill 2229]

LAND DEVELOPMENT AND MANAGEMENT SERVICES--TAXATION

AN ACT Relating to clarifying the scope of taxation on land development or management services; amending RCW 82.04.051; and amending 1999 c 212 s 1 (uncodified).

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

Sec. 1. 1999 c 212 s 1 (uncodified) is amended to read as follows:

(1) The legislature finds that the taxation of "services rendered in respect to constructing buildings or other structures" has generally included the entire transaction for construction, including certain services provided directly to the consumer or owner rather than the person engaged in the performance of the constructing activity. Changes in business practices and recent administrative and court decisions have confused the issue. Recognizing the need to remove barriers to the creation of affordable housing, it is the intent of the legislature to clarify which services, if standing alone and not part of the construction agreement, are taxed as retail or wholesale sales, and which services will continue to be taxed as a service.

(2) It is further the intent of the legislature to confirm that the entire price for the construction of a building or other structure for a consumer or owner continues to be a retail sale, even though some of the individual services reflected in the price, if provided alone, would be taxed as services and not as separate retail or wholesale sales.

(3) Therefore, the intent of this act is to maintain the application of the law and not to extend retail treatment to activities not previously treated as retail activities. Services that are otherwise subject to tax as a service under RCW 82.04.290(2), including but not limited to engineering, architectural, surveying, flagging, accounting, legal, consulting, or administrative services, remain subject to tax as a service under RCW 82.04.290(2), if the person responsible for the performance of those services is not also responsible for the performance of the constructing, building, repairing, improving, or decorating activities. Additionally, unless otherwise provided by law, a person entering into an agreement to be responsible for the performance of services otherwise subject to

tax as a service under RCW 82.04.290(2), and subsequently entering into a separate agreement to be responsible for the performance of constructing, building, repairing, improving, or decorating activities, is subject to tax as a service under RCW 82.04.290(2) with respect to the first agreement, and is subject to tax under the appropriate section of chapter 82.04 RCW with respect to the second agreement, if at the time of the first agreement there was no contemplation by the parties, as evidenced by the facts, that the agreements would be awarded to the same person.

Sec. 2. RCW 82.04.051 and 1999 c 212 s 2 are each amended to read as follows:

(1) As used in RCW 82.04.050, the term "services rendered in respect to" means those services that are directly related to the constructing, building, repairing, improving, and decorating of buildings or other structures and that are performed by a person who is responsible for the performance of the constructing, building, repairing, improving, or decorating activity. The term does not include services such as engineering, architectural, surveying, flagging, accounting, legal, consulting, land development or management, or administrative services provided to the consumer of, or person responsible for performing, the constructing, building, repairing, improving, or decorating services.

(2) A contract or agreement under which a person is responsible for both services that would otherwise be subject to tax as a service under RCW 82.04.290(2) and also constructing, building, repairing, improving, or decorating activities that would otherwise be subject to tax under another section of this chapter is subject to the tax that applies to the predominant activity under the contract or agreement.

(3) Unless otherwise provided by law, a contract or agreement under which a person is responsible for activities that are subject to tax as a service under RCW 82.04.290(2), and a subsequent contract or agreement under which the same person is responsible for constructing, building, repairing, improving, or decorating activities subject to tax under another section of this chapter, shall not be combined and taxed as a single activity if at the time of the first contract or agreement it was not contemplated by the parties, as evidenced by the facts, that the same person would be awarded both contracts.

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

(a) "Land development or management" means site identification, zoning, permitting, and other preconstruction regulatory services provided to the consumer of the constructing, building, repairing, improving, or decorating services. This includes, but is not limited to, acting as an owner's representative during any design or construction period, including recommending a contractor, monitoring the budget and schedule, approving invoices, and interacting on the behalf of the consumer with the person who has control over the work itself or responsible for the performance of the work.

(b) "Responsible for the performance" means that the person is obligated to perform the activities, either personally or through a third party. A person who reviews work for a consumer, retailer, or wholesaler but does not supervise or direct the work is not responsible for the performance of the work. A person who

is financially obligated for the work, such as a bank, but who does not have control over the work itself is not responsible for the performance of the work.

Passed by the House February 12, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 110

[House Bill 2242]

TRAVEL TRAILERS--MAXIMUM LENGTH

AN ACT Relating to travel trailers; and amending RCW 46.44.030.

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

Sec. 1. RCW 46.44.030 and 2018 c 105 s 1 are each amended to read as follows:

(1) It is unlawful for any person to operate upon the public highways of this state any vehicle having an overall length, with or without load, in excess of forty feet. This restriction does not apply to (a) a municipal transit vehicle, (b) auto stage, private carrier bus, school bus, travel trailer, or motor home with an overall length not to exceed forty-six feet, (c) an articulated auto stage with an overall length not to exceed sixty-one feet, excluding a bike rack up to four feet in length, or (d) an auto recycling carrier up to forty-two feet in length manufactured prior to 2005.

(2)(a) It is unlawful for any person to operate upon the public highways of this state any combination consisting of a tractor and semitrailer that has a semitrailer length in excess of fifty-three feet or a combination consisting of a tractor and two trailers in which the combined length of the trailers exceeds sixty-one feet, with or without load.

(b) The restriction under this subsection does not apply to two trailers or semitrailers with a total weight that does not exceed twenty-six thousand pounds and when the two trailers or semitrailers do not carry property but constitute inventory property of a manufacturer, distributor, or dealer of such trailers. The total combination under this subsection (2)(b) may not exceed eighty-two feet of overall length.

(3) It is unlawful for any person to operate on the highways of this state any combination consisting of a truck and trailer, or log truck and stinger-steered pole trailer, with an overall length, with or without load, in excess of seventy-five feet. "Stinger-steered," as used in this section, means the coupling device is located behind the tread of the tires of the last axle of the towing vehicle.

(4)(a) The length limitations under this section do not apply to vehicles transporting poles, pipe, machinery, or other objects of a structural nature that cannot be dismembered and operated by a public utility when required for emergency repair of public service facilities or properties, but in respect to night transportation every such vehicle and load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load.

(b) Excluded from the calculation of length under this section are certain devices that provide added safety, energy conservation, or are otherwise

necessary, and are not designed or used to carry cargo. The length-exclusive devices must be identified in rules adopted by the department of transportation under RCW 46.44.101.

Passed by the House February 12, 2020.

Passed by the Senate March 12, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 111

[House Bill 2266]

EXPRESSION OF BREAST MILK--EMPLOYEE REASONABLE ACCOMMODATION-- WRITTEN CERTIFICATION

AN ACT Relating to reasonable accommodation for the expression of breast milk without requiring written certification from a health care professional; and amending RCW 43.10.005.

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

Sec. 1. RCW 43.10.005 and 2019 c 134 s 1 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Employer" has the same meaning as and shall be interpreted consistent with how that term is defined in RCW 49.60.040, except that for the purposes of this section only the threshold of employees must be fifteen or more.

(b) "Pregnancy" includes the employee's pregnancy and pregnancy-related health conditions, including the need to express breast milk.

(c) "Reasonable accommodation" means:

(i) Providing more frequent, longer, or flexible restroom breaks;

(ii) Modifying a no food or drink policy;

(iii) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee's work station;

(iv) Providing seating or allowing the employee to sit more frequently if her job requires her to stand;

(v) Providing for a temporary transfer to a less strenuous or less hazardous position;

(vi) Providing assistance with manual labor and limits on lifting;

(vii) Scheduling flexibility for prenatal visits;

(viii) Providing reasonable break time for an employee to express breast milk for two years after the child's birth each time the employee has need to express the milk and providing a private location, other than a bathroom, if such a location exists at the place of business or worksite, which may be used by the employee to express breast milk. If the business location does not have a space for the employee to express milk, the employer shall work with the employee to identify a convenient location and work schedule to accommodate their needs; and

(ix) Any further pregnancy accommodation an employee may request, and to which an employer must give reasonable consideration in consultation with

information provided on pregnancy accommodation by the department of labor and industries or the attending health care provider of the employee.

(d) "Undue hardship" means an action requiring significant difficulty or expense. An employer may not claim undue hardship for the accommodations under (c)(i), (ii), and (iv) of this subsection, or for limits on lifting over seventeen pounds.

(2) It is an unfair practice for any employer to:

(a) Fail or refuse to make reasonable accommodation for an employee for pregnancy, unless the employer can demonstrate that doing so would impose an undue hardship on the employer's program, enterprise, or business;

(b) Take adverse action against an employee who requests, declines, or uses an accommodation under this section that affects the terms, conditions, or privileges of employment;

(c) Deny employment opportunities to an otherwise qualified employee if such denial is based on the employer's need to make reasonable accommodation required by this section;

(d) Require an employee to take leave if another reasonable accommodation can be provided for the employee's pregnancy.

(3) An employer may request that the employee provide written certification from her treating health care professional regarding the need for reasonable accommodation, except for accommodations listed in subsection (1)(c)(viii) and (d) of this section.

(4)(a) This section does not require an employer to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation.

(b) This section does not require an employer to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job, unless the employer does so or would do so to accommodate other classes of employees who need accommodation.

(5) The department of labor and industries must provide online education materials explaining the respective rights and responsibilities of employers and employees who have a health condition related to pregnancy or childbirth. The online education materials must be prominently displayed on the department's web site.

(6) The attorney general shall investigate complaints and enforce this section, including by conference and conciliation. In addition to the complaint process with the attorney general, any person believed to be injured by a violation of this section has a civil cause of action in court to enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit and reasonable attorneys' fees or any other appropriate remedy authorized by state or federal law.

(7) This section does not preempt, limit, diminish, or otherwise affect any other provision of law relating to sex discrimination or pregnancy, or in any way diminish or limit legal protections or coverage for pregnancy, childbirth, or a pregnancy-related health condition.

Passed by the House February 12, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 112

[House Bill 2315]

AIRCRAFT NOISE ABATEMENT-MITIGATION EQUIPMENT

AN ACT Relating to repairing and replacing mitigation equipment installed as part of a remedial program within an impacted area; and amending RCW 53.54.030.

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

Sec. 1. RCW 53.54.030 and 1993 c 150 s 1 are each amended to read as follows:

For the purposes of this chapter, in developing a remedial program, the port commission may utilize one or more of the following programs:

(1) Acquisition of property or property rights within the impacted area, which shall be deemed necessary to accomplish a port purpose. The port district may purchase such property or property rights by time payment notwithstanding the time limitations provided for in RCW 53.08.010. The port district may mortgage or otherwise pledge any such properties acquired to secure such transactions. The port district may assume any outstanding mortgages.

(2) Transaction assistance programs, including assistance with real estate fees and mortgage assistance, and other neighborhood remedial programs as compensation for impacts due to aircraft noise and noise associated conditions. Any such programs shall be in connection with properties located within an impacted area and shall be provided upon terms and conditions as the port district shall determine appropriate.

(3) Programs of soundproofing structures located within an impacted area. Such programs may be executed without regard to the ownership, provided the owner waives damages and conveys an easement for the operation of aircraft, and for noise and noise associated conditions therewith, to the port district.

(4) Mortgage insurance of private owners of lands or improvements within such noise impacted area where such private owners are unable to obtain mortgage insurance solely because of noise impact. In this regard, the port district may establish reasonable regulations and may impose reasonable conditions and charges upon the granting of such mortgage insurance: PROVIDED, That such fees and charges shall at no time exceed fees established for federal mortgage insurance programs for like service.

(5)(a) An individual property may be provided benefits by the port district under each of the programs described in subsections (1) through (4) of this section. However, an individual property may not be provided benefits under any one of these programs more than once, unless the property ((~~is~~)):

(i) Is subjected to increased aircraft noise or differing aircraft noise impacts that would have afforded different levels of mitigation, even if the property owner had waived all damages and conveyed a full and unrestricted easement; or

(ii) Contains a soundproofing installation, structure, or other type of sound mitigation equipment product or benefit previously installed pursuant to the remedial program under this chapter by the port district that is determined through inspection to be in need of a repair or replacement.

(b) Port districts choosing to exercise the authority under (a)(ii) of this subsection are required to conduct inspections of homes where mitigation improvements are no longer working as intended. In those properties, port districts must work with a state certified building inspector to determine whether package failure resulted in additional hazards or structural damage to the property.

(6) Management of all lands, easements, or development rights acquired, including but not limited to the following:

(a) Rental of any or all lands or structures acquired;

(b) Redevelopment of any such lands for any economic use consistent with airport operations, local zoning and the state environmental policy;

(c) Sale of such properties for cash or for time payment and subjection of such property to mortgage or other security transaction: PROVIDED, That any such sale shall reserve to the port district by covenant an unconditional right of easement for the operation of all aircraft and for all noise or noise conditions associated therewith.

(7) A property shall be considered within the impacted area if any part thereof is within the impacted area.

Passed by the House March 7, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 113

[Engrossed Substitute House Bill 2342]

GROWTH MANAGEMENT ACT AND SHORELINE MANAGEMENT ACT-- PLAN/PROGRAM UPDATE TIMING

AN ACT Relating to aligning the timing of comprehensive plan updates required by the growth management act with the timing of shoreline master program updates required by the shoreline management act; amending RCW 36.70A.130 and 90.58.080; and providing an effective date.

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

Sec. 1. RCW 36.70A.130 and 2012 c 191 s 1 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 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 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 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(~~except that, until December 31, 2015, the program shall provide for consideration of amendments of an urban growth area in accordance with RCW 36.70A.1301 once every year~~). "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (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. 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;

(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

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW (~~43.21C.031(2)~~) 43.21C.440, 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 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, according to the schedules established in ~~((subsection)) subsections (4) and (5)~~ of this section, 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) ((Except as provided in subsection (6) 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, 2004, 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, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;~~

~~(c) On or before December 1, 2006, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and~~

~~(d) On or before December 1, 2007, 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 subsections (6) and (8) 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 June 30, 2015, ((and every eight years thereafter,)) for King, Pierce, and Snohomish counties and the cities within those counties;~~

~~(b) On or before June 30, 2016, ((and every eight years thereafter,)) for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;~~

~~(c) On or before June 30, 2017, ((and every eight years thereafter,)) for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and~~

~~(d) On or before June 30, 2018, ((and every eight years thereafter,)) for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, 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 subsections (6) and (8) 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 June 30, 2024, and every eight years thereafter, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2025, and every eight years thereafter, for Clallam, Clark, Island, Jefferson, Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2026, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2027, and every eight years thereafter, for Adams, Asotin, Columbia, Ferry, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, 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 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 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 deadline established in 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 deadline established in subsection (4) of this section as of that date.~~

~~(c) A city that is subject to 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 deadline established in 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 deadline established in 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 (b) or (c) of this subsection 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 (b) or (c) of this subsection.~~

~~(e)) A county that is subject to a deadline established in subsection (5)((b) through (d)) (a)(ii) through (iv) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) 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 deadline established in subsection (5) of this section as of that date.

~~((f))~~ (c) A city that is subject to a deadline established in subsection (5)~~((b) through (d))~~ (a)(ii) through (iv) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) 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 deadline established in subsection (5) of this section as of that date.

~~((g))~~ (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.

(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:

(i) Complying with the deadlines in this section; or

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas(~~;~~
~~or~~

~~(iii) Complying with the extension provisions of subsection (6)(b), (c), or (d) of this section).~~

(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)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under RCW 36.70A.710(1) may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with RCW 36.70A.725;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under RCW 36.70A.720;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning ten years from the date of receipt of funding, a county that has made the election under RCW 36.70A.710(1) must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals and benchmarks for protection have been met.

Sec. 2. RCW 90.58.080 and 2011 c 353 s 13 are each amended to read as follows:

(1) Local governments shall develop or amend a master program for regulation of uses of the shorelines of the state consistent with the required elements of the guidelines adopted by the department in accordance with the schedule established by this section.

(2)(a) Subject to the provisions of subsections (5) and (6) of this section, each local government subject to this chapter shall develop or amend its master program for the regulation of uses of shorelines within its jurisdiction according to the following schedule:

(i) On or before December 1, 2005, for the city of Port Townsend, the city of Bellingham, the city of Everett, Snohomish county, and Whatcom county;

(ii) On or before December 1, 2009, for King county and the cities within King county greater in population than ten thousand;

(iii) Except as provided by (a)(i) and (ii) of this subsection, on or before December 1, 2011, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(iv) On or before December 1, 2012, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(v) On or before December 1, 2013, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(vi) On or before December 1, 2014, 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.

(b) Nothing in this subsection (2) shall preclude a local government from developing or amending its master program prior to the dates established by this subsection (2).

(3)(a) Following approval by the department of a new or amended master program, local governments required to develop or amend master programs on or before December 1, 2009, as provided by subsection (2)(a)(i) and (ii) of this section, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) of this section and shall not be required to complete master program amendments until the applicable dates established by subsection (4)(b) of this section. Any jurisdiction listed in subsection (2)(a)(i) of this section that has a new or amended master program approved by the department on or after March 1, 2002, but before July 27, 2003, shall not be required to complete master program amendments until the applicable date provided by subsection (4)(b) of this section.

(b) Following approval by the department of a new or amended master program, local governments choosing to develop or amend master programs on or before December 1, 2009, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) through (vi) of this section and shall not be required to complete master program amendments until the applicable dates established by subsection (4)(b) of this section.

(4)(a) Following the updates required by subsection (2) of this section, local governments shall conduct a review of their master programs at least once every eight years as required by (b) of this subsection. Following the review required by this subsection (4), local governments shall, if necessary, revise their master programs. The purpose of the review is:

(i) To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and

(ii) To assure consistency of the master program with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

(b) Counties and cities shall take action to review and, if necessary, revise their master programs as required by (a) of this subsection as follows:

(i) On or before June 30, (~~(2019)~~) 2028, and every eight years thereafter, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(ii) On or before June 30, (~~(2020)~~) 2029, and every eight years thereafter, for Clallam, Clark, Island, Jefferson, (~~(Kitsap)~~) Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(iii) On or before June 30, (~~(2021)~~) 2030, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, (~~(Grant)~~) Franklin, Kittitas, (~~(Lewis)~~) Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and

(iv) On or before June 30, (~~(2022)~~) 2031, and every eight years thereafter, for Adams, Asotin, Columbia, Ferry, (~~(Franklin)~~) Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, (~~(Walla Walla)~~) and Whitman counties and the cities within those counties.

(5) In meeting the (~~(update)~~) review requirements of subsection (~~((2))~~) (4) of this section, local governments are encouraged to begin the process of developing or amending their master programs early and are eligible for grants from the department as provided by RCW 90.58.250, subject to available funding. Except for those local governments listed in subsection (2)(a)(i) and (ii) of this section, the deadline for completion of the new or amended master programs shall be two years after the date the grant is approved by the department. Subsequent master program review dates shall not be altered by the provisions of this subsection.

(6) In meeting the (~~(update)~~) review requirements of subsection (~~((2))~~) (4) of this section, the following shall apply:

(a) Grants to local governments for (~~(developing and amending)~~) reviewing master programs pursuant to the schedule established by this section shall be provided at least two years before the adoption dates specified in subsection (~~((2))~~) (4) of this section. To the extent possible, the department shall allocate grants within the amount appropriated for such purposes to provide reasonable

and adequate funding to local governments that have indicated their intent to develop or amend master programs during the biennium according to the schedule established by subsection ~~((2))~~ (4) of this section. Any local government that applies for but does not receive funding to comply with the provisions of subsection ~~((2))~~ (4) of this section may delay the development or amendment of its master program until the following biennium.

(b) Local governments with delayed compliance dates as provided in (a) of this subsection shall be the first priority for funding in subsequent biennia, and the ~~((development or amendment))~~ periodic review compliance deadline for those local governments shall be two years after the date of grant approval.

(c) Failure of the local government to apply in a timely manner for a master program development or amendment grant in accordance with the requirements of the department shall not be considered a delay resulting from the provisions of (a) of this subsection.

(7) In meeting the update requirements of subsection (2) of this section, all local governments subject to the requirements of this chapter that have not developed or amended master programs on or after March 1, 2002, shall, no later than December 1, 2014, develop or amend their master programs to comply with guidelines adopted by the department after January 1, 2003.

(8) In meeting the ~~((update))~~ review requirements of subsection ~~((2))~~ (4) of this section, local governments may be provided an additional year beyond the deadlines in this section to complete their master program or amendment. The department shall grant the request if it determines that the local government is likely to adopt or amend its master program within the additional year.

NEW SECTION. Sec. 3. Section 2 of this act takes effect July 1, 2025.

Passed by the House March 9, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 25, 2020.

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CHAPTER 114

[House Bill 2402]

LEGISLATIVE COMMITTEES--VARIOUS PROVISIONS

AN ACT Relating to streamlining legislative operations by repealing and amending selected statutory committees; amending RCW 28A.175.075, 28A.657.100, 28B.15.067, 43.15.020, 43.216.572, 43.216.574, 44.04.325, 44.68.010, 44.68.040, 44.68.050, 44.68.060, 44.68.065, 44.68.085, 44.68.090, 44.68.100, 44.68.105, 43.15.030, 43.15.040, 43.15.060, 43.15.065, 43.15.070, and 28A.300.801; adding a new section to chapter 43.15 RCW; recodifying RCW 28A.300.801; repealing RCW 28A.657.130, 28B.95.170, 44.55.010, 44.55.020, 44.55.030, 44.55.040, 44.55.050, 44.55.060, 44.68.020, and 44.68.035; and providing an effective date.

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

PART I

REPEAL OF SELECTED STATUTORY COMMITTEES

NEW SECTION. Sec. 1. The following acts or parts of acts are each repealed:

(1) RCW 28A.657.130 (Education accountability system oversight committee—Membership—Duties—Reports) and 2013 c 159 s 13;

- (2) RCW 28B.95.170 (Legislative advisory committee) and 2011 1st sp.s. c 12 s 6;
- (3) RCW 44.55.010 (Findings—Intent) and 2003 c 404 s 1;
- (4) RCW 44.55.020 (Committee membership) and 2003 c 404 s 2;
- (5) RCW 44.55.030 (Chair—Officers—Rules) and 2003 c 404 s 3;
- (6) RCW 44.55.040 (Powers, duties) and 2003 c 404 s 4;
- (7) RCW 44.55.050 (Staff support) and 2003 c 404 s 5;
- (8) RCW 44.55.060 (Compensation) and 2003 c 404 s 6;
- (9) RCW 44.68.020 (Committee created—Members, terms, vacancies, officers, rules) and 1993 c 332 s 1 & 1986 c 61 s 2; and
- (10) RCW 44.68.035 (Administration) and 2001 c 259 s 16.

PART II RELATED AMENDMENTS

Sec. 2. RCW 28A.175.075 and 2018 c 58 s 31 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))~~) advisory committee to be known as the graduation: a team effort partnership advisory committee. The advisory committee shall include 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)) advisory committee: The office of the superintendent of public instruction, the workforce training and education coordinating board, the department of children, youth, and families, 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 ((work group should)) advisory committee shall also consist of one representative from each of the following agencies and organizations: A statewide organization representing career and technical education programs including skill centers; the juvenile courts or the office of juvenile justice, or both; the Washington association of prosecuting attorneys; the Washington state office of public defense; accredited institutions of higher education; the educational service districts; the area workforce development councils; parent and educator associations; educational opportunity gap oversight and accountability committee; office of the education ombuds; 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.175.025, the (~~((state-level work group))~~) advisory committee 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.

~~((b))~~ The ~~((work group))~~ advisory committee shall report to the 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))~~ advisory committee 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. 3. RCW 28A.657.100 and 2013 c 159 s 10 are each amended to read as follows:

(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 using the criteria adopted under RCW 28A.657.020 including progress in closing the educational opportunity gap; 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 after at least three years of implementing a required action plan, the board may recommend that the district remain in required action and submit a new or revised plan under the process in RCW 28A.657.050, or the board may direct that the school district be assigned to level two of the required action process as provided in RCW 28A.657.105. If the required action district received a federal school improvement grant for the same persistently lowest-achieving school in 2010 or 2011, the board may direct that the school district be assigned to level two of the required action process after one year of implementing a required action plan under this chapter if the district is not making progress. ~~((Before making a determination of whether to recommend that a school district that is not making progress remain in required action or be assigned to level two of the required action process, the state board of education must submit its findings to the education accountability system oversight committee under RCW 28A.657.130 and provide an opportunity for the oversight committee to review and comment.))~~

Sec. 4. RCW 28B.15.067 and 2015 3rd sp.s. c 36 s 3 are each amended to read as follows:

(1) Tuition fees shall be established under the provisions of this chapter.

~~(2) (Beginning in the 2011-12 academic year and through the 2014-15 academic year, reductions or increases in full-time tuition fees shall be as provided in the omnibus appropriations act for resident undergraduate students at community and technical colleges.~~

~~(3)(a) In the 2015-16 and 2016-17 academic years, tuition operating fees for resident undergraduates at community and technical colleges excluding applied baccalaureate degrees as defined in RCW 28B.50.030, shall be five percent less than the 2014-15 academic year tuition operating fee.~~

~~(b) Beginning in the 2017-18 academic year, tuition)~~ Tuition operating fees for resident undergraduates at ~~((community and technical colleges))~~ institutions of higher education as defined in RCW 28B.10.016, excluding applied baccalaureate degrees as defined in RCW 28B.50.030, may increase by no more than the average annual percentage growth rate in the median hourly wage for Washington for the previous fourteen years as the wage is determined by the federal bureau of labor statistics.

~~((4))~~ (3) The governing boards of the state universities, regional universities, and The Evergreen State College; and the state board for community and technical colleges may reduce or increase full-time tuition fees for all students other than resident undergraduates, including nonresident students, summer school students, and students in other self-supporting degree programs. Percentage increases in full-time tuition may exceed the fiscal growth factor. Except during the 2013-2015 fiscal biennium, the state board for community and technical colleges may pilot or institute differential tuition models. The board may define scale, scope, and rationale for the models.

~~((5)(a) Beginning with the 2011-12 academic year and through the end of the 2014-15 academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College may reduce or increase full-time tuition fees for all students, including summer school students and students in other self-supporting degree programs. Percentage increases in full-time tuition fees may exceed the fiscal growth factor. Reductions or increases may be made for all or portions of an institution's programs, campuses, courses, or students; however, during the 2013-2015 fiscal biennium, reductions or increases in tuition must be uniform among resident undergraduate students.~~

~~(b) Prior to reducing or increasing tuition for each academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College shall consult with existing student associations or organizations with student undergraduate and graduate representatives regarding the impacts of potential tuition increases. Each governing board shall make public its proposal for tuition and fee increases twenty-one days before the governing board of the institution considers adoption and allow opportunity for public comment. However, the requirement to make public a proposal for tuition and fee increases twenty-one days before the governing board considers adoption shall not apply if the omnibus appropriations act has not passed the legislature by May 15th. Governing boards shall be required to provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.~~

~~(c) Prior to reducing or increasing tuition for each academic year, the state board for community and technical college system shall consult with existing student associations or organizations with undergraduate student representation~~

~~regarding the impacts of potential tuition increases. The state board for community and technical colleges shall provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.~~

~~(6)(a) In the 2015-16 academic year, full-time tuition operating fees for resident undergraduates for state universities, regional universities, The Evergreen State College, and applied baccalaureate degrees as defined in RCW 28B.50.030 shall be five percent less than the 2014-15 academic year tuition operating fee.~~

~~(b) Beginning with the 2016-17 academic year, full-time tuition operating fees for resident undergraduates for:~~

~~(i) State universities shall be fifteen percent less than the 2014-15 academic year tuition operating fee; and~~

~~(ii) Regional universities, The Evergreen State College, and applied baccalaureate degrees as defined in RCW 28B.50.030 shall be twenty percent less than the 2014-15 academic year tuition operating fee.~~

~~(c) Beginning with the 2017-18 academic year, full-time tuition operating fees for resident undergraduates in (b) of this subsection may increase by no more than the average annual percentage growth rate in the median hourly wage for Washington for the previous fourteen years as the wage is determined by the federal bureau of labor statistics.~~

~~(7)) (4) The tuition fees established under this chapter shall not apply to high school students enrolling in participating institutions of higher education under RCW 28A.600.300 through 28A.600.400.~~

~~((8)) (5) The tuition fees established under this chapter shall not apply to eligible students enrolling in a dropout reengagement program through an interlocal agreement between a school district and a community or technical college under RCW 28A.175.100 through 28A.175.110.~~

~~((9) The legislative advisory committee to the committee on advanced tuition payment established in RCW 28B.95.170 shall:~~

~~(a) Review the impact of differential tuition rates on the funded status and future unit price of the Washington advanced college tuition payment program; and~~

~~(b) No later than January 14, 2013, make a recommendation to the appropriate policy and fiscal committees of the legislature regarding how differential tuition should be addressed in order to maintain the ongoing solvency of the Washington advanced college tuition payment program.~~

~~(40)) (6) As a result of any changes in tuition under section 3, chapter 36, Laws of 2015 3rd sp. sess., the governing boards of the state universities, the regional universities, and The Evergreen State College shall not reduce resident undergraduate enrollment below the 2014-15 academic year levels.~~

Sec. 5. RCW 43.15.020 and 2017 3rd sp.s. c 6 s 814 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))~~ Washington state leadership board, 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) Financial education public-private partnership, RCW 28A.300.450;

(g) Joint administrative rules review committee, RCW 34.05.610;

(h) Capital projects advisory review board, RCW 39.10.220;

(i) Select committee on pension policy, RCW 41.04.276;

(j) Legislative ethics board, RCW 42.52.310;

(k) Washington citizens' commission on salaries, RCW 43.03.305;

(l) Legislative oral history committee, RCW 44.04.325;

(m) State council on aging, RCW 43.20A.685;

(n) State investment board, RCW 43.33A.020;

(o) Capitol campus design advisory committee, RCW 43.34.080;

(p) Washington state arts commission, RCW 43.46.015;

(q) PNWER-Net working subgroup under chapter 43.147 RCW;

(r) Community economic revitalization board, RCW 43.160.030;

(s) Washington economic development finance authority, RCW 43.163.020;

~~(t) ((Life sciences discovery fund authority, RCW 43.350.020;~~

~~(u))~~ (u) Joint legislative audit and review committee, RCW 44.28.010;
~~((v))~~ (u) Joint committee on energy supply and energy conservation, RCW 44.39.015;

~~((w))~~ (v) Legislative evaluation and accountability program committee, RCW 44.48.010;

~~((x) Agency council on coordinated transportation, RCW 47.06B.020;~~

~~(y))~~ (w) Washington horse racing commission, RCW 67.16.014;

~~((z))~~ (x) Correctional industries board of directors, RCW 72.09.080;

~~((aa))~~ (y) Joint committee on veterans' and military affairs, RCW 73.04.150;

~~((bb))~~ (z) Joint legislative committee on water supply during drought, RCW 90.86.020; and

~~((cc))~~ (aa) Statute law committee, RCW 1.08.001(~~(and~~

~~(dd) Joint legislative oversight committee on trade policy, RCW 44.55.020)).~~

Sec. 6. RCW 43.216.572 and 2016 c 57 s 1 are each amended to read as follows:

For the purposes of implementing this chapter, the governor shall appoint a state (~~(birth to three)~~) interagency coordinating council for infants and toddlers with disabilities and their families and ensure that state agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families shall coordinate and collaborate in the planning and delivery of such services.

No state or local agency currently providing early intervention services to infants and toddlers with disabilities may use funds appropriated for early intervention services for infants and toddlers with disabilities to supplant funds from other sources.

All state and local agencies shall ensure that the implementation of this chapter will not cause any interruption in existing early intervention services for infants and toddlers with disabilities.

Nothing in this chapter shall be construed to permit the restriction or reduction of eligibility under Title V of the Social Security Act, P.L. 90-248, relating to maternal and child health or Title XIX of the Social Security Act, P.L. 89-97, relating to medicaid for infants and toddlers with disabilities.

Sec. 7. RCW 43.216.574 and 2016 c 57 s 2 are each amended to read as follows:

The state (~~(birth to three)~~) interagency coordinating council for infants and toddlers with disabilities and their families shall identify and work with county early childhood interagency coordinating councils to coordinate and enhance existing early intervention services and assist each community to meet the needs of infants and toddlers with disabilities and their families.

Sec. 8. RCW 44.04.325 and 2008 c 222 s 4 are each amended to read as follows:

(1) A legislative oral history committee is created, which shall consist of the following individuals:

(a) Four members of the house of representatives, two from each of the two largest caucuses of the house, appointed by the speaker of the house of representatives;

(b) Four members of the senate, two from each of the two largest caucuses of the senate, appointed by the president of the senate;

(c) The chief clerk of the house of representatives; and

(d) The secretary of the senate.

(2) Ex officio members may be appointed by a majority vote of the committee's members appointed under subsection (1) of this section.

(3) The chair of the committee shall be elected by a majority vote of the committee members appointed under subsection (1) of this section.

(4) Staff support for the committee must be provided by the office of the secretary of the senate and the office of the chief clerk of the house of representatives.

Sec. 9. RCW 44.68.010 and 2007 c 18 s 1 are each amended to read as follows:

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

(1) "Administrative committee" means the joint legislative systems administrative committee created under RCW 44.68.030.

(2) "Center" means the legislative service center established under RCW 44.68.060.

(3) "Coordinator" means the legislative systems coordinator employed under RCW 44.68.040.

~~((4) "Systems committee" means the joint legislative systems committee created under RCW 44.68.020.))~~

Sec. 10. RCW 44.68.040 and 2007 c 18 s 3 are each amended to read as follows:

Subject to RCW 44.04.260:

(1) The ~~((systems committee, after consultation with the))~~ administrative committee~~((;))~~ shall employ a legislative systems coordinator. The coordinator shall serve at the pleasure of the ~~((systems))~~ administrative committee, which shall fix the coordinator's salary.

(2)(a) The coordinator shall serve as the executive and administrative head of the center, and shall assist the administrative committee in managing the information processing and communications systems of the legislature as directed by the administrative committee;

(b) In accordance with an adopted personnel plan, the coordinator shall employ or engage and fix the compensation for personnel required to carry out the purposes of this chapter;

(c) The coordinator shall enter into contracts for: (i) The sale, exchange, or acquisition of equipment, supplies, services, and facilities required to carry out the purposes of this chapter; and (ii) the distribution of legislative information.

Sec. 11. RCW 44.68.050 and 2007 c 18 s 4 are each amended to read as follows:

The administrative committee shall, ~~((subject to the approval of the systems committee and))~~ subject to RCW 44.04.260:

(1) Adopt policies, procedures, and standards regarding the information processing and communications systems of the legislature;

(2) Establish appropriate charges for services, equipment, and publications provided by the legislative information processing and communications systems, applicable to legislative and nonlegislative users as determined by the administrative committee;

(3) Adopt a compensation plan for personnel required to carry out the purposes of this chapter; and

(4) Approve strategic and tactical information technology plans and provide guidance in operational matters required to carry out (a) the purposes of this chapter; and (b) the distribution of legislative information~~((;~~

~~((5) Generally assist the systems committee in carrying out its responsibilities under this chapter, as directed by the systems committee)).~~

Sec. 12. RCW 44.68.060 and 2007 c 18 s 5 are each amended to read as follows:

(1) The administrative committee~~((, subject to the approval of the systems committee.))~~ shall establish a legislative service center. The center shall provide automatic data processing services, equipment, training, and support to the legislature and legislative agencies. The center may also, by agreement, provide services to agencies of the judicial and executive branches of state government and other governmental entities, and provide public access to legislative

information. All operations of the center shall be subject to the general supervision of the administrative committee in accordance with the policies, procedures, and standards established under RCW 44.68.050.

(2) Except as provided otherwise in subsection (3) of this section, determinations regarding the security, disclosure, and disposition of information placed or maintained in the center shall rest solely with the originator and shall be made in accordance with any law regulating the disclosure of such information. The originator is the person who directly places information in the center.

(3) When utilizing the center to carry out the bill drafting functions required under RCW 1.08.027, the code reviser shall be considered the originator as defined in ~~((RCW 44.68.060))~~ this section. However, determinations regarding the security, disclosure, and disposition of drafts placed or maintained in the center shall be made by the person requesting the code reviser's services and the code reviser, acting as the originator, shall comply with and carry out such determinations as directed by that person. A measure once introduced shall not be considered a draft under this subsection.

Sec. 13. RCW 44.68.065 and 2015 3rd sp.s. c 1 s 411 are each amended to read as follows:

The legislative service center, under the direction of ~~((the joint legislative systems committee and))~~ the joint legislative systems administrative committee, shall:

(1) Develop a legislative information technology portfolio consistent with the provisions of RCW 43.105.341;

(2) Participate in the development of an enterprise-based statewide information technology strategy;

(3) Ensure the legislative information technology portfolio is organized and structured to clearly indicate participation in and use of enterprise-wide information technology strategies;

(4) As part of the biennial budget process, submit the legislative information technology portfolio to the chair and ranking member of the ways and means committees of the house of representatives and the senate, the office of financial management, and the consolidated technology services agency.

Sec. 14. RCW 44.68.085 and 2007 c 18 s 6 are each amended to read as follows:

Subject to RCW 44.04.260, all expenses incurred, including salaries and expenses of employees, shall be paid upon voucher forms as provided and signed by the coordinator. Vouchers may be drawn on funds appropriated by law for the ~~((systems committee,))~~ administrative committee~~((s))~~ and center: PROVIDED, That the senate, house of representatives, and code reviser may authorize the ~~((systems committee,))~~ administrative committee~~((s))~~ and center to draw on funds appropriated by the legislature for related information technology expenses. The senate and house of representatives may transfer moneys appropriated for legislative expenses to the ~~((systems committee,))~~ administrative committee~~((s))~~ and center, in addition to charges made under RCW 44.68.050(2).

Sec. 15. RCW 44.68.090 and 1986 c 61 s 9 are each amended to read as follows:

Members (~~(of the systems committee and)~~) of the administrative committee shall be reimbursed for travel expenses under RCW 44.04.120 or 43.03.050 and 43.03.060, as appropriate, while attending meetings of their respective committees or on other official business authorized by their respective committees.

Sec. 16. RCW 44.68.100 and 1996 c 171 s 4 are each amended to read as follows:

The legislature and legislative agencies through the (~~joint legislative systems~~) administrative committee, shall:

- (1) Continue to plan for and implement processes for making legislative information available electronically;
- (2) Promote and facilitate electronic access to the public of legislative information and services;
- (3) Establish technical standards for such services;
- (4) Consider electronic public access needs when planning new information systems or major upgrades of information systems;
- (5) Develop processes to determine which legislative information the public most wants and needs;
- (6) Increase capabilities to receive information electronically from the public and transmit forms, applications and other communications and transactions electronically;
- (7) Use technologies that allow continuous access twenty-four hours a day, seven days per week, involve little or no cost to access, and are capable of being used by persons without extensive technology ability; and
- (8) Consider and incorporate wherever possible ease of access to electronic technologies by persons with disabilities.

Sec. 17. RCW 44.68.105 and 2007 c 18 s 7 are each amended to read as follows:

The (~~systems committee~~) administrative committee(~~s~~) and center are hereby expressly exempted from the provisions of chapter 43.105 RCW.

Sec. 18. RCW 43.15.030 and 2018 c 67 s 1 are each amended to read as follows:

(1) The (~~association of Washington generals~~) Washington state leadership board is organized as a private, nonprofit, nonpartisan corporation in accordance with chapter 24.03 RCW and this section.

(2) The purpose of the (~~association of Washington generals~~) Washington state leadership board is to:

- (a) Provide the state a means of extending formal recognition for an individual's outstanding services to the state;
 - (b) Bring together those individuals to serve the state as ambassadors of trade, tourism, and international goodwill; and
 - (c) Expand educational, sports, leadership, and/or employment opportunities for youth, veterans, and people with disabilities in Washington state.
- (3) The (~~association of Washington generals~~) Washington state leadership board may conduct activities in support of their mission(~~, including but not limited to:~~

- (a) Establishing selection criteria for selecting Washington generals;

~~(b) Training Washington generals as ambassadors of the state of Washington, nationally and internationally; and~~

~~(c) Promoting Washington generals as ambassadors of the state of Washington).~~

(4) The ~~((association of Washington generals))~~ Washington state leadership board is governed by a board of directors. The board of directors is composed of the governor, the lieutenant governor, and the secretary of state, who serve as ex officio, nonvoting members, and other officers and members as the ~~((association of Washington generals))~~ Washington state leadership board designates. In addition, four legislators may be appointed to the board of directors as ex officio members in the following manner: One legislator from each of the two largest caucuses of the senate, appointed by the president of the senate, and one legislator from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives.

(5) The board of directors shall~~((=~~

~~(a) Review nominations for and be responsible for the selection of Washington generals;~~

~~(b) Establish the title of honorary Washington general to honor worthy individuals from outside the state of Washington; and~~

~~(c) Adopt~~) adopt bylaws and establish governance and transparency policies.

(6) The lieutenant governor's office may provide technical and financial assistance for the ~~((association of Washington generals))~~ Washington state leadership board, where the work of the ~~((association))~~ board aligns with the mission of the office. Assistance from the lieutenant governor's office may include, but is not limited to:

(a) Collaboration with the ~~((association of Washington generals))~~ Washington state leadership board on the Washington world fellows program, a college readiness and study abroad fellowship administered by the office of the lieutenant governor;

(b) Beginning January 1, 2019, collaboration with the ~~((association of Washington generals))~~ Washington state leadership board to administer the sports mentoring program as established under RCW 43.15.100, a mentoring program to encourage underserved youth to join sports or otherwise participate in the area of sports. If approved by the board, boundless Washington, an outdoor leadership program for young people with disabilities, shall satisfy the terms of the sports mentoring program; and

(c) The compilation of a yearly financial report, which shall be made available to the legislature no later than January 15th of each year, detailing all revenues and expenditures associated with the Washington world fellows program and the sports mentoring program. Any expenditures made by the ~~((association of Washington generals))~~ Washington state leadership board in support of the Washington world fellows program and the sports mentoring program shall be made available to the office of the lieutenant governor for the purpose of inclusion in the annual financial report.

(7) The legislature may make appropriations in support of the ~~((Washington generals))~~ Washington state leadership board subject to the availability of funds.

(8) The office of the lieutenant governor must post on its web site detailed information on all funds received by the ~~((association of Washington generals))~~

Washington state leadership board and all expenditures by the ~~((association of Washington generals))~~ Washington state leadership board.

Sec. 19. RCW 43.15.040 and 2005 c 69 s 2 are each amended to read as follows:

The ~~((association of Washington generals))~~ Washington state leadership board may use the image of the Washington state flag to promote the mission of the organization as set forth under RCW ~~((43.342.010))~~ 43.15.030. The ~~((association))~~ board retains any revenue generated by the use of the image, when the usage is consistent with the purposes under RCW ~~((43.342.010))~~ 43.15.030.

Sec. 20. RCW 43.15.060 and 2003 c 347 s 1 are each amended to read as follows:

(1) Economic development and in particular international trade, tourism, and investment have become increasingly important to Washington, affecting the state's employment, revenues, and general economic well-being. Additionally, economic trends are rapidly changing and the international marketplace has become increasingly competitive as states and countries seek to improve and safeguard their own economic well-being. The purpose of the legislative committee on economic development and international relations is to provide responsive and consistent involvement by the legislature in economic development to maintain a healthy state economy and to provide employment opportunities to Washington residents.

(2) There is created a legislative committee on economic development and international relations which shall consist of six senators and six representatives from the legislature and the lieutenant governor who shall serve as chairperson. The senate members of the committee shall be appointed by the president of the senate and the house members of the committee shall be appointed by the speaker of the house. Not more than three members from each house shall be from the same political party. ~~((A list of appointees shall be submitted before the close of each regular legislative session during an odd-numbered year or any successive special session convened by the governor or the legislature prior to the close of such regular session or successive special session(s) for confirmation of senate members, by the senate, and house members, by the house.))~~ Vacancies occurring shall be filled by the appointing authority.

Sec. 21. RCW 43.15.065 and 1985 c 467 s 18 are each amended to read as follows:

The committee shall by majority vote establish subcommittees, and prescribe rules of procedure for itself and its subcommittees which are consistent with this chapter. ~~((The committee shall at a minimum establish a subcommittee on international trade and a subcommittee on industrial development.))~~

Sec. 22. RCW 43.15.070 and 1985 c 467 s 19 are each amended to read as follows:

The committee or its subcommittees are authorized to study and review economic development issues with special emphasis on international trade, tourism, investment, and industrial development, and to assist the legislature in developing a comprehensive and consistent economic development policy. The issues under review by the committee shall include, but not be limited to:

(1) Evaluating existing state policies, laws, and programs which promote or affect economic development with special emphasis on those concerning international trade, tourism, and investment and determine their cost-effectiveness and level of cooperation with other public and private agencies((-);

(2) Monitoring economic trends, and developing for review by the legislature such ~~((appropriate))~~ state responses as may be deemed effective and appropriate((-);

(3) Monitoring economic development policies and programs of other states and nations and evaluating their effectiveness((-);

(4) Determining the economic impact of international trade, tourism, and investment upon the state's economy((-);

(5) Assessing the need for and effect of federal, regional, and state cooperation in economic development policies and programs((-);

(6) Evaluating opportunities to collaborate with public and private agencies in achieving Washington state's international relations objectives;

(7) Studying and adopting any state tourism slogan or tagline recommended by the Washington tourism marketing authority established in RCW 43.384.020;

(8) Designating official legislative trade delegations and nominating legislators for inclusion in official trade delegations organized by the office of international relations and protocol;

(9) Proposing potential sister-state relationships to be submitted to the governor for approval; and

(10) Developing and evaluating legislative proposals concerning the issues specified in this section.

Sec. 23. RCW 28A.300.801 and 2009 c 410 s 1 are each amended to read as follows:

(1) The legislative youth advisory council is established to examine issues of importance to youth, including but not limited to education, employment, strategies to increase youth participation in state and municipal government, safe environments for youth, substance abuse, emotional and physical health, foster care, poverty, homelessness, and youth access to services on a statewide and municipal basis.

(2) The council consists of at least twenty-two members as provided in this subsection who, at the time of appointment, are aged fourteen to eighteen. The council shall select a chair from among its members.

(3) ~~((Except for initial members, members))~~ Members shall serve two-year terms((-) and, if eligible, may be reappointed for subsequent two-year terms. ~~((One half of the initial members shall be appointed to one year terms, and these appointments shall be made in such a way as to preserve overall representation on the committee.))~~

(4)(a) ~~((By July 2, 2007, and annually thereafter, students))~~ Students may apply annually to be considered for participation in the program by completing an online application form and submitting the application to the legislative youth advisory council. The council may develop selection criteria and an application review process. The council shall recommend candidates whose names will be submitted to the office of the lieutenant governor for final selection. ~~((Beginning May 7, 2009, the))~~ The office of the lieutenant governor shall notify all applicants of the final selections ~~((using existing staff and resources)).~~

(b) ~~((Within existing staff and resources, the))~~ The office of the lieutenant governor shall make the application available on the lieutenant governor's web site.

(5) ~~((If the council has sufficient funds from any source, then))~~ Subject to the supervision of the office of the lieutenant governor, the council shall have the following duties:

(a) Advising the legislature on proposed and pending legislation, including state budget expenditures and policy matters relating to youth;

(b) Advising the standing committees of the legislature and study commissions, committees, and task forces regarding issues relating to youth;

(c) Conducting periodic seminars for its members regarding leadership, government, and the legislature;

(d) Accepting and soliciting for grants and donations from public and private sources to support the activities of the council; and

(e) Reporting annually by December 1st to the legislature on its activities, including proposed legislation that implements recommendations of the council.

(6) ~~((If the council has sufficient funds from any source, then in))~~ In carrying out its duties under this section, the council ~~((may))~~ must meet at least three times ~~((but not more than six times))~~ per year. ~~((The council shall consider conducting at least some of the meetings via the K-20 telecommunications network.))~~ The council is encouraged to use technology, such as remote videoconferencing technology, to facilitate members' participation in meetings. The council is encouraged to invite local state legislators to participate in the meetings. The council is encouraged to poll other students in order to get a broad perspective on ~~((the))~~ various policy issues. The council is encouraged to use technology to conduct ~~((the))~~ polling~~((, including the council's web site, if the council has a web site)).~~

(7) ~~((If the council has sufficient funds from any source, then members shall))~~ Members may be reimbursed as provided in RCW 43.03.050 and 43.03.060.

(8) ~~((If sufficient funds are available from any source, beginning with May 7, 2009, the))~~ The office of ~~((superintendent of public instruction))~~ the lieutenant governor shall provide administration, ~~((coordination))~~ supervision, and facilitation ~~((assistance))~~ support to the council. In facilitating the program, the office of the lieutenant governor may collaborate with the Washington state leadership board established in RCW 43.15.030. The senate and house of representatives may provide policy and fiscal briefings and assistance with drafting proposed legislation. The senate and the house of representatives shall each develop internal policies relating to staff assistance provided to the council. Such policies may include applicable internal personnel and practices guidelines, resource use and expense reimbursement guidelines, and applicable ethics mandates. Provision of funds, resources, and staff, as well as the assignment and direction of staff, remains at all times within the sole discretion of the chamber making the provision.

(9) The office of the lieutenant governor, ~~((the office of the superintendent of public instruction,))~~ the legislature, any agency of the legislature, and any official or employee of such office or agency are immune from liability for any injury that is incurred by or caused by a member of the legislative youth advisory council and that occurs while the member of the council is performing

duties of the council or is otherwise engaged in activities or receiving services for which reimbursement is allowed under subsection (7) of this section. The immunity provided by this subsection does not apply to an injury intentionally caused by the act or omission of an employee or official of the ~~((superintendent of public instruction or))~~ office of the lieutenant governor, the legislature, or any agency of the legislature.

PART III MISCELLANEOUS

NEW SECTION. Sec. 24. RCW 28A.300.801 is recodified as a section in chapter 43.15 RCW.

NEW SECTION. Sec. 25. This act takes effect July 1, 2020.

Passed by the House March 7, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 115

[Substitute House Bill 2426]

PSYCHIATRIC HOSPITALS--PATIENT SAFETY

AN ACT Relating to protecting patient safety in psychiatric hospitals and other health care facilities regulated by the department of health through improvements to licensing and enforcement; amending RCW 71.12.480; reenacting and amending RCW 71.12.455; adding new sections to chapter 71.12 RCW; adding new sections to chapter 43.70 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that patients seeking behavioral health care in Washington would benefit from consistent regulatory oversight and transparency about patient outcomes. Current regulatory oversight of psychiatric hospitals licensed under chapter 71.12 RCW needs to be enhanced to protect the health, safety, and well-being of patients seeking behavioral health care in these facilities. Some hospitals have not complied with state licensing requirements. Additional enforcement tools are needed to address noncompliance and protect patients from risk of harm.

The legislature also finds that licensing and enforcement requirements for all health care facility types regulated by the department of health are inconsistent and that patients are not well-served by this inconsistency. Review of the regulatory requirements for all health care facility types, including acute care hospitals, is needed to identify gaps and opportunities to consolidate and standardize requirements. Legislation will be necessary to implement uniform requirements that assure provision of safe, quality care and create consistency and predictability for facilities.

NEW SECTION. Sec. 2. A new section is added to chapter 71.12 RCW to read as follows:

(1) Any psychiatric hospital may request from the department or the department may offer to any psychiatric hospital technical assistance. The department may not provide technical assistance during an inspection or during

the time between when an investigation of a psychiatric hospital has been initiated and when such investigation is resolved.

(2) The department may offer group training to psychiatric hospitals licensed under this chapter.

NEW SECTION. Sec. 3. A new section is added to chapter 71.12 RCW to read as follows:

(1) In any case in which the department finds that a licensed psychiatric hospital has failed or refused to comply with applicable state statutes or regulations, the department may take one or more of the actions identified in this section, except as otherwise limited in this section.

(a) When the department determines the psychiatric hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the psychiatric hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the hospital cannot demonstrate to the department that it has access to sufficient internal expertise.

(b)(i) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to ten thousand dollars per violation, not to exceed a total fine of one million dollars, on a hospital licensed under this chapter when the department determines the psychiatric hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the psychiatric hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(ii) Proceeds from these fines may only be used by the department to provide training or technical assistance to psychiatric hospitals and to offset costs associated with licensing psychiatric hospitals.

(iii) The department shall adopt in rules under this chapter specific fine amounts in relation to the severity of the noncompliance.

(iv) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(c) In accordance with RCW 43.70.095, the department may impose civil fines of up to ten thousand dollars for each day a person operates a psychiatric hospital without a valid license. Proceeds from these fines may only be used by the department to provide training or technical assistance to psychiatric hospitals and to offset costs associated with licensing psychiatric hospitals.

(d) The department may suspend admissions of a specific category or categories of patients as related to the violation by imposing a limited stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop placement, the department shall provide a psychiatric hospital written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and the psychiatric hospital

shall have twenty-four hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practice or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same twenty-four hour period, the department may issue the limited stop placement.

(ii) When the department imposes a limited stop placement, the psychiatric hospital may not admit any new patients in the category or categories subject to the limited stop placement until the limited stop placement order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the psychiatric hospital if more than five business days is needed to verify the violation necessitating the limited stop placement has been corrected.

(iv) The limited stop placement shall be terminated when:

(A) The department verifies the violation necessitating the limited stop placement has been corrected or the department determines that the psychiatric hospital has taken intermediate action to address the immediate jeopardy; and

(B) The psychiatric hospital establishes the ability to maintain correction of the violation previously found deficient.

(e) The department may suspend new admissions to the psychiatric hospital by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of patients or a specific area of the psychiatric hospital.

(i) Prior to imposing a stop placement, the department shall provide a psychiatric hospital written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and the psychiatric hospital shall have twenty-four hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practice or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same twenty-four hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the psychiatric hospital may not admit any new patients until the stop placement order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the psychiatric hospital if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement order shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the psychiatric hospital has taken intermediate action to address the immediate jeopardy; and

(B) The psychiatric hospital establishes the ability to maintain correction of the violation previously found deficient.

(f) The department may suspend, revoke, or refuse to renew a license.

(2)(a) Except as otherwise provided, RCW 43.70.115 governs notice of the imposition of conditions on a license, a limited stop placement, stop placement, or the suspension, revocation, or refusal to renew a license and provides the right

to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, including a copy of the department's notice, be served on and received by the department within twenty-eight days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(b) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop placement, stop placement, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(i) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within fourteen days of making the request. The licensee must request the show cause hearing within twenty-eight days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(ii) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and must provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department must provide the licensee with all documentation that supports the department's immediate suspension.

(iii) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(iv) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(v) If the secretary sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within ninety days of the licensee's request.

NEW SECTION. Sec. 4. A new section is added to chapter 43.70 RCW to read as follows:

As resources allow, the department shall make health care facility inspection and investigation statements of deficiencies, plans of correction, notice of acceptance of plans of correction, enforcement actions, and notices of resolution available to the public on the internet, starting with psychiatric hospitals and residential treatment facilities.

NEW SECTION. Sec. 5. A new section is added to chapter 43.70 RCW to read as follows:

The department must conduct a review of statutes for all health care facility types licensed by the department under chapters 18.46, 18.64, 70.41, 70.42, 70.127, 70.230, 71.12, and 71.24 RCW to evaluate appropriate levels of

oversight and identify opportunities to consolidate and standardize licensing and enforcement requirements across facility types. The department must work with stakeholders including, but not limited to, the statewide associations of the facilities under review to create recommendations that will be shared with stakeholders and the legislature for a uniform health care facility enforcement act for consideration in the 2021 legislative session.

Sec. 6. RCW 71.12.455 and 2017 c 263 s 2 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) "Department" means the department of health.

(2) "Establishment" and "institution" mean:

(a) Every private or county or municipal hospital, including public hospital districts, sanitariums, homes, psychiatric hospitals, residential treatment facilities, or other places receiving or caring for any person with mental illness, mentally incompetent person, or chemically dependent person; and

(b) Beginning January 1, 2019, facilities providing pediatric transitional care services.

(3) "Pediatric transitional care services" means short-term, temporary, health and comfort services for drug exposed infants according to the requirements of this chapter and provided in an establishment licensed by the department of health.

(4) "Secretary" means the secretary of the department of health.

(5) "Trained caregiver" means a noncredentialed, unlicensed person trained by the establishment providing pediatric transitional care services to provide hands-on care to drug exposed infants. Caregivers may not provide medical care to infants and may only work under the supervision of an appropriate health care professional.

(6) "Elopement" means any situation in which an admitted patient of a psychiatric hospital who is cognitively, physically, mentally, emotionally, and/or chemically impaired wanders, walks, runs away, escapes, or otherwise leaves a psychiatric hospital or the grounds of a psychiatric hospital prior to the patient's scheduled discharge unsupervised, unnoticed, and without the staff's knowledge.

(7) "Immediate jeopardy" means a situation in which the psychiatric hospital's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(8) "Psychiatric hospital" means an establishment caring for any person with mental illness or substance use disorder excluding acute care hospitals licensed under chapter 70.41 RCW, state psychiatric hospitals established under chapter 72.23 RCW, and residential treatment facilities as defined in this section.

(9) "Residential treatment facility" means an establishment in which twenty-four hour on-site care is provided for the evaluation, stabilization, or treatment of residents for substance use, mental health, co-occurring disorders, or for drug exposed infants.

(10) "Technical assistance" means the provision of information on the state laws and rules applicable to the regulation of psychiatric hospitals, the process to apply for a license, and methods and resources to avoid or address compliance

problems. Technical assistance does not include assistance provided under chapter 43.05 RCW.

Sec. 7. RCW 71.12.480 and 2000 c 93 s 24 are each amended to read as follows:

(1) The department of health shall not grant any such license until it has made an examination of all phases of the operation of the establishment necessary to determine compliance with rules adopted under this chapter including the premises proposed to be licensed and is satisfied that the premises are substantially as described, and are otherwise fit and suitable for the purposes for which they are designed to be used, and that such license should be granted.

(2) During the first two years of licensure for a new psychiatric hospital or any existing psychiatric hospital that changes ownership after July 1, 2020, the department shall provide technical assistance, perform at least three unannounced inspections, and conduct additional inspections of the hospital as necessary to verify the hospital is complying with the requirements of this chapter.

NEW SECTION. Sec. 8. A new section is added to chapter 71.12 RCW to read as follows:

(1) Every psychiatric hospital licensed under this chapter shall report to the department every patient elopement and every death that meets the circumstances specified in subsection (2) of this section that occurs on the hospital grounds within three days of the elopement or death to the department's complaint intake system or another reporting mechanism specified by the department in rule.

(2) The patient or staff deaths that must be reported to the department under subsection (1) of this section include the following:

(a) Patient death associated with patient elopement;

(b) Patient suicide;

(c) Patient death associated with medication error;

(d) Patient death associated with a fall;

(e) Patient death associated with the use of physical restraints or bedrails;

and
(f) Patient or staff member death resulting from a physical assault.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 9, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 116

[Substitute House Bill 2464]

PRESCRIPTION MEDICATION--CHARGES

AN ACT Relating to protecting patients from excess charges for prescription medications; and adding a new section to chapter 48.43 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 48.43 RCW to read as follows:

(1) Beginning January 1, 2021, the maximum amount a health carrier or pharmacy benefit manager may require a person to pay at the point of sale for a covered prescription medication is the lesser of:

(a) The applicable cost sharing for the prescription medication; or
 (b) The amount the person would pay for the prescription medication if the person purchased the prescription medication without using a health plan.

(2) A health carrier or pharmacy benefit manager may not require a pharmacist to dispense a brand name prescription medication when a less expensive therapeutically equivalent generic prescription medication is available.

(3) For purposes of this section, "pharmacy benefit manager" has the same meaning as in RCW 19.340.010.

Passed by the House March 9, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 117

[Substitute House Bill 2483]

DRIVING UNDER THE INFLUENCE--VEHICLE IMPOUNDMENT

AN ACT Relating to vehicle impoundment and redemption following arrest for driving or being in physical control of a vehicle while under the influence of alcohol or drugs; amending RCW 46.55.113 and 46.55.360; creating a new section; and repealing RCW 46.55.350.

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

NEW SECTION. Sec. 1. The legislature enacted "Hailey's law" in 2011, which requires impoundment of a vehicle when the driver is arrested for driving or being in physical control of the vehicle while under the influence of alcohol or drugs, and also prevents the impaired driver from redeeming the impounded vehicle for a period of twelve hours. In its findings, the legislature reasoned that vehicle impoundment both increases deterrence and prevents an impaired driver from accessing the vehicle for a specified time. In addition, it noted that vehicle impoundment provides an appropriate measure of accountability for registered owners who allow impaired drivers to drive or control their vehicles, but it also allows the registered owners to redeem their vehicles once impounded. The legislature additionally found that any inconvenience on a registered owner is outweighed by the need to protect the public.

The Washington state supreme court recently decided in *State v. Villela* that the mandatory impoundment component of the statute violates the state Constitution. In coming to this conclusion, the court determined that the Constitution requires that the arresting officer make a discretionary determination that impoundment is reasonable and that there are no reasonable alternatives to impoundment.

The legislature finds that, even without mandatory impoundment in every case, there are still many circumstances in which an officer making an arrest for impaired driving or physical control of a vehicle while under the influence will

determine that impoundment is reasonable under the circumstances and within the constitutional limitations. In such cases, it is still appropriate and necessary for the protection of the public to prevent redemption of the impounded vehicle for a minimum of twelve hours. To this end, the legislature intends to clarify that, in cases in which a vehicle is lawfully impounded following the driver's arrest for impaired driving or physical control of a vehicle while under the influence, the twelve hour restriction on redemption of the vehicle still applies.

Sec. 2. RCW 46.55.113 and 2011 c 167 s 6 are each amended to read as follows:

(1) Whenever the driver of a vehicle is arrested for a violation of RCW 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 the driver of a vehicle is arrested for a violation of RCW 46.61.502 or 46.61.504;

(f) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

~~((f))~~ (g) 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 46.19.010 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))~~ (h) 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))~~ (i) 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;

~~((f))~~ (j) 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 or farm transport 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))~~(b)(ii).

(4) The additional procedures outlined in RCW 46.55.360 apply to any impoundment of a vehicle under subsection (2)(e) of this section.

(5) 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.

~~((5))~~ (6) For purposes of this section "farm transport vehicle" means a motor vehicle owned by a farmer and that is being actively used in the transportation of the farmer's or another farmer's farm, orchard, aquatic farm, or dairy products, including livestock and plant or animal wastes, from point of production to market or disposal, or supplies or commodities to be used on the farm, orchard, aquatic farm, or dairy, and that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more.

Sec. 3. RCW 46.55.360 and 2011 c 167 s 3 are each amended to read as follows:

(1)(a) When a driver of a vehicle is arrested for a violation of RCW 46.61.502 or 46.61.504 and the officer directs the impoundment of the vehicle under RCW 46.55.113(2)(e), ~~((the vehicle is subject to summary impoundment and except for a commercial vehicle or farm transport vehicle under subsection (3)(e) of this section,))~~ the vehicle must be impounded and retained under the process outlined in this section. With the exception of the twelve-hour hold mandated under this section, the procedures for notice, redemption, storage, auction, and sale shall remain the same as for other impounded vehicles under this chapter.

(b) If the police officer directing that a vehicle be impounded under ~~((this section))~~ RCW 46.55.113(2)(e) has:

(i) Waited thirty minutes after the police officer contacted the police dispatcher requesting a registered tow truck operator and the tow truck responding has not arrived, or

(ii) If the police officer is presented with exigent circumstances such as being called to another incident or due to limited available resources being required to return to patrol,

the police officer may place the completed impound order and inventory inside the vehicle and secure the vehicle by closing the windows and locking the doors before leaving.

(c) If a police officer ~~((directing that a vehicle be impounded under this section))~~ has secured the vehicle and left it pursuant to (b) of this subsection, the police officer and the government or agency employing the police officer shall

not be liable for any damages to or theft of the vehicle or its contents that occur between the time the officer leaves and the time that the registered tow truck operator takes custody of the vehicle, or for the actions of any person who takes or removes the vehicle before the registered tow truck operator arrives.

(2)(a) When a ~~((driver of a))~~ vehicle is ~~((arrested for a violation of RCW 46.61.502 or 46.61.504))~~ impounded under RCW 46.55.113(2)(e) and the driver is a registered owner of the vehicle, the impounded vehicle may not be redeemed within a twelve-hour period following the time the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log, unless there are two or more registered owners of the vehicle or there is a legal owner of the vehicle that is not the driver of the vehicle. A registered owner who is not the driver of the vehicle or a legal owner who is not the driver of the vehicle may redeem the impounded vehicle after it arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(b) When a ~~((driver of a))~~ vehicle is ~~((arrested for a violation of RCW 46.61.502 or 46.61.504))~~ impounded under RCW 46.55.113(2)(e) and the driver is a registered owner of the vehicle, the police officer directing the impound shall notify the driver that the impounded vehicle may not be redeemed within a twelve-hour period following the time the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log, unless there are two or more registered owners or there is a legal owner who is not the driver of the vehicle. The police officer directing the impound shall notify the driver that the impounded vehicle may be redeemed by either a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(3)(a) When a ~~((driver of a))~~ vehicle is ~~((arrested for a violation of RCW 46.61.502 or 46.61.504))~~ impounded under RCW 46.55.113(2)(e) and the driver is not a registered owner of the vehicle, the impounded vehicle may be redeemed by a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(b) When a ~~((driver of a))~~ vehicle is ~~((arrested for a violation of RCW 46.61.502 or 46.61.504))~~ impounded under RCW 46.55.113(2)(e) and the driver is not a registered owner of the vehicle, the police officer directing the impound shall notify the driver that the impounded vehicle may be redeemed by a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(c) If the vehicle is a commercial vehicle or farm transport 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))~~ prior to determining that no reasonable alternatives to impound exist and directing impoundment of the vehicle under RCW 46.55.113(2)(e), the police officer ~~((shall attempt))~~ must have attempted 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))~~ was

reasonably available (~~(, as long as the owner was not in the vehicle at the time of the stop and arrest)) and not under the influence of alcohol or any drug.~~

(d) The registered tow truck operator shall notify the agency that ordered that the vehicle be impounded when the vehicle arrives at the registered tow truck operator's storage facility and has been entered into the master log starting the twelve-hour period.

(4) A registered tow truck operator that releases an impounded vehicle pursuant to the requirements stated in this section is not liable for injuries or damages sustained by the operator of the vehicle or sustained by third parties that may result from the vehicle driver's intoxicated state.

(5) For purposes of this section "farm transport vehicle" means a motor vehicle owned by a farmer and that is being actively used in the transportation of the farmer's or another farmer's farm, orchard, aquatic farm, or dairy products, including livestock and plant or animal wastes, from point of production to market or disposal, or supplies or commodities to be used on the farm, orchard, aquatic farm, or dairy, and that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more.

NEW SECTION. **Sec. 4.** RCW 46.55.350 (Findings—Intent) and 2011 c 167 s 2 are each repealed.

Passed by the House February 18, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 118

[House Bill 2491]

TRIBAL LICENSE PLATES AND VEHICLE REGISTRATION--COMPACT

AN ACT Relating to authorizing the governor to enter into compacts with federally recognized Indian tribes principally located within Washington state for the issuance of tribal license plates and vehicle registration; and adding a new section to chapter 46.16A RCW.

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

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

(1) The governor may enter into compacts with federally recognized Indian tribes principally located within this state concerning the licensing and registration of tribal government and tribal member-owned vehicles with tribal license plates issued by the department.

(2) Each compact entered into under this section must contain the following provisions:

(a) The design of a tribal license plate shall be determined by the compacting tribe, except that the design must be readable by toll collection facilities and configured in a manner allowing for electronic distribution through state and national law enforcement databases;

(b) Tribal license plate recipients must pay all applicable taxes, fees, and vehicle tolls, except that the compacting tribe may pay these expenses on behalf of its enrolled members as provided in the compact;

(c) That the eligibility for a tribal license plate is limited to tribal governments and enrolled members of the compacting tribe who reside in the state, and that the compact may address additional requirements;

(d) Information regarding a vehicle that has been issued a tribal license plate, including vehicle description and ownership information, be maintained in the department's recordkeeping systems.

(3) Each compact must also address the following subjects:

(a) The department's administrative costs for issuing tribal license plates and maintaining information regarding vehicles that have been issued tribal license plates;

(b) Information sharing between the department and the compacting tribe;

(c) The process for applying for and receiving tribal license plates; and

(d) Dispute resolution, including the use of mediation or other nonjudicial process.

(4) The governor may delegate the power to negotiate compacts under this section to the department.

Passed by the House February 16, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 119

[Second Substitute House Bill 2499]

CORRECTIONS OFFICERS--CERTIFICATION

AN ACT Relating to the certification of corrections officers; amending RCW 43.101.085, 43.101.010, 43.101.380, 43.101.400, 43.101.080, and 43.101.220; and adding new sections to chapter 43.101 RCW.

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

Sec. 1. RCW 43.101.085 and 2006 c 22 s 1 are each amended to read as follows:

In addition to its other powers granted under this chapter, the commission has authority and power to:

(1) Adopt, amend, or repeal rules as necessary to carry out this chapter;

(2) Issue subpoenas and administer oaths in connection with investigations, hearings, or other proceedings held under this chapter;

(3) Take or cause to be taken depositions and other discovery procedures as needed in investigations, hearings, and other proceedings held under this chapter;

(4) Appoint members of a hearings board as provided under RCW 43.101.380;

(5) Enter into contracts for professional services determined by the commission to be necessary for adequate enforcement of this chapter;

(6) Grant, deny, or revoke certification of peace officers and corrections officers under the provisions of this chapter;

(7) Designate individuals authorized to sign subpoenas and statements of charges under the provisions of this chapter;

(8) Employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter; and

(9) ~~((T))~~ Grant, deny, or revoke certification of tribal police officers whose tribal governments have agreed to participate in the tribal police officer certification process.

Sec. 2. RCW 43.101.010 and 2008 c 69 s 2 are each amended to read as follows:

When used in this chapter:

(1) The term "commission" means the Washington state criminal justice training commission.

(2) The term "boards" means the education and training standards boards, the establishment of which are authorized by this chapter.

(3) The term "criminal justice personnel" means any person who serves in a county, city, state, or port commission agency engaged in crime prevention, crime reduction, or enforcement of the criminal law.

(4) The term "law enforcement personnel" means any public employee or volunteer having as a primary function the enforcement of criminal laws in general or any employee or volunteer of, or any individual commissioned by, any municipal, county, state, or combination thereof, agency having as its primary function the enforcement of criminal laws in general as distinguished from an agency possessing peace officer powers, the primary function of which is the implementation of specialized subject matter areas. For the purposes of this subsection "primary function" means that function to which the greater allocation of resources is made.

(5) The term "correctional personnel" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those individuals whose civil rights have been limited in some way by legal sanction.

(6) "Chief for a day program" means a program in which commissioners and staff partner with local, state, and federal law enforcement agencies, hospitals, and the community to provide a day of special attention to chronically ill children. Each child is selected and sponsored by a law enforcement agency. The event, "chief for a day," occurs on one day, annually or every other year and may occur on the grounds and in the facilities of the commission. The program may include any appropriate honoring of the child as a "chief," such as a certificate swearing them in as a chief, a badge, a uniform, and donated gifts such as games, puzzles, and art supplies.

(7) A peace officer or corrections officer is "convicted" at the time a plea of guilty has been accepted, or a verdict of guilty or finding of guilt has been filed, notwithstanding the pendency of any future proceedings, including but not limited to sentencing, posttrial or postfact-finding motions and appeals. "Conviction" includes a deferral of sentence and also includes the equivalent disposition by a court in a jurisdiction other than the state of Washington.

(8)~~(a)~~ "Discharged for disqualifying misconduct" ~~((means))~~ has the following meanings:

(i) A peace officer terminated from employment for: ~~((+))~~ (A) Conviction of ~~((+))~~ (I) any crime committed under color of authority as a peace officer, ~~((+))~~ (II) any crime involving dishonesty or false statement within the meaning

of Evidence Rule 609(a), ~~((iii))~~ (III) the unlawful use or possession of a controlled substance, or ~~((iv))~~ (IV) any other crime the conviction of which disqualifies a Washington citizen from the legal right to possess a firearm under state or federal law; ~~((b))~~ (B) conduct that would constitute any of the crimes addressed in (a)(i)(A) of this subsection; or ~~((c))~~ (C) knowingly making materially false statements during disciplinary investigations, where the false statements are the sole basis for the termination; or

(ii) A corrections officer terminated from employment for: (A) Conviction of (I) any crime committed under color of authority as a corrections officer, (II) any crime involving dishonesty or false statement within the meaning of Evidence Rule 609(a), or (III) the unlawful use or possession of a controlled substance; (B) conduct that would constitute any of the crimes addressed in (a)(i)(A) of this subsection; or (C) knowingly making materially false statements during disciplinary investigations, where the false statements are the sole basis for the termination.

~~((9))~~ (b) A peace officer or corrections officer is "discharged for disqualifying misconduct" within the meaning of this subsection (8) ~~((of this section))~~ under the ordinary meaning of the term and when the totality of the circumstances support a finding that the officer resigned in anticipation of discipline, whether or not the misconduct was discovered at the time of resignation, and when such discipline, if carried forward, would more likely than not have led to discharge for disqualifying misconduct within the meaning of this subsection (8) ~~((of this section))~~.

~~((10))~~ (9) When used in context of proceedings referred to in this chapter, "final" means that the peace officer or corrections officer has exhausted all available civil service appeals, collective bargaining remedies, and all other such direct administrative appeals, and the officer has not been reinstated as the result of the action. Finality is not affected by the pendency or availability of state or federal administrative or court actions for discrimination, or by the pendency or availability of any remedies other than direct civil service and collective bargaining remedies.

~~((11))~~ (10) "Peace officer" means any law enforcement personnel subject to the basic law enforcement training requirement of RCW 43.101.200 and any other requirements of that section, notwithstanding any waiver or exemption granted by the commission, and notwithstanding the statutory exemption based on date of initial hire under RCW 43.101.200. Commissioned officers of the Washington state patrol, whether they have been or may be exempted by rule of the commission from the basic training requirement of RCW 43.101.200, are included as peace officers for purposes of this chapter. Fish and wildlife officers with enforcement powers for all criminal laws under RCW 77.15.075 are peace officers for purposes of this chapter.

(11) "Corrections officer" means any corrections agency employee whose primary job function is to provide for the custody, safety, and security of adult prisoners in jails and detention facilities and who is subject to the basic corrections training requirement of RCW 43.101.220 and any other requirements of that section, notwithstanding any waiver or exemption granted by the commission, and notwithstanding the statutory exemption based on date of initial hire under RCW 43.101.220. For the purpose of sections 3 through 13 of

this act, "corrections officer" does not include individuals employed by state agencies.

NEW SECTION. Sec. 3. (1) As a condition of continuing employment as corrections officers, all Washington state corrections officers shall: (a) Timely obtain certification as corrections officers, or timely obtain exemption therefrom, by meeting all requirements of RCW 43.101.220, as that section is administered under the rules of the commission, as well as by meeting any additional requirements under this chapter; and (b) maintain the basic certification as corrections officers under this chapter. The commission shall certify corrections officers who have satisfied, or have been exempted by statute or by rule from, the basic training requirements of RCW 43.101.220 on or before the effective date of this section. Thereafter, the commission may revoke certification pursuant to this chapter.

(2) As a condition of continuing employment for any applicant who has been offered a conditional offer of employment as a corrections officer after July 1, 2021, including any person whose certification has lapsed as a result of a break of more than twenty-four consecutive months in the officer's service as a corrections officer, the applicant shall submit to a background investigation including a check of criminal history, verification of immigrant or citizenship status as either a citizen of the United States or a lawful permanent resident, a psychological examination, and a polygraph or similar assessment as administered by the corrections agency, the results of which shall be used to determine the applicant's suitability for employment as a corrections officer.

(3) The commission shall allow a corrections officer to retain status as a certified corrections officer as long as the officer: (a) Timely meets the basic corrections officer training requirements, or is exempted therefrom, in whole or in part, under RCW 43.101.220 or under rule of the commission; (b) meets or is exempted from any other requirements under this chapter as administered under the rules adopted by the commission; (c) is not denied certification by the commission under this chapter; and (d) has not had certification revoked by the commission.

(4) As a prerequisite to certification, as well as a prerequisite to pursuit of a hearing under section 9 of this act, a corrections officer must, on a form devised or adopted by the commission, authorize the release to the commission of his or her personnel files, termination papers, criminal investigation files, or other files, papers, or information that are directly related to a certification matter or decertification matter before the commission.

NEW SECTION. Sec. 4. Upon request by a corrections officer's employer or on its own initiative, the commission may deny or revoke certification of any corrections officer after written notice and hearing, if a hearing is timely requested by the corrections officer under section 9 of this act, based upon a finding of one or more of the following conditions:

(1) The corrections officer has failed to timely meet all requirements for obtaining a certificate of basic corrections training, or a certificate of exemption from the training;

(2) The corrections officer has knowingly falsified or omitted material information on an application for training or certification to the commission;

(3) The corrections officer has been convicted at any time of a felony offense under the laws of this state or has been convicted of a federal or out-of-state offense comparable to a felony under the laws of this state; except that if a certified corrections officer was convicted of a felony before being employed as a corrections officer, and the circumstances of the prior felony conviction were fully disclosed to his or her employer before being hired, the commission may revoke certification only with the agreement of the employing corrections agency;

(4) The corrections officer has been discharged for disqualifying misconduct, the discharge is final, and some or all of the acts or omissions forming the basis for the discharge proceedings occurred on or after the effective date of this section;

(5) The corrections officer's certificate was previously issued by administrative error on the part of the commission; or

(6) The corrections officer has interfered with an investigation or action for denial or revocation of certificate by: (a) Knowingly making a materially false statement to the commission; or (b) in any matter under investigation by or otherwise before the commission, tampering with evidence or tampering with or intimidating any witness.

NEW SECTION. Sec. 5. (1) A person denied a certification based upon dismissal or withdrawal from a basic corrections academy for any reason not also involving discharge for disqualifying misconduct is eligible for readmission and certification upon meeting standards established in rules of the commission, which rules may provide for probationary terms on readmission.

(2) A person whose certification is denied or revoked based upon prior administrative error of issuance, failure to cooperate, or interference with an investigation is eligible for certification upon meeting standards established in rules of the commission, rules which may provide for a probationary period of certification in the event of reinstatement of eligibility.

(3) A person whose certification is denied or revoked based upon a felony criminal conviction is not eligible for certification at any time.

(4) A corrections officer whose certification is denied or revoked based upon discharge for disqualifying misconduct, but not also based upon a felony criminal conviction, may, five years after the revocation or denial, petition the commission for reinstatement of the certificate or for eligibility for reinstatement. The commission shall hold a hearing on the petition to consider reinstatement, and the commission may allow reinstatement based upon standards established in rules of the commission. If the certificate is reinstated or eligibility for certification is determined, the commission may establish a probationary period of certification.

(5) A corrections officer whose certification is revoked based solely upon a criminal conviction may petition the commission for reinstatement immediately upon a final judicial reversal of the conviction. The commission shall hold a hearing on request to consider reinstatement, and the commission may allow reinstatement based on standards established in rules of the commission. If the certificate is reinstated or if eligibility for certification is determined, the commission may establish a probationary period of certification.

NEW SECTION. Sec. 6. A corrections officer's certification lapses automatically when there is a break of more than twenty-four consecutive months in the officer's service as a full-time corrections officer. A break in full-time corrections service which is due solely to the pendency of direct review or appeal from a disciplinary discharge, or to the pendency of a work-related injury, does not cause a lapse in certification. The officer may petition the commission for reinstatement of certification. Upon receipt of a petition for reinstatement of a lapsed certificate, the commission shall determine under this chapter and any applicable rules of the commission if the corrections officer's certification status is to be reinstated, and the commission shall also determine any requirements which the officer must meet for reinstatement. The commission may adopt rules establishing requirements for reinstatement.

NEW SECTION. Sec. 7. Upon termination of a corrections officer for any reason, including resignation, the agency of termination shall, within fifteen days of the termination, notify the commission on a personnel action report form provided by the commission. The agency of termination shall, upon request of the commission, provide such additional documentation or information as the commission deems necessary to determine whether the termination provides grounds for revocation under section 4 of this act. The commission shall maintain these notices in a permanent file, subject to RCW 43.101.400.

NEW SECTION. Sec. 8. A corrections officer or duly authorized representative of a corrections agency may submit a written complaint to the commission charging that a corrections officer's certificate should be denied or revoked, and specifying the grounds for the charge. Filing a complaint does not make a complainant a party to the commission's action. The commission has sole discretion whether to investigate a complaint, and the commission has sole discretion whether to investigate matters relating to certification, denial of certification, or revocation of certification on any other basis, without restriction as to the source or the existence of a complaint. A person who files a complaint in good faith under this section is immune from suit or any civil action related to the filing or the contents of the complaint.

NEW SECTION. Sec. 9. (1) If the commission determines, upon investigation, that there is probable cause to believe that a corrections officer's certification should be denied or revoked under section 4 of this act, the commission must prepare and serve upon the officer a statement of charges. Service on the officer must be by mail or by personal service on the officer. Notice of the charges must also be mailed to or otherwise served upon the officer's agency of termination and any current corrections employer. The statement of charges must be accompanied by a notice that to receive a hearing on the denial or revocation, the officer must, within sixty days of communication of the statement of charges, request a hearing before the hearings panel appointed under RCW 43.101.380. Failure of the officer to request a hearing within the sixty-day period constitutes a default, whereupon the commission may enter an order under RCW 34.05.440.

(2) If a hearing is requested, the date of the hearing must be scheduled not earlier than ninety days nor later than one hundred eighty days after the officer requests a hearing; the one hundred eighty-day period may be extended on mutual agreement of the parties or for good cause. The commission shall give

written notice of hearing at least twenty days prior to the hearing, specifying the time, date, and place of hearing.

Sec. 10. RCW 43.101.380 and 2010 1st sp.s. c 7 s 14 are each amended to read as follows:

(1) The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern hearings before the commission and govern all other actions before the commission unless otherwise provided in this chapter. The standard of proof in actions before the commission is clear, cogent, and convincing evidence.

(2) In all hearings requested under RCW 43.101.155 or section 9 of this act, a five-member hearings panel shall both hear the case and make the commission's final administrative decision. Members of the commission may, but need not, be appointed to the hearings panels. The commission shall appoint as follows two or more panels to hear (~~appeals from~~) certification actions:

(a) When a hearing is requested in relation to a certification action of a Washington peace officer who is not a peace officer of the Washington state patrol, the commission shall appoint to the panel: (i) One police chief; (ii) one sheriff; (iii) two certified Washington peace officers who are at or below the level of first line supervisor, one of whom is from a city or county law enforcement agency, and who have at least ten years' experience as peace officers; and (iv) one person who is not currently a peace officer and who represents a community college or four-year college or university.

(b) When a hearing is requested in relation to a certification action of a peace officer of the Washington state patrol, the commission shall appoint to the panel: (i) Either one police chief or one sheriff; (ii) one administrator of the state patrol; (iii) one certified Washington peace officer who is at or below the level of first line supervisor, who is not a state patrol officer, and who has at least ten years' experience as a peace officer; (iv) one state patrol officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; and (v) one person who is not currently a peace officer and who represents a community college or four-year college or university.

(c) When a hearing is requested in relation to a certification action of a Washington corrections officer, the commission shall appoint to the panel: (i) Two heads of either a city or county corrections agency or facility or of a Washington state department of corrections facility; (ii) two corrections officers who are at or below the level of first line supervisor, who are from city, county, or state corrections agencies, and who have at least ten years' experience as corrections officers; and (iii) one person who is not currently a corrections officer and who represents a community college or four-year college or university.

(d) When a hearing is requested in relation to a certification action of a tribal police officer, the commission shall appoint to the panel (i) either one police chief or one sheriff; (ii) one tribal police chief; (iii) one certified Washington peace officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; (iv) one tribal police officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; and (v) one person who is not currently a peace officer and who represents a community college or four-year college or university.

~~((d))~~ (e) Persons appointed to hearings panels by the commission shall, in relation to any certification action on which they sit, have the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular commission members.

(3) Where the charge upon which revocation or denial is based is that a peace officer or corrections officer was "discharged for disqualifying misconduct," and the discharge is "final," within the meaning of RCW 43.101.105(1)(d) or section 4(4) of this act, and the officer received a civil service hearing or arbitration hearing culminating in an affirming decision following separation from service by the employer, the hearings panel may revoke or deny certification if the hearings panel determines that the discharge occurred and was based on disqualifying misconduct; the hearings panel need not redetermine the underlying facts but may make this determination based solely on review of the records and decision relating to the employment separation proceeding. However, the hearings panel may, in its discretion, consider additional evidence to determine whether such a discharge occurred and was based on such disqualifying misconduct. The hearings panel shall, upon written request by the subject peace officer or corrections officer, allow the peace officer or corrections officer to present additional evidence of extenuating circumstances.

Where the charge upon which revocation or denial of certification is based is that a peace officer or corrections officer "has been convicted at any time of a felony offense" within the meaning of RCW 43.101.105(1)(c) or section 4(3) of this act, the hearings panel shall revoke or deny certification if it determines that the peace officer or corrections officer was convicted of a felony. The hearings panel need not redetermine the underlying facts but may make this determination based solely on review of the records and decision relating to the criminal proceeding. However, the hearings panel shall, upon the panel's determination of relevancy, consider additional evidence to determine whether the peace officer or corrections officer was convicted of a felony.

Where the charge upon which revocation or denial is based is under RCW 43.101.105(1) (a), (b), (e), or (f) or section 4 (1), (2), (5), or (6) of this act, the hearings panel shall determine the underlying facts relating to the charge upon which revocation or denial of certification is based.

(4) The commission's final administrative decision is subject to judicial review under RCW 34.05.510 through 34.05.598.

NEW SECTION. Sec. 11. An individual whose peace officer certification is denied or revoked pursuant to this chapter may not thereafter be certified as a corrections officer without first satisfying the requirements of eligibility for certification or reinstatement of certification. A corrections officer whose corrections officer certification is denied or revoked pursuant to this chapter may not thereafter be certified as a peace officer without first satisfying the requirements of eligibility for certification or reinstatement of certification.

Sec. 12. RCW 43.101.400 and 2001 c 167 s 12 are each amended to read as follows:

(1) Except as provided under subsection (2) of this section, the following records of the commission are confidential and exempt from public disclosure:

(a) The contents of personnel action reports filed under RCW 43.101.135 or section 7 of this act; (b) all files, papers, and other information obtained by the commission pursuant to RCW 43.101.095(~~((3))~~) (5) or section 3 of this act; and (c) all investigative files of the commission compiled in carrying out the responsibilities of the commission under this chapter. Such records are not subject to public disclosure, subpoena, or discovery proceedings in any civil action, except as provided in subsection (5) of this section.

(2) Records which are otherwise confidential and exempt under subsection (1) of this section may be reviewed and copied: (a) By the officer involved or the officer's counsel or authorized representative, who may review the officer's file and may submit any additional exculpatory or explanatory evidence, statements, or other information, any of which must be included in the file; (b) by a duly authorized representative of (i) the agency of termination, or (ii) a current employing law enforcement or corrections agency, which may review and copy its employee-officer's file; or (c) by a representative of or investigator for the commission.

(3) Records which are otherwise confidential and exempt under subsection (1) of this section may also be inspected at the offices of the commission by a duly authorized representative of a law enforcement or corrections agency considering an application for employment by a person who is the subject of a record. A copy of records which are otherwise confidential and exempt under subsection (1) of this section may later be obtained by an agency after it hires the applicant. In all other cases under this subsection, the agency may not obtain a copy of the record.

(4) Upon a determination that a complaint is without merit, that a personnel action report filed under RCW 43.101.135 does not merit action by the commission, or that a matter otherwise investigated by the commission does not merit action, the commission shall purge records addressed in subsection (1) of this section.

(5) The hearings, but not the deliberations, of the hearings board are open to the public. The transcripts, admitted evidence, and written decisions of the hearings board on behalf of the commission are not confidential or exempt from public disclosure, and are subject to subpoena and discovery proceedings in civil actions.

(6) Every individual, legal entity, and agency of federal, state, or local government is immune from civil liability, whether direct or derivative, for providing information to the commission in good faith.

Sec. 13. RCW 43.101.080 and 2018 c 32 s 4 are each amended to read as follows:

The commission shall have all of the following powers:

- (1) To meet at such times and places as it may deem proper;
- (2) To adopt any rules and regulations as it may deem necessary;
- (3) To contract for services as it deems necessary in order to carry out its duties and responsibilities;
- (4) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;
- (5) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it;

(6) To select and employ an executive director, and to empower him or her to perform such duties and responsibilities as it may deem necessary;

(7) To assume legal, fiscal, and program responsibility for all training conducted by the commission;

(8) To establish, by rule and regulation, standards for the training of criminal justice personnel where such standards are not prescribed by statute;

(9) To own, establish, and operate, or to contract with other qualified institutions or organizations for the operation of, training and education programs for criminal justice personnel and to purchase, lease, or otherwise acquire, subject to the approval of the department of enterprise services, a training facility or facilities necessary to the conducting of such programs;

(10) To establish, by rule and regulation, minimum curriculum standards for all training programs conducted for employed criminal justice personnel;

(11) To review and approve or reject standards for instructors of training programs for criminal justice personnel, and to employ personnel on a temporary basis as instructors without any loss of employee benefits to those instructors;

(12) To direct the development of alternative, innovative, and interdisciplinary training techniques;

(13) To review and approve or reject training programs conducted for criminal justice personnel and rules establishing and prescribing minimum training and education standards recommended by the training standards and education boards;

(14) To allocate financial resources among training and education programs conducted by the commission;

(15) To allocate training facility space among training and education programs conducted by the commission;

(16) To issue diplomas certifying satisfactory completion of any training or education program conducted or approved by the commission to any person so completing such a program;

(17) To provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission;

(18) To establish rules and regulations recommended by the training standards and education boards prescribing minimum standards relating to physical, mental and moral fitness which shall govern the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provision;

(19) To require county, city, or state law enforcement and corrections agencies that make a conditional offer of employment to an applicant as a fully commissioned peace officer ((~~or~~)), a reserve officer, or a corrections officer to administer a background investigation including a check of criminal history, verification of immigrant or citizenship status as either a citizen of the United States of America or a lawful permanent resident, a psychological examination, and a polygraph test or similar assessment to each applicant, the results of which shall be used by the employer to determine the applicant's suitability for employment as a fully commissioned peace officer ((~~or~~)), a reserve officer, or a corrections officer. The background investigation, psychological examination, and the polygraph examination shall be administered in accordance with the requirements of RCW 43.101.095(2) for peace officers, and section 3 of this act

for corrections officers. The employing county, city, or state law enforcement agency may require that each peace officer ((~~or~~), reserve officer, or corrections officer who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or four hundred dollars, whichever is less. County, city, and state law enforcement agencies may establish a payment plan if they determine that the peace officer ((~~or~~), reserve officer, or corrections officer does not readily have the means to pay for his or her portion of the testing fee. This subsection does not apply to corrections officers employed by state agencies;

(20) To promote positive relationships between law enforcement and the citizens of the state of Washington by allowing commissioners and staff to participate in the "chief for a day program." The executive director shall designate staff who may participate. In furtherance of this purpose, the commission may accept grants of funds and gifts and may use its public facilities for such purpose. At all times, the participation of commissioners and staff shall comply with chapter 42.52 RCW and chapter 292-110 WAC.

All rules and regulations adopted by the commission shall be adopted and administered pursuant to the administrative procedure act, chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW.

Sec. 14. RCW 43.101.220 and 2019 c 415 s 970 are each amended to read as follows:

(1) The corrections personnel of the state and all counties and municipal corporations initially employed on or after January 1, 1982, shall engage in basic corrections training which complies with standards adopted by the commission. The standards adopted must provide for basic corrections training of at least ten weeks in length for any corrections officers subject to the certification requirement under section 3 of this act who are hired on or after July 1, 2021, or on an earlier date set by the commission. The training shall be successfully completed during the first six months of employment of the personnel, unless otherwise extended or waived by the commission, and shall be requisite to the continuation of employment.

(2) The commission shall provide the training required in this section, together with facilities, supplies, materials, and the room and board for noncommuting attendees, except during the 2017-2019 and 2019-2021 fiscal biennia, when the employing county, municipal corporation, or state agency shall reimburse the commission for twenty-five percent of the cost of training its personnel.

(3)(a) Subsections (1) and (2) of this section do not apply to the Washington state department of corrections prisons division. The Washington state department of corrections is responsible for identifying training standards, designing curricula and programs, and providing the training for those corrections personnel employed by it. In doing so, the secretary of the department of corrections shall consult with staff development experts and correctional professionals both inside and outside of the agency, to include soliciting input from labor organizations.

(b) The commission and the department of corrections share the responsibility of developing and defining training standards and providing training for community corrections officers employed within the community corrections division of the department of corrections.

NEW SECTION. Sec. 15. 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. 16. Sections 3 through 9 and 11 of this act are each added to chapter 43.101 RCW.

Passed by the House March 10, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 120

[Engrossed Second Substitute House Bill 2528]

FOREST PRODUCTS SECTOR--CLIMATE RESPONSE CONTRIBUTIONS

AN ACT Relating to recognizing the contributions of the state's forest products sector as part of the state's global climate response; amending RCW 70.235.005; adding a new section to chapter 70.235 RCW; 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 the intergovernmental panel on climate change (IPCC) released a report in 2019 entitled "IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems" that provides guidance relating to how natural and working lands can be utilized to assist with a global climate response strategy. In addition, the food and agricultural organization of the United Nations issued a report in 2016 entitled "forestry for a low-carbon future" with specific recommendations for integrating forest and wood products in climate change strategies. Recommendations from these reports are critical as Washington develops its own climate response and charts how the state can use its forestland base and vibrant forest products sector as part of its contribution to the global climate response.

(2) The legislature further finds that the 2019 intergovernmental panel on climate change report identifies several measures where sustainable forest management and forest products may be utilized to maintain and enhance carbon sequestration. These include increasing the carbon sequestration potential of forests and forest products by maintaining and expanding the forestland base, reducing emissions from land conversion to nonforest uses, increasing forest resiliency to reduce the risk of carbon releases from disturbances such as wildfire, pest infestation, and disease, and applying sustainable forest management techniques to maintain or enhance forest carbon stocks and forest carbon sinks, including through the transference of carbon to wood products.

(3) The legislature further finds that the food and agricultural organization of the United Nations reports similar recommendations, with a focus on forest management tools that increases the carbon density in forests, increases carbon storage out of the forest in harvested wood products, utilizes wood energy, and suppresses forest disturbances from fire, pests, and disease.

Sec. 2. RCW 70.235.005 and 2008 c 14 s 1 are each amended to read as follows:

(1) The legislature finds that Washington has long been a national and international leader on energy conservation and environmental stewardship, including air quality protection, renewable energy development and generation, emission standards for fossil-fuel based energy generation, energy efficiency programs, natural resource conservation, sustainable forestry and the production of forest products, vehicle emission standards, and the use of biofuels. Washington is also unique among most states in that in addition to its commitment to reduce emissions of greenhouse gases, it has established goals to grow the clean energy sector and reduce the state's expenditures on imported fuels.

(2) The legislature further finds that Washington should continue its leadership on climate change policy by creating accountability for achieving the emission reductions established in RCW 70.235.020, participating in the design of a regional multisector market-based system to help achieve those emission reductions, assessing other market strategies to reduce emissions of greenhouse gases, maintaining and enhancing the state's ability to continue to sequester carbon through natural and working lands and forest products, and ensuring the state has a well trained workforce for our clean energy future.

(3) It is the intent of the legislature that the state will: (a) Limit and reduce emissions of greenhouse gas consistent with the emission reductions established in RCW 70.235.020; (b) minimize the potential to export pollution, jobs, and economic opportunities; ~~((and))~~ (c) support industry sectors that can act as sequesterers of carbon; and (d) reduce emissions at the lowest cost to Washington's economy, consumers, and businesses.

(4) In the event the state elects to participate in a regional multisector market-based system, it is the intent of the legislature that the system will become effective by January 1, 2012, after authority is provided to the department for its implementation. By acting now, Washington businesses and citizens will have adequate time and opportunities to be well positioned to take advantage of the low-carbon economy and to make necessary investments in low-carbon technology.

(5) It is also the intent of the legislature that the regional multisector market-based system recognize Washington's unique emissions and sequestration portfolio, including the ~~((state's))~~:

(a) State's hydroelectric system~~((, the))~~;

(b) Opportunities presented by Washington's abundant forest resources and the associated forest products industry, along with aquatic and agriculture land~~((s))~~ and the associated industries; and ~~((the))~~

(c) State's leadership in energy efficiency and the actions it has already taken that have reduced its generation of greenhouse gas emissions and that entities receive appropriate credit for early actions to reduce greenhouse gases.

(6) If any revenues, excluding those from state trust lands, that accrue to the state are created by a market system, they must be used to further the state's efforts to achieve the goals established in RCW 70.235.020, address the impacts of global warming on affected habitats, species, and communities, promote and invest in industry sectors that act as sequesterers of carbon, and increase investment in the clean energy economy particularly for communities and workers that have suffered from heavy job losses and chronic unemployment and underemployment.

NEW SECTION. Sec. 3. A new section is added to chapter 70.235 RCW to read as follows:

(1)(a) Washington's existing forest products sector, including public and private working forests and the harvesting, transportation, and manufacturing sectors that enable working forests to remain on the land and the state to be a global supplier of forest products, is, according to a University of Washington study analyzing the global warming mitigating role of wood products from Washington's private forests, an industrial sector that currently operates as a significant net sequesterer of carbon. This value, which is only provided through the maintenance of an intact and synergistic industrial sector, is an integral component of the state's contribution to the global climate response and efforts to mitigate carbon emissions.

(b) Satisfying the goals set forth in RCW 70.235.020 requires supporting, throughout all of state government, consistent with other laws and mandates of the state, the economic vitality of the sustainable forest products sector and other business sectors capable of sequestering and storing carbon. This includes support for working forests of all sizes, ownerships, and management objectives, and the necessary manufacturing sectors that support the transformation of stored carbon into long-lived forest products while maintaining and enhancing the carbon mitigation benefits of the forest sector, sustaining rural communities, and providing for fish, wildlife, and clean water, as provided in chapter 76.09 RCW. Support for the forest sector also ensures the state's public and private working forests avoid catastrophic wildfire and other similar disturbances and avoid conversion in the face of unprecedented conversion pressures.

(c) It is the policy of the state to support the contributions of all working forests and the synergistic forest products sector to the state's climate response. This includes landowners, mills, bioenergy, pulp and paper, and the related harvesting and transportation infrastructure that is necessary for forestland owners to continue the rotational cycle of carbon capture and sequestration in growing trees and allows forest products manufacturers to store the captured carbon in wood products and maintain and enhance the forest sector's role in mitigating a significant percentage of the state's carbon emissions while providing other environmental and social benefits and supporting a strong rural economic base. It is further the policy of the state to support the participation of working forests in current and future carbon markets, strengthening the state's role as a valuable contributor to the global carbon response while supporting one of its largest manufacturing sectors.

(d) It is further the policy of the state to utilize carbon accounting land use, land use change, and forestry reporting principles consistent with established reporting guidelines, such as those used by the intergovernmental panel on climate change and the United States national greenhouse gas reporting inventories.

(2) Any state carbon programs must support the policies stated in this section and recognize the forest products industry's contribution to the state's climate response.

Passed by the House March 9, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 121

[Engrossed Substitute House Bill 2565]

DISPOSABLE WIPES PRODUCTS--"DO NOT FLUSH" LABELING

AN ACT Relating to the labeling of disposable wipes products; adding a new chapter to Title 70 RCW; creating a new section; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that creating labeling standards for disposable wipes products will protect public health, the environment, water quality, and public infrastructure used for the collection, transport, and treatment of wastewater. It is not the intent of the legislature to address standards for flushability with this chapter.

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

(1) "Covered entity" means a manufacturer of a covered product and a wholesaler, supplier, or retailer that has contractually undertaken responsibility to the manufacturer for the "do not flush" labeling of a covered product.

(2) "Covered product" means a nonflushable nonwoven disposable wipe that is a premoistened wipe constructed from nonwoven sheets and designed and marketed for diapering, personal hygiene, or household hard surface cleaning purposes. A nonflushable nonwoven disposable wipe excludes any wipe product designed or marketed for cleaning or medicating the anorectal or vaginal areas on the human body and labeled "flushable," "sewer safe," "septic safe," or otherwise indicating that the product is appropriate for disposal in a toilet including, but not limited to, premoistened toilet tissue.

(3) "Label" means to represent by statement, word, picture, design, or emblem on a covered product package.

(4) "Principal display panel" means the side of a product package that is most likely to be displayed, presented, or shown under customary conditions of display for retail sale. The term is further defined as follows:

(a) In the case of a cylindrical or nearly cylindrical package, the surface area of the principal display panel constitutes forty percent of the product package, as measured by multiplying the height of the container times the circumference.

(b) In the case of a flexible film package, in which a rectangular prism or nearly rectangular prism stack of wipes is housed within the film, the surface area of the principal display panel constitutes the length times the width of the side of the package when the flexible packaging film is pressed flat against the stack of wipes on all sides of the stack.

NEW SECTION. Sec. 3. A covered entity must clearly and conspicuously label a covered product as "do not flush" as follows:

(1) Use the "do not flush" symbol, or a gender equivalent thereof, described in the INDA/EDANA code of practice 2 (COP2, as published in "Guidelines for Assessing the Flushability of Disposable Nonwoven Products," Edition 4, May 2018, by INDA/EDANA);

(2) Place the symbol on the principal display panel in a prominent and reasonably visible location on the package which, in the case of packaging

intended to dispense individual wipes, is permanently affixed in a location that is visible to a person each time a wipe is dispensed from the package;

(3) Size the symbol to cover at least two percent of the surface area of the principal display panel on which the symbol is presented;

(4) Ensure the symbol is not obscured by packaging seams, folds, or other package design elements;

(5) Ensure the symbol has sufficiently high contrast with the immediate background of the packaging to render it likely to be read by the ordinary individual under customary conditions of purchase and use. In the case of a printed symbol, "high contrast" is defined as follows:

(a) Provided with either a light symbol on a dark background or a dark symbol on a light background; and

(b) A minimum level or percentage of contrast between the symbol artwork and the background of at least seventy percent. Contrast in percent is determined by:

(i) $\text{Contrast} = (B1 - B2) \times 100 / B1$; and

(ii) Where B1 = light reflectance value of the lighter area and B2 = light reflectance value of the darker area; and

(6) Beginning January 1, 2023, no package or box containing a covered product manufactured on or before the effective date of this section may be offered for distribution or sale in the state.

NEW SECTION. Sec. 4. Upon a request by a city or a county, a covered entity must submit to the requesting entity, within ninety days of the request, nonconfidential business information and documentation demonstrating compliance with this chapter, in a format that is easy to understand.

NEW SECTION. Sec. 5. (1) Cities and counties have concurrent and exclusive authority to enforce this chapter and to collect civil penalties for a violation of this chapter, subject to the conditions in this section. An enforcing government entity may impose a civil penalty in the amount of up to two thousand dollars for the first violation of this chapter, up to five thousand dollars for the second violation of this chapter, and up to ten thousand dollars for the third and any subsequent violation of this chapter. If a covered entity has paid a prior penalty for the same violation to a different government entity with enforcement authority under this subsection, the penalty imposed by a government entity is reduced by the amount of the payment.

(2) Any civil penalties collected pursuant to this section must be paid to the enforcing governmental entity that brought the action.

(3) The remedies provided by this section are not exclusive and are in addition to the remedies that may be available pursuant to chapter 19.86 RCW or other consumer protection laws, if applicable.

(4) In addition to penalties recovered under this section, the enforcing government entity may recover reasonable enforcement costs and attorneys' fees from the liable covered entity.

NEW SECTION. Sec. 6. Covered entities that violate the requirements of this chapter are subject to civil penalties described in section 5 of this act. A specific violation is deemed to have occurred upon the sale of a noncompliant product package. The repeated sale of the same noncompliant product package is considered part of the same, single violation. A city or county must send a

written notice of an alleged violation and a copy of the requirements of this chapter to a noncompliant covered entity, which will have ninety days to become compliant. A city or county may assess a first penalty if the covered entity has not met the requirements of this chapter ninety days following the date the notification was sent. A city or county may impose a second, third, and subsequent penalties on a covered entity that remains noncompliant with the requirements of this chapter for every month of noncompliance.

NEW SECTION. Sec. 7. Sections 1 through 6, 8, and 10 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 8. This act takes effect July 1, 2022.

NEW SECTION. Sec. 9. For a covered product required to be registered by the United States environmental protection agency under the federal insecticide, fungicide, and rodenticide act (7 U.S.C. Sec. 136 et seq. (1996)), this act applies beginning July 1, 2023.

NEW SECTION. Sec. 10. This chapter preempts all existing or future laws enacted by a county, city, town, or other political subdivision of the state regarding the labeling of a covered product. Nothing in this section is intended to preempt the enforcement authority of a city or county as provided under sections 5 and 6 of this act.

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 House March 7, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 122

[House Bill 2599]

SERVICES FOR CHILDREN WITH MULTIPLE HANDICAPS PROGRAM--REPEAL

AN ACT Relating to services for children with multiple handicaps; and repealing 74.26.010, 74.26.020, 74.26.030, 74.26.040, 74.26.050, and 74.26.060.

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

NEW SECTION. Sec. 1. The following acts or parts of acts are each repealed:

- (1) RCW 74.26.010 (Legislative intent) and 1980 c 106 s 1;
- (2) RCW 74.26.020 (Eligibility criteria) and 1980 c 106 s 2;
- (3) RCW 74.26.030 (Program plan for services—Local agency support) and 1980 c 106 s 3;
- (4) RCW 74.26.040 (Administrative responsibility—Regulations) and 1980 c 106 s 4;
- (5) RCW 74.26.050 (Contracts for services—Supervision) and 1980 c 106 s 5; and
- (6) RCW 74.26.060 (Program costs—Liability of insurers) and 1980 c 106 s 6.

Passed by the House February 18, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 123

[House Bill 2601]

PARKS AND RECREATION COMMISSION--LEASE APPROVAL

AN ACT Relating to the authority of the parks and recreation commission to approve leases; and amending RCW 79A.05.025 and 79A.05.030.

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

Sec. 1. RCW 79A.05.025 and 2016 c 103 s 1 are each amended to read as follows:

(1) The commission shall elect one of its members as chair. The commission may be convened at such times as the chair deems necessary, and a majority shall constitute a quorum for the transaction of business.

(2)(a) Except as provided in (b) of this subsection, the lease of parkland or property for a period exceeding twenty years requires the ~~((unanimous consent))~~ affirmative vote of at least five members of the commission.

(b) With the affirmative vote of at least five members of the commission, the commission may enter into a lease for up to sixty-two years for property at Saint Edward state park. The commission may only enter into a lease under the provisions of this subsection (2)(b) if the commission finds that the department of commerce study required by section 3, chapter 103, Laws of 2016 fails to identify an economically viable public or nonprofit use for the property that is consistent with the state parks and recreation commission's mission and could proceed on a reasonable timeline. The lease at Saint Edward state park may only include the following:

- (i) The main seminary building;
- (ii) The pool building;
- (iii) The gymnasium;
- (iv) The parking lot located in between locations identified in (b)(i), (ii), and (iii) of this subsection;
- (v) The parking lot immediately north of the gymnasium; and
- (vi) Associated property immediately adjacent to the areas listed in (b)(i) through (v) of this subsection.

Sec. 2. RCW 79A.05.030 and 2016 c 103 s 2 are each amended to read as follows:

The commission shall:

(1) Have the care, charge, control, and supervision of all parks and parkways acquired or set aside by the state for park or parkway purposes.

(2) Adopt policies, and adopt, issue, and enforce rules pertaining to the use, care, and administration of state parks and parkways. The commission shall cause a copy of the rules to be kept posted in a conspicuous place in every state park to which they are applicable, but failure to post or keep any rule posted shall be no defense to any prosecution for the violation thereof.

(3) Permit the use of state parks and parkways by the public under such rules as shall be adopted.

(4) Clear, drain, grade, seed, and otherwise improve or beautify parks and parkways, and erect structures, buildings, fireplaces, and comfort stations and build and maintain paths, trails, and roadways through or on parks and parkways.

(5) Grant concessions or leases in state parks and parkways upon such rentals, fees, or percentage of income or profits and for such terms, in no event longer than (~~fifty~~) eighty years, except for a lease associated with land or property described in RCW 79A.05.025(2)(b) which may not exceed sixty-two years, and upon such conditions as shall be approved by the commission.

(a) Leases exceeding a twenty-year term, or the amendment or modification of these leases, shall require a vote consistent with RCW 79A.05.025(2).

(b) If, during the term of any concession or lease, it is the opinion of the commission that it would be in the best interest of the state, the commission may, with the consent of the concessionaire or lessee, alter and amend the terms and conditions of such concession or lease.

(c) Television station leases shall be subject to the provisions of RCW 79A.05.085.

(d) The rates of concessions or leases shall be renegotiated at five-year intervals. No concession shall be granted which will prevent the public from having free access to the scenic attractions of any park or parkway.

(6) Employ such assistance as it deems necessary. Commission expenses relating to its use of volunteer assistance shall be limited to premiums or assessments for the insurance of volunteers by the department of labor and industries, compensation of staff who assist volunteers, materials and equipment used in authorized volunteer projects, training, reimbursement of volunteer travel as provided in RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to volunteer recognition. The commission, at its discretion, may waive commission fees otherwise applicable to volunteers. The commission shall not use volunteers to replace or supplant classified positions. The use of volunteers may not lead to the elimination of any employees or permanent positions in the bargaining unit.

(7) By majority vote of its authorized membership, select and purchase or obtain options upon, lease, or otherwise acquire for and in the name of the state such tracts of land, including shore and tide lands, for park and parkway purposes as it deems proper. If the commission cannot acquire any tract at a price it deems reasonable, it may, by majority vote of its authorized membership, obtain title thereto, or any part thereof, by condemnation proceedings conducted by the attorney general as provided for the condemnation of rights-of-way for state highways. Option agreements executed under authority of this subsection shall be valid only if:

(a) The cost of the option agreement does not exceed one dollar; and

(b) Moneys used for the purchase of the option agreement are from (i) funds appropriated therefor, or (ii) funds appropriated for undesignated land acquisitions, or (iii) funds deemed by the commission to be in excess of the amount necessary for the purposes for which they were appropriated; and

(c) The maximum amount payable for the property upon exercise of the option does not exceed the appraised value of the property.

(8) Cooperate with the United States, or any county or city of this state, in any matter pertaining to the acquisition, development, redevelopment, renovation, care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to which the state contributed or in whose care, control, or supervision the state participated pursuant to the provisions of this section, shall be governed by the provisions hereof.

(9) Within allowable resources, maintain policies that increase the number of people who have access to free or low-cost recreational opportunities for physical activity, including noncompetitive physical activity.

(10) Adopt rules establishing the requirements for a criminal history record information search for the following: Job applicants, volunteers, and independent contractors who have unsupervised access to children or vulnerable adults, or who will be responsible for collecting or disbursing cash or processing credit/debit card transactions. These background checks will be done through the Washington state patrol criminal identification section and may include a national check from the federal bureau of investigation, which shall be through the submission of fingerprints. A permanent employee of the commission, employed as of July 24, 2005, is exempt from the provisions of this subsection.

Passed by the House March 9, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 124

[Substitute House Bill 2607]

HOMELESS YOUTH--IDENTICARDS

AN ACT Relating to assisting homeless individuals in obtaining Washington state identicards; amending RCW 46.20.117; adding a new section to chapter 43.216 RCW; and adding a new section to chapter 46.20 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.216 RCW to read as follows:

The department shall assist licensed or contracted providers in following the process established under section 3 of this act for providers submitting Washington state identicard application materials for individuals qualifying for a Washington state identicard under RCW 46.20.117(1)(c)(ii).

Sec. 2. RCW 46.20.117 and 2018 c 157 s 2 are each amended to read as follows:

(1) **Issuance.** The department shall issue an identicard, containing a picture, if the applicant:

(a) Does not hold a valid Washington driver's license;

(b) Proves his or her identity as required by RCW 46.20.035; and

(c) Pays the required fee. Except as provided in subsection (5) of this section, the fee is fifty-four dollars, unless an applicant is:

(i) A recipient of continuing public assistance grants under Title 74 RCW, who is referred in writing by the secretary of social and health services;

(ii) Under the age of (~~eighteen~~) twenty-five and does not have a permanent residence address as determined by the department by rule; or

(iii) An individual who is scheduled to be released from an institution as defined in RCW 13.40.020, a community facility as defined in RCW 72.05.020, or other juvenile rehabilitation facility operated by the department of social and health services or the department of children, youth, and families; or an individual who has been released from such an institution or facility within thirty calendar days before the date of the application.

For those persons under (c)(i) through (iii) of this subsection, the fee must be the actual cost of production of the identicard.

(2)(a) **Design and term.** The identicard must:

(i) Be distinctly designed so that it will not be confused with the official driver's license; and

(ii) Except as provided in subsection (5) of this section, expire on the sixth anniversary of the applicant's birthdate after issuance.

(b) The identicard may include the person's status as a veteran, consistent with RCW 46.20.161(2).

(3) **Renewal.** An application for identicard renewal may be submitted by means of:

(a) Personal appearance before the department; or

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her identicard by mail or by electronic commerce when it last expired.

An identicard may not be renewed by mail or by electronic commerce unless the renewal issued by the department includes a photograph of the identicard holder.

(4) **Cancellation.** The department may cancel an identicard if the holder of the identicard used the card or allowed others to use the card in violation of RCW 46.20.0921.

(5) **Alternative issuance/renewal/extension.** The department may issue or renew an identicard for a period other than six years, or may extend by mail or electronic commerce an identicard that has already been issued, in order to evenly distribute, as nearly as possible, the yearly renewal rate of identicard holders. The fee for an identicard issued or renewed for a period other than six years, or that has been extended by mail or electronic commerce, is nine dollars for each year that the identicard is issued, renewed, or extended. The department may adopt any rules as are necessary to carry out this subsection.

NEW SECTION. **Sec. 3.** A new section is added to chapter 46.20 RCW to read as follows:

(1) The department shall develop in consultation with the department of children, youth, and families, the office of the superintendent of public instruction, and the office of homeless youth prevention and protection programs:

(a) Other forms of identification that could be used for individuals qualifying for a Washington state identicard under RCW 46.20.117(1)(c)(ii) that meet the alternative documentation requirements of the department under RCW 46.20.035; and

(b) A process for entities listed under subsection (2) of this section to submit Washington state identocard application materials for individuals qualifying for a Washington state identocard under RCW 46.20.117(1)(c)(ii).

(2) The department shall accept Washington state identocard application materials for individuals qualifying for a Washington state identocard under RCW 46.20.117(1)(c)(ii) from:

(a) Individuals or entities licensed by the department of children, youth, and families;

(b) Individuals or entities contracted to provide services by the department of children, youth, and families;

(c) Individual schools or school districts; and

(d) Individuals and entities contracted to provide services by the office of homeless youth prevention and protection programs.

Passed by the House February 18, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 125

[Substitute House Bill 2614]

PAID FAMILY AND MEDICAL LEAVE--VARIOUS PROVISIONS

AN ACT Relating to paid family and medical leave; amending RCW 50A.05.010, 50A.10.010, 50A.10.040, 50A.15.020, 50A.15.060, 50A.15.080, 50A.15.100, 50A.25.070, 50A.30.010, 50A.30.035, 50A.40.010, 50A.40.020, 50A.40.030, 50A.50.010, and 26.23.060; adding new sections to chapter 50A.40 RCW; adding a new section to chapter 50A.05 RCW; and declaring an emergency.

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

Sec. 1. RCW 50A.05.010 and 2019 c 13 s 1 are each amended to read as follows:

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

(1)(a) "Casual labor" means work that:

(i) Is performed infrequently and irregularly; and

(ii) If performed for an employer, does not promote or advance the employer's customary trade or business.

(b) For purposes of casual labor:

(i) "Infrequently" means work performed twelve or fewer times per calendar quarter; and

(ii) "Irregularly" means work performed not on a consistent cadence.

(2) "Child" includes a biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

((2)) (3) "Commissioner" means the commissioner of the department or the commissioner's designee.

((3)) (4) "Department" means the employment security department.

((4)) (5)(a) "Employee" means an individual who is in the employment of an employer.

(b) "Employee" does not include employees of the United States of America.

~~((5))~~ (6) "Employee's average weekly wage" means the quotient derived by dividing the employee's total wages during the two quarters of the employee's qualifying period in which total wages were highest by twenty-six. If the result is not a multiple of one dollar, the department must round the result to the next lower multiple of one dollar.

~~((6))~~ (7)(a) "Employer" means: (i) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this title; (ii) the state, state institutions, and state agencies; and (iii) any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision.

(b) "Employer" does not include the United States of America.

~~((7))~~ (8)(a) "Employment" means personal service, of whatever nature, unlimited by the relationship of master and servant as known to the common law or any other legal relationship performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied. The term "employment" includes an individual's entire service performed within or without or both within and without this state, if:

(i) The service is localized in this state; or

(ii) The service is not localized in any state, but some of the service is performed in this state; and

(A) The base of operations of the employee is in the state, or if there is no base of operations, then the place from which such service is directed or controlled is in this state; or

(B) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(b) "Employment" does not include:

(i) Self-employed individuals;

(ii) Casual labor;

(iii) Services for remuneration when it is shown to the satisfaction of the commissioner that:

(A)(I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and

(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service; or

(B) As a separate alternative:

(I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed; and

(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or such individual has a principal place of business for the work the individual is conducting that is eligible for a business deduction for federal income tax purposes; and

(IV) On the effective date of the contract of service, such individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting; and

(V) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, such individual has established an account with the department of revenue, and other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and

(VI) On the effective date of the contract of service, such individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting; or

~~((iii))~~ (iv) Services that require registration under chapter 18.27 RCW or licensing under chapter 19.28 RCW rendered by an individual when:

(A) The individual has been and will continue to be free from control or direction over the performance of the service, both under the contract of service and in fact;

(B) The service is either outside the usual course of business for which the service is performed, or the service is performed outside of all the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;

(C) The individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for federal income tax purposes, other than that furnished by the employer for which the business has contracted to furnish services;

(D) On the effective date of the contract of service, the individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting;

(E) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, the individual has an active and

valid certificate of registration with the department of revenue, and an active and valid account with any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington;

(F) On the effective date of the contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business that the individual is conducting; and

(G) On the effective date of the contract of service, the individual has a valid contractor registration pursuant to chapter 18.27 RCW or an electrical contractor license pursuant to chapter 19.28 RCW.

~~((8))~~ (9) "Employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

~~((9))~~ (10) "Family leave" means any leave taken by an employee from work:

(a) To participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member;

(b) To bond with the employee's child during the first twelve months after the child's birth, or the first twelve months after the placement of a child under the age of eighteen with the employee; or

(c) Because of any qualifying exigency as permitted under the federal family and medical leave act, 29 U.S.C. Sec. 2612(a)(1)(E) and 29 C.F.R. Sec. 825.126(b)(1) through (9), as they existed on October 19, 2017, for family members as defined in subsection (10) of this section.

~~((10))~~ (11) "Family member" means a child, grandchild, grandparent, parent, sibling, or spouse of an employee.

~~((11))~~ (12) "Grandchild" means a child of the employee's child.

~~((12))~~ (13) "Grandparent" means a parent of the employee's parent.

~~((13))~~ (14) "Health care provider" means: (a) A person licensed as a physician under chapter 18.71 RCW or an osteopathic physician and surgeon under chapter 18.57 RCW; (b) a person licensed as an advanced registered nurse practitioner under chapter 18.79 RCW; or (c) any other person determined by the commissioner to be capable of providing health care services.

~~((14))~~ (15) "Medical leave" means any leave taken by an employee from work made necessary by the employee's own serious health condition.

~~((15))~~ (16) "Paid time off" includes vacation leave, personal leave, medical leave, sick leave, compensatory leave, or any other paid leave offered by an employer under the employer's established policy.

(17) "Parent" means the biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse, or an individual who stood in loco parentis to an employee when the employee was a child.

~~((16))~~ (18) "Period of incapacity" means an inability to work, attend school, or perform other regular daily activities because of a serious health condition, treatment of that condition or recovery from it, or subsequent treatment in connection with such inpatient care.

~~((17))~~ (19) "Premium" or "premiums" means the payments required by RCW 50A.10.030 and paid to the department for deposit in the family and medical leave insurance account under RCW 50A.05.070.

~~((18))~~ (20) "Qualifying period" means the first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar quarters immediately preceding the application for leave.

~~((19))~~ (21)(a) "Remuneration" means all compensation paid for personal services including commissions and bonuses and the cash value of all compensation paid in any medium other than cash.

(b) Previously accrued compensation, other than severance pay or payments received pursuant to plant closure agreements, when assigned to a specific period of time by virtue of a collective bargaining agreement, individual employment contract, customary trade practice, or request of the individual compensated, is considered remuneration for the period to which it is assigned. Assignment clearly occurs when the compensation serves to make the individual eligible for all regular fringe benefits for the period to which the compensation is assigned.

(c) Remuneration also includes settlements or other proceeds received by an individual as a result of a negotiated settlement for termination of an individual written employment contract prior to its expiration date. The proceeds are deemed assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract.

(d) Remuneration does not include:

(i) The payment of tips;

(ii) Supplemental benefit payments made by an employer to an employee in addition to any paid family or medical leave benefits received by the employee; or

(iii) Payments to members of the armed forces of the United States, including the organized militia of the state of Washington, for the performance of duty for periods not exceeding seventy-two hours at a time.

~~((20))~~ (22)(a) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

(i) Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity; or

(ii) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(A) A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(I) Treatment two or more times, within thirty days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services, such as a physical therapist, under orders of, or on referral by, a health care provider; or

(II) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider;

(B) Any period of incapacity due to pregnancy, or for prenatal care;

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(I) Requires periodic visits, defined as at least twice a year, for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;

(II) Continues over an extended period of time, including recurring episodes of a single underlying condition; and

(III) May cause episodic rather than a continuing period of incapacity, including asthma, diabetes, and epilepsy;

(D) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider, including Alzheimer's, a severe stroke, or the terminal stages of a disease; or

(E) Any period of absence to receive multiple treatments, including any period of recovery from the treatments, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for: (I) Restorative surgery after an accident or other injury; or (II) a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, or kidney disease.

(b) The requirement in (a)(i) and (ii) of this subsection for treatment by a health care provider means an in-person visit to a health care provider. The first, or only, in-person treatment visit must take place within seven days of the first day of incapacity.

(c) Whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty-day period shall be determined by the health care provider.

(d) The term extenuating circumstances in (a)(ii)(A)(I) of this subsection means circumstances beyond the employee's control that prevent the follow-up visit from occurring as planned by the health care provider. Whether a given set of circumstances are extenuating depends on the facts. For example, extenuating circumstances exist if a health care provider determines that a second in-person visit is needed within the thirty-day period, but the health care provider does not have any available appointments during that time period.

(e) Treatment for purposes of (a) of this subsection includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under (a)(ii)(A)(II) of this subsection, a regimen of continuing treatment includes, but is not limited to, a course of prescription medication, such as an antibiotic, or therapy requiring special equipment to resolve or alleviate the health condition, such as oxygen. A regimen of continuing treatment that includes taking over-the-counter medications, such as aspirin, antihistamines, or salves, or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of this title.

(f) Conditions for which cosmetic treatments are administered, such as most treatments for acne or plastic surgery, are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, and periodontal disease are examples of conditions that are not serious health conditions and do not qualify for leave under this title. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this section are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(g)(i) Substance abuse may be a serious health condition if the conditions of this section are met. However, leave may only be taken for treatment for substance abuse by a health care provider or by a licensed substance abuse treatment provider. Absence because of the employee's use of the substance, rather than for treatment, does not qualify for leave under this title.

(ii) Treatment for substance abuse does not prevent an employer from taking employment action against an employee. The employer may not take action against the employee because the employee has exercised his or her right to take medical leave for treatment. However, if the employer has an established policy, applied in a nondiscriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking medical leave. An employee may also take family leave to care for a covered family member who is receiving treatment for substance abuse. The employer may not take action against an employee who is providing care for a covered family member receiving treatment for substance abuse.

(h) Absences attributable to incapacity under (a)(ii)(B) or (C) of this subsection qualify for leave under this title even though the employee or the family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive, full calendar days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

~~((21))~~ (23) "Service is localized in this state" has the same meaning as described in RCW 50.04.120.

~~((22))~~ (24) "Spouse" means a husband or wife, as the case may be, or state registered domestic partner.

~~((23))~~ (25) "State average weekly wage" means the most recent average weekly wage calculated under RCW 50.04.355 and available on January 1st of each year.

~~((24))~~ (26) "Supplemental benefit payments" means payments made by an employer to an employee as salary continuation or as paid time off. Such payments must be in addition to any paid family or medical leave benefits the employee is receiving.

(27) "Typical workweek hours" means:

(a) For an hourly employee, the average number of hours worked per week by an employee (~~(since the beginning of)~~ within the qualifying period; and

(b) Forty hours for a salaried employee, regardless of the number of hours the salaried employee typically works.

~~((25))~~ (28) "Wage" or "wages" means:

(a) For the purpose of premium assessment, the remuneration paid by an employer to an employee. The maximum wages subject to a premium assessment are those wages as set by the commissioner under RCW 50A.10.030;

(b) For the purpose of payment of benefits, the remuneration paid by one or more employers to an employee for employment during the employee's qualifying period. At the request of an employee, wages may be calculated on the basis of remuneration payable. The department shall notify each employee that wages are calculated on the basis of remuneration paid, but at the employee's request a redetermination may be performed and based on remuneration payable; and

(c) For the purpose of a self-employed person electing coverage under RCW 50A.10.010, the meaning is defined by rule.

Sec. 2. RCW 50A.10.010 and 2019 c 13 s 19 are each amended to read as follows:

(1) For benefits payable beginning January 1, 2020, any self-employed person, including a sole proprietor, independent contractor, partner, or joint venturer, may elect coverage under this title for an initial period of not less than three years and subsequent periods of not less than one year immediately following a period of coverage. Those electing coverage under this section must elect coverage for both family leave and medical leave and are responsible for payment of one hundred percent of all premiums assessed to an employee under RCW 50A.10.030. The self-employed person must file a notice of election in writing with the department, in a manner as required by the department in rule. The self-employed person is eligible for family and medical leave benefits after working eight hundred twenty hours in the state during the qualifying period following the date of filing the notice.

(2) A self-employed person who has elected coverage may withdraw from coverage within thirty days after the end of each period of coverage, or at such other times as the commissioner may adopt by rule, by filing a notice of withdrawal in writing with the commissioner, such withdrawal to take effect not sooner than thirty days after filing the notice with the commissioner.

(3) The department may cancel elective coverage if the self-employed person fails to make required payments or file reports. The department may collect due and unpaid premiums and may levy an additional premium for the remainder of the period of coverage. The cancellation shall be effective no later than thirty days from the date of the notice in writing advising the self-employed person of the cancellation.

(4) Those electing coverage are considered employers or employees where the context so dictates.

(5) For the purposes of this section, "independent contractor" means an individual excluded from employment under RCW 50A.05.010(~~((7))~~) ~~(8)~~(b) ~~((ii) and)~~ (iii) and (iv).

(6) In developing and implementing the requirements of this section, the department shall adopt government efficiencies to improve administration and

reduce costs. These efficiencies may include, but are not limited to, requiring that payments be made in a manner and at intervals unique to the elective coverage program.

(7) The department shall adopt rules for determining the hours worked and the wages of individuals who elect coverage under this section and rules for enforcement of this section.

Sec. 3. RCW 50A.10.040 and 2019 c 13 s 22 are each amended to read as follows:

(1) An employer may file an application with the department for a conditional waiver for the payment of family and medical leave premiums, assessed under RCW 50A.10.030, for any employee who ~~((is))~~:

- (a) ~~((Physically based))~~ Primarily performs work outside of the state;
- (b) Is employed in the state on a limited or temporary work schedule; and
- (c) Is not expected to be employed in the state for eight hundred twenty hours or more in a ~~((qualifying))~~ period of four consecutive completed calendar quarters.

(2) ~~((The department must approve an application that has been signed by))~~ Both the employee and employer must sign the application verifying their belief that the conditions in ~~((this))~~ subsection (1) of this section will be met ~~((during the qualifying period))~~.

(3) If ~~((employee exceeds the eight hundred twenty hours or more in a period of four consecutive complete calendar quarters))~~ department finds any of the conditions in subsection (1) of this section are no longer satisfied, or were not satisfied at any point after a conditional waiver was approved and is in effect, the department will consider the conditional waiver ((expires)) expired and the employer and employee will be responsible for their shares of all premiums that would have been paid during this period had the waiver not been granted. Upon payment of the missed premiums, the employee will be credited for the hours worked and will be eligible for benefits under this title as if the premiums were originally paid.

Sec. 4. RCW 50A.15.020 and 2019 c 13 s 3 are each amended to read as follows:

(1)~~((a))~~ Beginning January 1, 2020, family and medical leave are available and benefits are payable to a qualified employee under this section.

(a) Following a waiting period consisting of the first seven consecutive calendar days, benefits are payable when family or medical leave is required. However, no waiting period is required for leave for the birth or placement of a child, or for leave because of any qualifying exigency as defined under RCW 50A.05.010(10)(c). The waiting period begins the previous Sunday of the week when an otherwise eligible employee takes leave for the minimum claim duration under subsection (2)(c) of this section. Eligible employees may satisfy the waiting period requirement while simultaneously receiving paid time off for any part of the waiting period.

(b) Benefits may continue during the continuance of the need for family ~~((and))~~ or medical leave, subject to the maximum and minimum weekly benefits, duration, and other conditions and limitations established in this title. ~~((Successive periods of family and medical leave caused by the same or related~~

~~injury or sickness are deemed a single period of family and medical leave only if separated by less than four months.))~~

(2) The weekly benefit shall be prorated by the percentage of hours on leave compared to the number of hours provided as the typical workweek hours as defined in RCW 50A.05.010.

(a) The benefits in this section, if not a multiple of one dollar, shall be reduced to the next lower multiple of one dollar.

(b) Hours on leave claimed for benefits under this title, if not a multiple of one hour, shall be reduced to the next lower multiple of one hour.

(c) The minimum claim duration payment is for eight consecutive hours of leave.

(3)(a) The maximum duration of paid family leave may not exceed twelve times the typical workweek hours during a period of fifty-two consecutive calendar weeks.

(b) The maximum duration of paid medical leave may not exceed twelve times the typical workweek hours during a period of fifty-two consecutive calendar weeks. This leave may be extended an additional two times the typical workweek hours if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(c) An employee is not entitled to paid family and medical leave benefits under this title that exceeds a combined total of sixteen times the typical workweek hours. The combined total of family and medical leave may be extended to eighteen times the typical workweek hours if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(4) The weekly benefit for family and medical leave shall be determined as follows: If the employee's average weekly wage is: (a) Equal to or less than one-half of the state average weekly wage, then the benefit amount is equal to ninety percent of the employee's average weekly wage; or (b) greater than one-half of the state average weekly wage, then the benefit amount is the sum of: (i) Ninety percent of one-half of the state average weekly wage; and (ii) fifty percent of the difference of the employee's average weekly wage and one-half of the state average weekly wage.

(5)(a) The maximum weekly benefit for family and medical leave that occurs on or after January 1, 2020, shall be one thousand dollars. By September 30, 2020, and by each subsequent September 30th, the commissioner shall adjust the maximum weekly benefit amount to ninety percent of the state average weekly wage. The adjusted maximum weekly benefit amount takes effect on the following January 1st.

(b) The minimum weekly benefit shall not be less than one hundred dollars per week except that if the employee's average weekly wage at the time of family ~~(and)~~ or medical leave is less than one hundred dollars per week, the weekly benefit shall be the employee's full wage.

Sec. 5. RCW 50A.15.060 and 2019 c 13 s 8 are each amended to read as follows:

(1) An employee is not entitled to paid family or medical leave benefits under this title:

(a) For any absence occasioned by the willful intention of the employee to bring about injury to or the sickness of the employee or another, or resulting

from any injury or sickness sustained in the perpetration by the employee of an illegal act;

(b) For any family or medical leave commencing before the employee becomes qualified for benefits under this title;

(c) For an employee who is on suspension from his or her employment; or

(d) For any period of time during which an employee works for remuneration or profit.

(2) An employer may offer supplemental benefit payments to an employee on family or medical leave in addition to any paid family or medical leave benefits the employee is receiving. (~~Supplemental benefit payments include, but are not limited to, vacation, sick, or other paid time off.~~)

(a) Supplemental benefit payments are not considered remuneration under RCW 50A.05.010(21) and the department will not prorate or reduce an employee's weekly benefit amount due to the receipt of supplemental benefit payments.

(b) The choice to receive supplemental benefit payments lies with the employee. Nothing in this section shall be construed as requiring an employee to receive or an employer to provide supplemental benefit payments.

(3) An individual is disqualified for benefits for any week he or she has knowingly and willfully made a false statement or representation involving a material fact or knowingly and willfully failed to report a material fact and, as a result, has obtained or attempted to obtain any benefits under the provisions of this title. An individual disqualified for benefits under this subsection (3) for the:

(a) First time is disqualified for an additional twenty-six weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of fifteen percent of the amount of benefits overpaid or deemed overpaid;

(b) Second time is also disqualified for an additional fifty-two weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of twenty-five percent of the amount of benefits overpaid or deemed overpaid;

(c) Third time and any time thereafter is also disqualified for an additional one hundred four weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of fifty percent of the amount of benefits overpaid or deemed overpaid.

(4) All penalties collected under this section must be deposited in the family and medical leave enforcement account created under RCW 50A.05.080.

Sec. 6. RCW 50A.15.080 and 2019 c 13 s 10 are each amended to read as follows:

(1) If ~~((an))~~ the department determines an employee is qualified for benefits and that the employee owes child support obligations ~~((under RCW 50A.15.040 and)),~~ the department ~~((determines that the employee is qualified for benefits, the department shall notify the applicable state or local child support enforcement agency and deduct and withhold an amount from benefits in a manner consistent with RCW 50.40.050.))~~ shall notify the applicable state or local child support enforcement agency and deduct and withhold an amount from benefits in a manner consistent with RCW 50.40.050.

(2) For the purposes of this section, "child support obligations" means only those obligations that are being enforced pursuant to a plan described in section

454 of the social security act which has been approved by the secretary of health and human services under Title IV-D of the social security act (42 U.S.C. Sec. 651 et seq.).

(3) Consistent with ~~((RCW 50A.15.040(1)(e)))~~ chapter 50A.25 RCW, the department may verify child support obligations with the department of social and health services.

Sec. 7. RCW 50A.15.100 and 2019 c 13 s 38 are each amended to read as follows:

(1) Leave from employment under this title is in addition to leave from employment during which benefits are paid or are payable under Title 51 RCW or other applicable federal or state industrial insurance laws.

(2) ~~((~~the~~))~~ An employee is disqualified from receiving family or medical leave benefits under this title for any week in which ~~((~~the~~))~~ the employee is ~~((eligible to receive benefits))~~ receiving, has received, or will receive compensation, as determined by the governing state or federal agency under:

(a) Title 50 ~~((~~or 51~~))~~ RCW ~~((~~or~~))~~;

(b) RCW 51.32.060;

(c) RCW 51.32.090; or

(d) Any other applicable federal ~~((~~or state~~))~~ unemployment compensation, industrial insurance, or disability insurance laws ~~((~~the employee is disqualified from receiving family or medical leave benefits under this title~~)).~~

Sec. 8. RCW 50A.25.070 and 2019 c 13 s 76 are each amended to read as follows:

(1) The department may enter into data-sharing contracts and may disclose records and information deemed confidential to state or local government agencies under this chapter only if permitted under subsection (2) of this section and RCW 50A.25.090. A state or local government agency must need the records or information for an official purpose and must also provide:

(a) An application in writing to the department for the records or information containing a statement of the official purposes for which the state or local government agency needs the information or records and specifically identify the records or information sought from the department; and

(b) A written verification of the need for the specific information from the director, commissioner, chief executive, or other official of the requesting state or local government agency either on the application or on a separate document.

(2) The department may disclose information or records deemed confidential under this chapter to the following state or local government agencies:

(a) To the department of social and health services to identify child support obligations as defined in RCW 50A.15.080;

(b) To the department of revenue to determine potential tax liability or employer compliance with registration and licensing requirements;

(c) To the department of labor and industries to compare records or information to detect improper or fraudulent claims;

(d) To the office of financial management for the purpose of conducting periodic salary or fringe benefit studies pursuant to law;

(e) To the office of the state treasurer and any financial or banking institutions deemed necessary by the office of the state treasurer and the department for the proper administration of funds;

(f) To the office of the attorney general for purposes of legal representation;

(g) To a county clerk for the purpose of RCW 9.94A.760 if requested by the county clerk's office;

(h) To the office of administrative hearings for the purpose of administering the administrative appeal process;

(i) To the department of enterprise services for the purpose of agency administration and operations; and

(j) To the consolidated technology services agency for the purpose of enterprise technology support.

Sec. 9. RCW 50A.30.010 and 2019 c 13 s 56 are each amended to read as follows:

(1) An employer may apply to the commissioner for approval of a voluntary plan for the payment of either family leave benefits or medical leave benefits, or both. The application must be submitted on a form and in the manner as prescribed by the commissioner in rule. The fee for the department's review of each application for approval of a voluntary plan is two hundred fifty dollars.

(2) The benefits payable as indemnification for loss of wages under any voluntary plan must be separately stated and designated separately and distinctly in the plan from other benefits, if any.

(3) Neither an employee nor his or her employer are liable for any premiums for benefits covered by an approved voluntary plan.

(4) An employee may only receive payment of benefits for family leave, medical leave, or both from one approved plan at a time. An employee who qualifies for benefits and is simultaneously covered by more than one plan under this title will receive benefits under the plan for which the employee has worked the most hours during the employee's qualifying period. The commissioner must adopt rules to allow benefits or prevent duplication of benefits to employees simultaneously covered by one or more approved voluntary plans and the state program.

(5) The commissioner must approve any voluntary plan as to which the commissioner finds that there is at least one employee in employment and all of the following exist:

(a) The benefits afforded to the employees must be at least equivalent to the benefits the employees are entitled to as part of the state's family and medical leave program, including but not limited to the duration of leave. The employer must offer at least one-half of the length of leave as provided in RCW 50A.15.020(3) with pay and provide a monetary payment in an amount equal to or higher than the total amount of monetary benefits the employee would be entitled to receive as part of the state-run program. The employer may offer the same duration of leave and monetary benefits as offered under the state program.

(b) The sick leave an employee is entitled to under RCW 49.46.210 is in addition to the employer's provided benefits and is in addition to any family ~~((and))~~ or medical leave benefits.

(c) The plan is available to all of the eligible employees of the employer employed in this state, including future employees.

(d) The employer has agreed to make ~~((the))~~ all required payroll deductions ~~((required, if any, and transmit the proceeds to the department for any portions not collected for the voluntary plan)), including that:~~

(i) In the case of plan termination or withdrawal, the employer must remit to the department all required moneys under RCW 50A.30.045 and 50A.30.065(3); and

(ii) If the employer has an approved voluntary plan for either medical leave or family leave but not both, the employer is still obligated to remit to the department premiums owed to the state plan for the portions not covered by the employer's approved voluntary plan.

(e) The plan will be in effect for a period of not less than one year and, thereafter, continuously unless the commissioner finds that the employer has given notice of withdrawal from the plan in a manner specified by the commissioner in rule. The plan may be withdrawn by the employer on the date of any law increasing the benefit amounts or the date of any change in the rate of employee premiums, if notice of the withdrawal from the plan is transmitted to the commissioner not less than thirty days prior to the date of that law or change. If the plan is not withdrawn, it must be amended to conform to provide the increased benefit amount or change in the rate of the employee's premium on the date of the increase or change.

(f) The amount of payroll deductions from the wages of an employee in effect for any voluntary plan may not exceed the maximum payroll deduction for that employee as authorized under RCW 50A.10.030. The deductions may not be increased on other than an anniversary of the effective date of the plan, except to the extent that any increase in the deductions from the wages of an employee do not exceed the maximum rate authorized under the state program.

(g) The voluntary plan provides that an employee of an employer with a voluntary plan for either family leave or medical leave, or both, is eligible for the plan benefits if the employee meets the requirements of RCW 50A.15.010 and has worked at least three hundred forty hours for the employer during the twelve months immediately preceding the date leave will commence.

(h) The voluntary plan provides that an employee of an employer with a voluntary plan for either family leave or medical leave, or both, who takes leave under the voluntary plan is entitled to the employment protection provisions contained in RCW 50A.35.010 if the employee has worked for the employer for at least nine months and nine hundred sixty-five hours during the twelve months immediately preceding the date leave will commence.

(i) The voluntary plan provides that the employer maintains the employee's existing health benefits as provided under RCW 50A.35.020.

(6)(a) The department must conduct a review of the expenses incurred in association with the administration of the voluntary plans during the first three years after implementation and report its findings to the legislature.

(b) The review must include an analysis of the adequacy of the fee in subsection (1) of this section to cover the department's administrative expenses related to reviewing and approving or denying the applications and administering appeals related to voluntary plans. The review must include an estimate of the next year's projected administrative costs related to the voluntary plans. The legislature shall adjust the fee in subsection (1) of this section as

needed to ensure the department's administrative expenses related to the voluntary plans are covered by the fee.

(c) If the current receipts from the fee in subsection (1) of this section are inadequate to cover the department's administrative expenses related to the voluntary plans, the department may use funds from the family and medical leave insurance account under RCW 50A.05.070 to pay for these expenses.

Sec. 10. RCW 50A.30.035 and 2017 3rd sp.s. c 5 s 25 are each amended to read as follows:

An employer with a voluntary plan must provide a notice prepared by or approved by the commissioner regarding the voluntary plan consistent with the provisions of RCW ~~((50A.04.075))~~ 50A.20.020.

Sec. 11. RCW 50A.40.010 and 2019 c 13 s 15 are each amended to read as follows:

(1) It is unlawful for any employer to:

(a) Interfere with, restrain, or deny the exercise of, or the attempt to exercise, any valid right provided under this title; or

(b) Discharge or in any other manner discriminate against any employee for opposing any practice made unlawful by this title.

(2) It is unlawful for any person to discharge or in any other manner discriminate against any employee because the employee has:

(a) Filed any complaint, or has instituted or caused to be instituted any proceeding, under or related to this title;

(b) Given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(c) Testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this title.

(3) As provided in RCW 50A.40.020 and 50A.40.030, the department will investigate allegations of unlawful acts and determine damages, as necessary.

Sec. 12. RCW 50A.40.020 and 2019 c 13 s 17 are each amended to read as follows:

(1) An employee who alleges one or more unlawful acts under RCW 50A.40.010 have occurred may file a complaint with the department. The department may not investigate any alleged violation of RCW 50A.40.010 that occurred more than three years before the date the employee filed the complaint.

(2) Upon receipt of a complaint ((by an employee)) under subsection (1) of this section, the commissioner shall investigate to determine if ((there has been compliance with RCW 50A.40.010 and the related rules. The department will issue a determination including the findings of the investigation and whether a violation may have occurred. Determinations are appealable under chapter 50A.50 RCW. If the investigation indicates that a violation may have occurred, a hearing may be held if requested by an interested party in accordance with chapter 34.05 RCW. The commissioner must issue a written determination including the commissioner's findings after the hearing. A judicial appeal from the commissioner's determination may be taken in accordance with chapter 34.05 RCW)) a violation occurred and the amount of any liquidated damages, unless the employee terminates the complaint under section 16 of this act.

(3) Upon completing an investigation, the commissioner shall issue a determination, unless the complaint is otherwise resolved upon agreement by all

parties and in compliance with section 16(6) of this act or withdrawn under section 16(5) of this act. If the department determines a violation occurred, the department may order the employer to pay liquidated damages under RCW 50A.40.030.

Sec. 13. RCW 50A.40.030 and 2019 c 13 s 18 are each amended to read as follows:

(1) Any employer who violates RCW 50A.40.010 is liable for damages ~~((equal to:~~

~~(1) The amount of:~~
~~(a))~~.

(2) Damages are owed to the employee and must be paid by the employer to the employee directly.

(3)(a) Damages include:

(i) Any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

~~((b))~~ (ii) In a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to wages or salary for the employee for up to sixteen weeks, or eighteen weeks if the employee experiences a serious health condition with a pregnancy that results in incapacity.

~~((2)(a) The interest on the amount described in subsection (1) of this section calculated at the prevailing rate; and))~~

(b) Any employer who violates RCW 50A.40.010 is also liable for interest accrued on the damages assessed in this subsection.

(4) For a willful violation, the employer is also liable for an additional amount as liquidated damages equal to the sum of the amount described in subsection ~~((1))~~ (3)(a) of this section and the interest described in ~~((this))~~ (3)(b) of this section. For purposes of this section, "willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute. All liquidated damages are owed to the employee and must be paid to the employee directly.

(5) Interest in this section is calculated at the prevailing rate.

Sec. 14. RCW 50A.50.010 and 2018 c 141 s 3 are each amended to read as follows:

(1) Any aggrieved ~~((person))~~ party may file an appeal from any determination or redetermination with the commissioner within thirty days after the date of notification or mailing, whichever is earlier, of such determination or redetermination to the ~~((person's))~~ party's last known address. If an appeal with respect to any determination is pending as of the date when a redetermination is issued, such appeal, unless withdrawn, shall be treated as an appeal from such redetermination.

(2) Any appeal from a determination of denial of benefits shall be deemed to be an appeal as to all weeks subsequent to the effective date of the denial for which benefits have already been denied. If no appeal is taken from any determination, or redetermination, within the time allowed by the provisions of this section for appeal, the determination or redetermination, as the case may be,

shall be conclusively deemed to be correct except as provided in respect to reconsideration by the commissioner of any determination.

(3) Upon receipt of a notice of appeal, the commissioner shall request the assignment of an administrative law judge under chapter 34.12 RCW to conduct a hearing in accordance with chapter 34.05 RCW and issue a proposed order.

Sec. 15. RCW 26.23.060 and 2019 c 13 s 66 are each amended to read as follows:

(1) The division of child support may issue a notice of payroll deduction:

(a) As authorized by a support order that contains a notice clearly stating that child support may be collected by withholding from earnings, wages, or benefits without further notice to the obligated parent; or

(b) After service of a notice containing an income-withholding provision under this chapter or chapter 74.20A RCW.

(2) The division of child support shall serve a notice of payroll deduction upon a responsible parent's employer or upon the employment security department for the state in possession of or owing any benefits from the unemployment compensation fund to the responsible parent pursuant to Title 50 RCW or from the paid family and medical leave program under Title 50A RCW:

(a) In the manner prescribed for the service of a summons in a civil action;

(b) By certified mail, return receipt requested;

(c) By electronic means if there is an agreement between the secretary and the person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States to accept service by electronic means; or

(d) By regular mail to a responsible parent's employer unless the division of child support reasonably believes that service of process in the manner prescribed in (a) or (b) of this subsection is required for initiating an action to ensure employer compliance with the withholding requirement.

(3) Service of a notice of payroll deduction upon an employer or employment security department requires the employer or employment security department to immediately make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings or ~~((unemployment compensation))~~ benefits paid by the employment security department. The employer or employment security department shall thereafter deduct each pay period the amount stated in the notice divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed fifty percent of the responsible parent's disposable earnings.

(4) A notice of payroll deduction for support shall have priority over any wage assignment, garnishment, attachment, or other legal process.

(5) The notice of payroll deduction shall be in writing and include:

(a) The name and social security number of the responsible parent;

(b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction;

(c) A statement that the total amount withheld shall not exceed fifty percent of the responsible parent's disposable earnings;

(d) The address to which the payments are to be mailed or delivered; and

(e) A notice to the responsible parent warning the responsible parent that, despite the payroll deduction, the responsible parent's privileges to obtain and

maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as defined in RCW 74.20A.320.

(6) An informational copy of the notice of payroll deduction shall be mailed to the last known address of the responsible parent by regular mail.

(7) An employer or employment security department that receives a notice of payroll deduction shall make immediate deductions from the responsible parent's unpaid disposable earnings and remit proper amounts to the Washington state support registry within seven working days of the date the earnings are payable to the responsible parent.

(8) An employer, or the employment security department, upon whom a notice of payroll deduction is served, shall make an answer to the division of child support within twenty days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer or receives (~~(unemployment compensation benefits)~~) benefit payments from the employment security department, whether the employer or employment security department anticipates paying earnings or (~~(unemployment compensation)~~) benefits and the amount of earnings or benefit payments. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known. If the responsible parent is no longer receiving (~~(unemployment compensation benefits)~~) benefit payments from the employment security department, the answer shall state the present employer's name and address, if known.

The returned answer or a payment remitted to the division of child support by the employer constitutes proof of service of the notice of payroll deduction in the case where the notice was served by regular mail.

(9) The employer may deduct a processing fee from the remainder of the responsible parent's earnings after withholding under the notice of payroll deduction, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) Ten dollars for the first disbursement made to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.

(10) The notice of payroll deduction shall remain in effect until released by the division of child support, the court enters an order terminating the notice and approving an alternate arrangement under RCW 26.23.050, or until the employer no longer employs the responsible parent and is no longer in possession of or owing any earnings to the responsible parent. The employer shall promptly notify the office of support enforcement when the employer no longer employs the parent subject to the notice. For the employment security department, the notice of payroll deduction shall remain in effect until released by the division of child support or until the court enters an order terminating the notice.

(11) The division of child support may use uniform interstate withholding forms adopted by the United States department of health and human services to take withholding actions under this section whether the responsible parent is receiving earnings or unemployment compensation in this state or in another state.

NEW SECTION. Sec. 16. A new section is added to chapter 50A.40 RCW to read as follows:

(1) If the department issues a determination under RCW 50A.40.020 that an employer owes liquidated damages, the employer must, within thirty calendar days, either pay all damages owed or file an appeal as provided in this title. Thereafter, all parties owed moneys may initiate collection action against the employer by filing a warrant with the clerk of any county within the state.

(a) The warrant may include all damages awarded to the employee plus reasonable attorneys' fees for the collection action, reasonable expert witness fees, and other reasonable costs of the action.

(b) For purposes of this section, thirty calendar days begins the day the determination is issued.

(2) The department is not responsible for collection action against an employer that has defaulted the payment of an award established under RCW 50A.40.030.

NEW SECTION. Sec. 17. A new section is added to chapter 50A.40 RCW to read as follows:

(1) A private action to recover damages under RCW 50A.40.030 may be brought against any employer by any one or more employees for and on behalf of:

(a) The employee or employees; or

(b) The employees and other employees similarly situated.

(2) Any action under subsection (1) of this section must be filed with a court of competent jurisdiction within the state. Any private action for an alleged violation of RCW 50A.40.010 must be commenced within three years of the date of the alleged violation.

(3) In an action under subsection (1) of this section the court shall, in addition to any judgment awarded to a prevailing plaintiff, award reasonable attorneys' fees, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) A private right of action is only available to an employee who either has not filed a complaint with the department, has withdrawn a filed complaint under subsection (5) of this section, or has resolved a complaint under subsection (6) of this section.

(5) An employee who has filed a complaint with the department under RCW 50A.40.020 may elect to withdraw the complaint by providing written notice to the department within ten business days after filing the complaint with the department. Withdrawing a complaint terminates the department's administrative action.

(6) A complaint may be resolved upon agreement by all parties. Resolution of a complaint must be communicated to the department prior to the department's issuance of a determination. Resolution of a complaint terminates the department's administrative action.

(7) In the event the department's administrative action is terminated under subsection (5) or (6) of this section:

(a) The department will immediately discontinue its investigation and any action against the employer; and

(b) The determination, if already issued, along with any related findings of fact and conclusions of law, and any payments or offers of payment made by the

employer including interest, are not admissible in any court action or other judicial or administrative proceeding.

(8) Nothing in this section shall be construed to limit or affect:

(a) Except as provided in subsection (4) of this section, the right of any employee to pursue any judicial, administrative, or other action available with respect to an employer;

(b) The right of the department to pursue any judicial, administrative, or other action available with respect to an employee that is identified as a result of a complaint under RCW 50A.40.020; or

(c) The right of the department to pursue any judicial, administrative, or other action available with respect to an employer in the absence of a complaint.

NEW SECTION. Sec. 18. A new section is added to chapter 50A.05 RCW to read as follows:

(1) In the discharge of the duties imposed by this title, the appeal tribunal and any duly authorized representative of the commissioner shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with any dispute or the administration of this title. It shall be unlawful for any person, without just cause, to fail to comply with subpoenas issued pursuant to the provisions of this section.

(2)(a) Any authorized representative of the commissioner may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must:

(i) State that an order is sought pursuant to this subsection;

(ii) Adequately specify the records, documents, or testimony; and

(iii) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(b) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the department to subpoena the records or testimony.

(c) Any authorized representative of the commissioner may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(3) Subsection (2) of this section is intended to comply with the holdings of *State v. Miles*, 160 Wn.2d 236 (2007) and *State v. Reeder*, 184 Wn.2d 805 (2015), and Article I, section 7 of the state Constitution. These provisions collectively require judicial review of investigative subpoenas under certain circumstances. The department is not required to receive court approval under subsection (2) of this section unless otherwise required by law.

NEW SECTION. Sec. 19. Section 1 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 February 13, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 126

[Substitute House Bill 2622]

COURT ORDER FOR SURRENDER OF FIREARMS, ETC.--COMPLIANCE

AN ACT Relating to procedures for ensuring compliance with court orders requiring surrender of firearms, weapons, and concealed pistol licenses; and amending RCW 9.41.801 and 7.94.090.

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

Sec. 1. RCW 9.41.801 and 2019 c 245 s 2 are each amended to read as follows:

(1) Because of the heightened risk of lethality to petitioners when respondents to protection orders become aware of court involvement and continue to have access to firearms, and the frequency of noncompliance with court orders prohibiting possession of firearms, law enforcement and judicial processes must emphasize swift and certain compliance with court orders prohibiting access, possession, and ownership of firearms.

(2) A law enforcement officer serving a protection order, no-contact order, or restraining order that includes an order to surrender all firearms, dangerous weapons, and a concealed pistol license under RCW 9.41.800 shall inform the respondent that the order is effective upon service and the respondent must immediately surrender all firearms and dangerous weapons in his or her custody, control, or possession and any concealed pistol license issued under RCW 9.41.070, and conduct any search permitted by law for such firearms, dangerous weapons, and concealed pistol license. The law enforcement officer shall take possession of all firearms, dangerous weapons, and any concealed pistol license belonging to the respondent that are surrendered, in plain sight, or discovered pursuant to a lawful search. ~~((Alternatively, if personal service is not required because the respondent was present at the hearing at which the order was entered, the))~~ The order must be personally served upon the respondent or defendant if the order is entered in open court in the presence of the respondent or defendant. The respondent or defendant shall acknowledge receipt and service. If the respondent or defendant refuses service, an agent of the court may indicate on the record that the respondent or defendant refused service. The court shall enter the service and receipt into the record. A copy of the order and service shall be transmitted immediately to law enforcement. The respondent must immediately surrender all firearms, dangerous weapons, and any concealed pistol license in a safe manner to the control of the local law enforcement agency on the day of the hearing at which the respondent was present.

(3) At the time of surrender, a law enforcement officer taking possession of firearms, dangerous weapons, and any concealed pistol license shall issue a receipt identifying all firearms, dangerous weapons, and any concealed pistol license that have been surrendered and provide a copy of the receipt to the

respondent. The law enforcement agency shall file the original receipt with the court within twenty-four hours after service of the order and retain a copy of the receipt, electronically whenever electronic filing is available.

(4) Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging that the respondent has failed to comply with the surrender of firearms or dangerous weapons as required by an order issued under RCW 9.41.800, the court shall determine whether probable cause exists to believe that the respondent has failed to surrender all firearms and dangerous weapons in their possession, custody, or control. If probable cause exists, the court shall issue a warrant describing the firearms or dangerous weapons and authorizing a search of the locations where the firearms and dangerous weapons are reasonably believed to be and the seizure of all firearms and dangerous weapons discovered pursuant to such search.

(5) If a person other than the respondent claims title to any firearms or dangerous weapons surrendered pursuant to this section, and the person is determined by the law enforcement agency to be the lawful owner of the firearm or dangerous weapon, the firearm or dangerous weapon shall be returned to the lawful owner, provided that:

(a) The firearm or dangerous weapon is removed from the respondent's access, custody, control, or possession and the lawful owner agrees by written document signed under penalty of perjury to store the firearm or dangerous weapon in a manner such that the respondent does not have access to or control of the firearm or dangerous weapon;

(b) The firearm or dangerous weapon is not otherwise unlawfully possessed by the owner; and

(c) The requirements of RCW 9.41.345 are met.

(6) Courts shall develop procedures to verify timely and complete compliance with orders to surrender weapons under RCW 9.41.800, including compliance review hearings to be held as soon as possible upon receipt from law enforcement of proof of service. A compliance review hearing is not required if the court can otherwise enter findings on the record or enter written findings that the proof of surrender or declaration of nonsurrender attested to by the person subject to the order, along with verification from law enforcement and any other relevant evidence, makes a sufficient showing that the person has timely and completely surrendered all firearms and dangerous weapons in their custody, control, or possession, and any concealed pistol license issued under RCW 9.41.070, to a law enforcement agency. If the court does not have a sufficient record before it on which to make such a finding, the court must set a review hearing to occur as soon as possible at which the respondent must be present and provide ~~((testimony to the court under oath verifying))~~ proof of compliance with the court's order.

(7)(a) If a court finds at the compliance review hearing, or any other hearing where compliance with the order to surrender weapons is addressed, that there is probable cause to believe the respondent was aware of and failed to fully comply with the order, failed to appear at the compliance review hearing, or violated the order after the court entered findings of compliance, pursuant to its authority under chapter 7.21 RCW, the court may initiate a contempt proceeding to impose remedial sanctions on its own motion, or upon the motion of the prosecutor, city attorney, or the petitioner's counsel, and issue an order requiring

the respondent to appear, provide proof of compliance with the order, and show cause why the respondent should not be held in contempt of court.

(b) If the respondent is not present in court at the compliance review hearing or if the court issues an order to appear and show cause after a compliance review hearing, the clerk of the court shall electronically transmit a copy of the order to show cause to the law enforcement agency where the respondent resides for personal service or service in the manner provided in the civil rules of superior court or applicable statute.

(c) The order to show cause served upon the respondent shall state the date, time, and location of the hearing and shall include a warning that the respondent may be held in contempt of court if the respondent fails to promptly comply with the terms of the order to surrender weapons and a warning that an arrest warrant could be issued if the respondent fails to appear on the date and time provided in the order.

(d)(i) At the show cause hearing, the respondent must be present and provide proof of compliance with the underlying court order to surrender weapons and demonstrate why the relief requested should not be granted.

(ii) The court shall take judicial notice of the receipt filed with the court by the law enforcement agency pursuant to subsection (3) of this section. The court shall also provide sufficient notice to the law enforcement agency of the hearing. Upon receiving notice pursuant to this subsection, a law enforcement agency must:

(A) Provide the court with a complete list of firearms and other dangerous weapons surrendered by the respondent or otherwise belonging to the respondent that are in the possession of the law enforcement agency; and

(B) Provide the court with verification that any concealed pistol license issued to the respondent has been surrendered and the agency with authority to revoke the license has been notified.

(iii) If the law enforcement agency has a reasonable suspicion that the respondent is not in full compliance with the terms of the order, the law enforcement agency must submit the basis for its belief to the court, and may do so through the filing of an affidavit.

(e) If the court finds the respondent in contempt, the court may impose remedial sanctions designed to ensure swift compliance with the order to surrender weapons.

(f) The court may order a respondent found in contempt of the order to surrender weapons to pay for any losses incurred by a party in connection with the contempt proceeding, including reasonable attorneys' fees, service fees, and other costs. The costs of the proceeding shall not be borne by the petitioner.

(8) All law enforcement agencies must have policies and procedures to provide for the acceptance, storage, and return of firearms, dangerous weapons, and concealed pistol licenses that a court requires must be surrendered under RCW 9.41.800. A law enforcement agency holding any firearm or concealed pistol license that has been surrendered under RCW 9.41.800 shall comply with the provisions of RCW 9.41.340 and 9.41.345 before the return of the firearm or concealed pistol license to the owner or individual from whom it was obtained.

~~((8))~~ (9) The administrative office of the courts shall create a statewide pattern form to assist the courts in ensuring timely and complete compliance in a consistent manner with orders issued under this chapter. The administrative

office of the courts shall report annually on the number of orders issued under this chapter by each court, the degree of compliance, and the number of firearms obtained, and may make recommendations regarding additional procedures to enhance compliance and victim safety.

Sec. 2. RCW 7.94.090 and 2017 c 3 s 10 (Initiative Measure No. 1491) are each amended to read as follows:

(1) Upon issuance of any extreme risk protection order under this chapter, including an ex parte extreme risk protection order, the court shall order the respondent to surrender to the local law enforcement agency all firearms in the respondent's custody, control, or possession and any concealed pistol license issued under RCW 9.41.070.

(2) The law enforcement officer serving any extreme risk protection order under this chapter, including an ex parte extreme risk protection order, shall request that the respondent immediately surrender all firearms in his or her custody, control, or possession and any concealed pistol license issued under RCW 9.41.070, and conduct any search permitted by law for such firearms. The law enforcement officer shall take possession of all firearms belonging to the respondent that are surrendered, in plain sight, or discovered pursuant to a lawful search. The order must be personally served upon the respondent or defendant if the order is entered in open court in the presence of the respondent or defendant. The respondent or defendant shall acknowledge receipt and service. If the respondent or defendant refuses service, an agent of the court may indicate on the record that the respondent or defendant refused service. The court shall enter the service and receipt into the record. A copy of the order and service shall be transmitted immediately to law enforcement. Alternatively, if personal service by a law enforcement officer is not possible, ~~((or not required because the respondent was present at the extreme risk protection order hearing,))~~ the respondent shall surrender the firearms in a safe manner to the control of the local law enforcement agency within forty-eight hours of being served with the order by alternate service ~~((or within forty-eight hours of the hearing at which the respondent was present)).~~

(3) At the time of surrender, a law enforcement officer taking possession of a firearm or concealed pistol license shall issue a receipt identifying all firearms that have been surrendered and provide a copy of the receipt to the respondent. Within seventy-two hours after service of the order, the officer serving the order shall file the original receipt with the court and shall ensure that his or her law enforcement agency retains a copy of the receipt.

(4) Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging that the respondent has failed to comply with the surrender of firearms as required by an order issued under this chapter, the court shall determine whether probable cause exists to believe that the respondent has failed to surrender all firearms in his or her possession, custody, or control. If probable cause exists, the court shall issue a warrant describing the firearms and authorizing a search of the locations where the firearms are reasonably believed to be and the seizure of any firearms discovered pursuant to such search.

(5) If a person other than the respondent claims title to any firearms surrendered pursuant to this section, and he or she is determined by the law enforcement agency to be the lawful owner of the firearm, the firearm shall be returned to him or her, provided that:

(a) The firearm is removed from the respondent's custody, control, or possession and the lawful owner agrees to store the firearm in a manner such that the respondent does not have access to or control of the firearm; and

(b) The firearm is not otherwise unlawfully possessed by the owner.

(6) Upon the issuance of a one-year extreme risk protection order, the court shall order a new compliance review hearing date and require the respondent to appear not later than three judicial days from the issuance of the order. The court shall require a showing that the ~~((person subject to the order))~~ respondent has surrendered any firearms in ~~((his or her))~~ the respondent's custody, control, or possession, and any concealed pistol license issued under RCW 9.41.070 to a law enforcement agency. The court may dismiss the hearing upon a satisfactory showing that the respondent has timely and completely surrendered all firearms in the respondent's custody, control, or possession and any concealed pistol license issued under RCW 9.41.070 to a law enforcement agency, and is in compliance with the order. If the court does not have a sufficient record before it on which to make such a finding, the court must set a review hearing to occur as soon as possible, at which the respondent must be present and provide proof of compliance with the court's order.

(7)(a) If a court finds at the compliance review hearing, or any other hearing where compliance with the order is addressed, that there is probable cause to believe the respondent was aware of and failed to fully comply with the order, failed to appear at the compliance review hearing, or violated the order after the court entered findings of compliance, pursuant to its authority under chapter 7.21 RCW, the court may initiate a contempt proceeding on its own motion, or upon the motion of the prosecutor, city attorney, or the petitioner's counsel, to impose remedial sanctions, and issue an order requiring the respondent to appear, provide proof of compliance with the order, and show cause why the respondent should not be held in contempt of court.

(b) If the respondent is not present in court at the compliance review hearing or if the court issues an order to appear and show cause after a compliance review hearing, the clerk of the court shall electronically transmit a copy of the order to show cause to the law enforcement agency where the respondent resides for personal service or service in the manner provided in the civil rules of superior court or applicable statute.

(c) The order to show cause served upon the respondent shall state the date, time, and location of the hearing and shall include a warning that the respondent may be held in contempt of court if the respondent fails to promptly comply with the terms of the extreme risk protection order and a warning that an arrest warrant could be issued if the respondent fails to appear on the date and time provided in the order to show cause.

(d)(i) At the show cause hearing, the respondent must be present and provide proof of compliance with the extreme risk protection order and demonstrate why the relief requested should not be granted.

(ii) The court shall take judicial notice of the receipt filed with the court by the law enforcement agency pursuant to subsection (3) of this section. The court shall also provide sufficient notice to the law enforcement agency of the hearing. Upon receiving notice pursuant to this subsection, a law enforcement agency must:

(A) Provide the court with a complete list of firearms surrendered by the respondent or otherwise belonging to the respondent that are in the possession of the law enforcement agency; and

(B) Provide the court with verification that any concealed pistol license issued to the respondent has been surrendered and the agency with authority to revoke the license has been notified.

(iii) If the law enforcement agency has a reasonable suspicion that the respondent is not in full compliance with the terms of the order, the law enforcement agency must submit the basis for its belief to the court, and may do so through the filing of an affidavit.

(e) If the court finds the respondent in contempt, the court may impose remedial sanctions designed to ensure swift compliance with the order to surrender weapons.

(f) The court may order a respondent found in contempt of the order to pay for any losses incurred by a party in connection with the contempt proceeding, including reasonable attorneys' fees, service fees, and other costs. The costs of the proceeding shall not be borne by the petitioner.

(8) All law enforcement agencies must develop policies and procedures by June 1, 2017, regarding the acceptance, storage, and return of firearms required to be surrendered under this chapter. A law enforcement agency holding any surrendered firearm or concealed pistol license shall comply with the provisions of RCW 9.41.340 and 9.41.345 before the return of the firearm or concealed pistol license to the owner or individual from whom it was obtained.

Passed by the House March 9, 2020.

Passed by the Senate March 6, 2020.

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CHAPTER 127

[Engrossed Substitute House Bill 2638]

SPORTS WAGERING--TRIBAL-STATE GAMING COMPACTS

AN ACT Relating to authorizing sports wagering subject to the terms of tribal-state gaming compacts; amending RCW 9.46.070, 9.46.130, 9.46.190, 9.46.210, 9.46.220, 9.46.240, and 9.46.090; adding new sections to chapter 9.46 RCW; creating a new section; prescribing penalties; making an appropriation; and declaring an emergency.

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

NEW SECTION. Sec. 1. It has long been the policy of this state to prohibit all forms and means of gambling except where carefully and specifically authorized and regulated. The legislature intends to further this policy by authorizing sports wagering on a very limited basis by restricting it to tribal casinos in the state of Washington. Tribes have more than twenty years' experience with, and a proven track record of, successfully operating and regulating gaming facilities in accordance with tribal gaming compacts. Tribal casinos can operate sports wagering pursuant to these tribal gaming compacts, offering the benefits of the same highly regulated environment to sports wagering.

NEW SECTION. **Sec. 2.** A new section is added to chapter 9.46 RCW to read as follows:

(1) Upon the request of a federally recognized Indian tribe or tribes in the state of Washington, the tribe's class III gaming compact may be amended pursuant to the Indian gaming regulatory act, 25 U.S.C. Sec. 2701 et seq., and RCW 9.46.360 to authorize the tribe to conduct and operate sports wagering on its Indian lands, provided the amendment addresses: Licensing; fees associated with the gambling commission's regulation of sports wagering; how sports wagering will be conducted, operated, and regulated; issues related to criminal enforcement, including money laundering, sport integrity, and information sharing between the commission and the tribe related to such enforcement; and responsible and problem gambling. Sports wagering conducted pursuant to the gaming compact is a gambling activity authorized by this chapter.

(2) Sports wagering conducted pursuant to the provisions of a class III gaming compact entered into by a tribe and the state pursuant to RCW 9.46.360 is authorized bookmaking and is not subject to civil or criminal penalties pursuant to RCW 9.46.225.

Sec. 3. RCW 9.46.070 and 2012 c 116 s 1 are each amended to read as follows:

The commission shall have the following powers and duties:

(1) To authorize and issue licenses for a period not to exceed one year to bona fide charitable or nonprofit organizations approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said organizations to conduct bingo games, raffles, amusement games, and social card games, to utilize punchboards and pull-tabs in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter or any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission or director shall not issue, deny, suspend, or revoke any license because of considerations of race, sex, creed, color, or national origin: AND PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(2) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization operating a business primarily engaged in the selling of items of food or drink for consumption on the premises, approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said person, association, or organization to utilize punchboards and pull-tabs and to conduct social card games as a commercial stimulant in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter and any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(3) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization approved by the commission meeting the requirements of this chapter and meeting the requirements of any rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting said person, association, or organization to conduct or operate amusement games in such manner and at such locations as the commission may determine. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(4) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization to engage in the manufacturing, selling, distributing, or otherwise supplying (~~or in the manufacturing~~) of devices, equipment, software, hardware, or any gambling-related services for use within this state for those activities authorized by this chapter. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(5) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, which fees shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this chapter and the enforcement by the commission of the provisions of this chapter and rules and regulations adopted pursuant thereto: PROVIDED, That all licensing fees shall be submitted with an application therefor and such portion of said fee as the commission may determine, based upon its cost of processing and investigation, shall be retained by the commission upon the withdrawal or denial of any such license application as its reasonable expense for processing the application and investigation into the granting thereof: PROVIDED FURTHER, That if in a particular case the basic license fee established by the commission for a particular class of license is less than the commission's actual expenses to investigate that particular application, the commission may at any time charge to that applicant such additional fees as are necessary to pay the commission for those costs. The commission may decline to proceed with its investigation and no license shall be issued until the commission has been fully paid therefor by the applicant: AND PROVIDED FURTHER, That the commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and equipment as required by the commission and for such other special services or programs required or offered by the commission, the amount of each of these fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements or programs;

(6) To prescribe the manner and method of payment of taxes, fees and penalties to be paid to or collected by the commission;

(7) To require that applications for all licenses contain such information as may be required by the commission: PROVIDED, That all persons (a) having a managerial or ownership interest in any gambling activity, or the building in which any gambling activity occurs, or the equipment to be used for any gambling activity, ~~((or))~~ (b) participating as an employee in the operation of any gambling activity, or (c) participating as an employee in the operation, management, or providing of gambling-related services for sports wagering,

shall be listed on the application for the license and the applicant shall certify on the application, under oath, that the persons named on the application are all of the persons known to have an interest in any gambling activity, building, or equipment by the person making such application: PROVIDED FURTHER, That the commission shall require fingerprinting and national criminal history background checks on any persons seeking licenses, certifications, or permits under this chapter or of any person holding an interest in any gambling activity, building, or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity. All national criminal history background checks shall be conducted using fingerprints submitted to the United States department of justice-federal bureau of investigation. The commission must establish rules to delineate which persons named on the application are subject to national criminal history background checks. In identifying these persons, the commission must take into consideration the nature, character, size, and scope of the gambling activities requested by the persons making such applications;

(8) To require that any license holder maintain records as directed by the commission and submit such reports as the commission may deem necessary;

(9) To require that all income from bingo games, raffles, and amusement games be recorded and reported as established by rule or regulation of the commission to the extent deemed necessary by considering the scope and character of the gambling activity in such a manner that will disclose gross income from any gambling activity, amounts received from each player, the nature and value of prizes, and the fact of distributions of such prizes to the winners thereof;

(10) To regulate and establish maximum limitations on income derived from bingo. In establishing limitations pursuant to this subsection the commission shall take into account (a) the nature, character, and scope of the activities of the licensee; (b) the source of all other income of the licensee; and (c) the percentage or extent to which income derived from bingo is used for charitable, as distinguished from nonprofit, purposes. However, the commission's powers and duties granted by this subsection are discretionary and not mandatory;

(11) To regulate and establish the type and scope of and manner of conducting the gambling activities authorized by this chapter, including but not limited to, the extent of wager, money, or other thing of value which may be wagered or contributed or won by a player in any such activities;

(12) To regulate the collection of and the accounting for the fee which may be imposed by an organization, corporation, or person licensed to conduct a social card game on a person desiring to become a player in a social card game in accordance with RCW 9.46.0282;

(13) To cooperate with and secure the cooperation of county, city, and other local or state agencies in investigating any matter within the scope of its duties and responsibilities;

(14) In accordance with RCW 9.46.080, to adopt such rules and regulations as are deemed necessary to carry out the purposes and provisions of this chapter. All rules and regulations shall be adopted pursuant to the administrative procedure act, chapter 34.05 RCW;

(15) To set forth for the perusal of counties, city-counties, cities and towns, model ordinances by which any legislative authority thereof may enter into the taxing of any gambling activity authorized by this chapter;

(16)(a) To establish and regulate a maximum limit on salaries or wages which may be paid to persons employed in connection with activities conducted by bona fide charitable or nonprofit organizations and authorized by this chapter, where payment of such persons is allowed, and to regulate and establish maximum limits for other expenses in connection with such authorized activities, including but not limited to rent or lease payments. However, the commissioner's powers and duties granted by this subsection are discretionary and not mandatory.

(b) In establishing these maximum limits the commission shall take into account the amount of income received, or expected to be received, from the class of activities to which the limits will apply and the amount of money the games could generate for authorized charitable or nonprofit purposes absent such expenses. The commission may also take into account, in its discretion, other factors, including but not limited to, the local prevailing wage scale and whether charitable purposes are benefited by the activities;

(17) To authorize, require, and issue for a period not to exceed one year such licenses or permits, for which the commission may by rule provide, to any person to work for any operator of any gambling activity authorized by this chapter in connection with that activity, or any manufacturer, supplier, or distributor of devices for those activities in connection with such business. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission. The commission shall not require that persons working solely as volunteers in an authorized activity conducted by a bona fide charitable or bona fide nonprofit organization, who receive no compensation of any kind for any purpose from that organization, and who have no managerial or supervisory responsibility in connection with that activity, be licensed to do such work. The commission may require that licensees employing such unlicensed volunteers submit to the commission periodically a list of the names, addresses, and dates of birth of the volunteers. If any volunteer is not approved by the commission, the commission may require that the licensee not allow that person to work in connection with the licensed activity;

(18) To publish and make available at the office of the commission or elsewhere to anyone requesting it a list of the commission licensees, including the name, address, type of license, and license number of each licensee;

(19) To establish guidelines for determining what constitutes active membership in bona fide nonprofit or charitable organizations for the purposes of this chapter;

(20) To renew the license of every person who applies for renewal within six months after being honorably discharged, removed, or released from active military service in the armed forces of the United States upon payment of the renewal fee applicable to the license period, if there is no cause for denial, suspension, or revocation of the license;

(21) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization that engages in any sports wagering-related services for use within this state for sports wagering activities authorized by this chapter. The

commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission:

(22) To issue licenses under subsections (1) through (4) of this section that are valid for a period of up to eighteen months, if it chooses to do so, in order to transition to the use of the business licensing services program through the department of revenue; and

~~((22))~~ (23) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

Sec. 4. RCW 9.46.130 and 2011 c 336 s 303 are each amended to read as follows:

(1) The premises and paraphernalia, and all the books and records, databases, hardware, software, or any other electronic data storage device of any person, association, or organization conducting gambling activities authorized under this chapter and any person, association, or organization receiving profits therefrom or having any interest therein shall be subject to inspection and audit at any reasonable time, with or without notice, upon demand, by the commission or its designee, the attorney general or his or her designee, the chief of the Washington state patrol or his or her designee or the prosecuting attorney, sheriff, or director of public safety or their designees of the county wherein located, or the chief of police or his or her designee of any city or town in which said organization is located, for the purpose of determining compliance or noncompliance with the provisions of this chapter and any rules or regulations or local ordinances adopted pursuant thereto or any federal or state law. A reasonable time for the purpose of this section shall be: ~~((1))~~ (a) If the items or records to be inspected or audited are located anywhere upon a premises any portion of which is regularly open to the public or members and guests, then at any time when the premises are so open, or at which they are usually open; or ~~((2))~~ (b) if the items or records to be inspected or audited are not located upon a premises set out in ~~((subsection 1))~~ (a) of this ~~((section))~~ subsection, then any time between the hours of 8:00 a.m. and 9:00 p.m., Monday through Friday.

(2) The commission shall be provided at such reasonable intervals as the commission shall determine with a report, under oath, detailing all receipts and disbursements in connection with such gambling activities together with such other reasonable information as required in order to determine whether such activities comply with the purposes of this chapter or any local ordinances relating thereto.

(3) The commission may require the submission of reports on suspicious activities or irregular betting activities to effectively identify players, wagering information, and suspicious and illegal transactions, including the laundering of illicit funds.

NEW SECTION. Sec. 5. A new section is added to chapter 9.46 RCW to read as follows:

(1) No person shall offer, promise, give, or attempt to give any thing of value to any person for the purpose of influencing the outcome of a sporting event, athletic event, or competition upon which a wager may be made.

(2) No person shall place, increase, or decrease a wager after acquiring knowledge, not available to the general public, that anyone has been offered, promised, or given any thing of value for the purpose of influencing the outcome

of a sporting event, athletic event, or competition upon which the wager is placed, increased, or decreased.

(3) No person shall offer, promise, give, or attempt to give any thing of value to obtain confidential or insider information not available to the public with intent to use the information to gain a wagering advantage on a sporting event, athletic event, or competition.

(4) No person shall accept or agree to accept, any thing of value for the purpose of wrongfully influencing his or her play, action, decision making, or conduct in any sporting event, athletic event, or competition upon which a wager may be made.

(5) Any person who violates this section shall be guilty of a class C felony subject to the penalty set forth in RCW 9A.20.021.

Sec. 6. RCW 9.46.190 and 1991 c 261 s 7 are each amended to read as follows:

Any person ~~((or))~~, association, or organization operating any gambling activity ~~((who or which))~~ may not, directly or indirectly, ~~((shall))~~ in the course of such operation:

(1) Employ any device, scheme, or artifice to defraud; ~~((or))~~

(2) Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which said statement is made; ~~((or))~~

(3) Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any person;

~~((Shall))~~ (4) Alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(5) Place, increase, or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing, or decreasing a bet or determining the course of play contingent upon that event or outcome;

(6) Knowingly entice or induce another person to go to any place where a gambling activity is being conducted or operated in violation of the provisions of this chapter, with the intent that the other person play or participate in that gambling activity;

(7) Place or increase a bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including past posting and pressing bets; or

(8) Reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including pinching bets. Any person, association, or organization that violates this section shall be guilty of a ~~((gross misdemeanor))~~ class C felony subject to the penalty set forth in RCW 9A.20.021.

Sec. 7. RCW 9.46.210 and 2000 c 46 s 1 are each amended to read as follows:

(1) It shall be the duty of all peace officers, law enforcement officers, and law enforcement agencies within this state to investigate, enforce, and prosecute all violations of this chapter.

(2) In addition to the authority granted by subsection (1) of this section law enforcement agencies of cities and counties shall investigate and report to the commission all violations of the provisions of this chapter and of the rules of the commission found by them and shall assist the commission in any of its investigations and proceedings respecting any such violations. Such law enforcement agencies shall not be deemed agents of the commission.

(3) In addition to its other powers and duties, the commission shall have the power to enforce the penal provisions of this chapter (~~((218, Laws of 1973 1st ex. sess.))~~) and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities, including chapter 9A.83 RCW, and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. The director, the deputy director, both assistant directors, and each of the commission's investigators, enforcement officers, and inspectors shall have the power, under the supervision of the commission, to enforce the penal provisions of this chapter (~~((218, Laws of 1973 1st ex. sess.))~~) and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities, including chapter 9A.83 RCW, and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power and authority to apply for and execute all warrants and serve process of law issued by the courts in enforcing the penal provisions of this chapter (~~((218, Laws of 1973 1st ex. sess.))~~) and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power to arrest without a warrant, any person or persons found in the act of violating any of the penal provisions of this chapter (~~((218, Laws of 1973 1st ex. sess.))~~) and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. To the extent set forth above, the commission shall be a law enforcement agency of this state with the power to investigate for violations of and to enforce the provisions of this chapter, as now law or hereafter amended, and to obtain information from and provide information to all other law enforcement agencies.

(4) Criminal history record information that includes nonconviction data, as defined in RCW 10.97.030, may be disseminated by a criminal justice agency to the Washington state gambling commission for any purpose associated with the investigation for suitability for involvement in gambling activities authorized under this chapter. The Washington state gambling commission shall only disseminate nonconviction data obtained under this section to criminal justice agencies.

(5) In addition to its other powers and duties, the commission may ensure sport integrity and prevent and detect competition manipulation through education and enforcement of the penal provisions of this chapter or chapter

67.04 or 67.24 RCW, or any other state penal laws related to the integrity of sporting events, athletic events, or competitions within the state.

(6) In addition to its other powers and duties, the commission may track and monitor gambling-related transactions occurring within the state to aid in its enforcement of the penal provisions of this chapter or chapter 9A.83 RCW, or any other state penal laws related to suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification by a player.

Sec. 8. RCW 9.46.220 and 1997 c 78 s 2 are each amended to read as follows:

(1) A person is guilty of professional gambling in the first degree if he or she engages in, or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

(a) Acts in concert with or conspires with five or more people; ~~((✕))~~

(b) Personally accepts wagers exceeding five thousand dollars during any thirty-day period on future contingent events; ~~((✕))~~

(c) The operation for whom the person works, or with which the person is involved, accepts wagers exceeding five thousand dollars during any thirty-day period on future contingent events; ~~((✕))~~

(d) Operates, manages, or profits from the operation of a premises or location where persons are charged a fee to participate in card games, lotteries, or other gambling activities that are not authorized by this chapter or licensed by the commission; or

(e) Engages in bookmaking as defined in RCW 9.46.0213.

(2) However, this section shall not apply to those activities enumerated in RCW 9.46.0305 through 9.46.0361 or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.

(3) Professional gambling in the first degree is a class B felony subject to the penalty set forth in RCW 9A.20.021.

NEW SECTION. **Sec. 9.** A new section is added to chapter 9.46 RCW to read as follows:

The transmission of gambling information over the internet for any sports wagering conducted and operated under this section and section 2 of this act is authorized, provided that the wager may be placed and accepted at a tribe's gaming facility only while the customer placing the wager is physically present on the premises of that tribe's gaming facility.

Sec. 10. RCW 9.46.240 and 2006 c 290 s 2 are each amended to read as follows:

(1) Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore, the internet, a telecommunications transmission system, or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information shall be guilty of a class C felony subject to the penalty set forth in RCW 9A.20.021. ((However, this))

(2) This section shall not apply to such information transmitted or received or equipment or devices installed or maintained relating to activities authorized

by this chapter including, but not limited to, sports wagering authorized under sections 2 and 9 of this act, or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted under this chapter and conducted in accordance with tribal-state compacts.

NEW SECTION. Sec. 11. A new section is added to chapter 9.46 RCW to read as follows:

(1)(a) For purposes of this chapter, "sports wagering" means the business of accepting wagers on any of the following sporting events, athletic events, or competitions by any system or method of wagering:

- (i) A professional sport or athletic event;
- (ii) A collegiate sport or athletic event;
- (iii) An Olympic or international sports competition or event;
- (iv) An electronic sports or esports competition or event;
- (v) A combination of sporting events, athletic events, or competitions listed in (a)(i) through (iv) of this subsection (1); or
- (vi) A portion of any sporting event, athletic event, or competition listed in (a)(i) through (iv) of this subsection (1).

(b) Sports wagering does not include the business of accepting wagers on horse racing authorized pursuant to chapter 67.16 RCW.

(2) For purposes of this section:

(a) "Collegiate sport or athletic event" means a sport or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers education services beyond the secondary level, other than such an institution that is located within the state of Washington.

(b) "Electronic or esports event" means a live event or tournament attended or watched by members of the public where games or matches are contested in real time by players and teams and players or teams can win a prize based on their performance in the live event or tournament.

(c) "Professional sport or athletic event" means an event that is not a collegiate sport or athletic event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in the event. "Professional sport or athletic event" does not include any minor league sport. Sports wagering may not be conducted on any minor league sport.

Sec. 12. RCW 9.46.090 and 1987 c 505 s 3 are each amended to read as follows:

Subject to RCW 40.07.040, the commission shall, from time to time, make reports to the governor and the legislature covering such matters in connection with this chapter as the governor and the legislature may require. These reports shall be public documents and contain such general information and remarks as the commission deems pertinent thereto and any information requested by either the governor or members of the legislature: PROVIDED, That the commission appointed pursuant to RCW 9.46.040 may conduct a thorough study of the types of gambling activity permitted and the types of gambling activity prohibited by this chapter and may make recommendations to the legislature as to: (1) Gambling activity that ought to be permitted; (2) gambling activity that ought to be prohibited; (3) the types of licenses and permits that ought to be required; (4)

the type and amount of tax that ought to be applied to each type of permitted gambling activity; (5) any changes which may be made to the law of this state which further the purposes and policies set forth in RCW 9.46.010 as now law or hereafter amended; and (6) any other matter that the commission may deem appropriate. However, no later than December 1st of the year following any authorization by the legislature of a new gambling activity, any report by the commission to the governor and the appropriate committees of the legislature must include information on the state of the gambling industry both within the state and nationwide. Members of the commission and its staff may contact the legislature, or any of its members, at any time, to advise it of recommendations of the commission.

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. The sum of six million dollars is appropriated from the general fund—state for the fiscal year ending June 30, 2020, and is provided solely for expenditure into the gambling revolving account. The gambling commission may expend from the gambling revolving account from moneys attributable to the appropriation in this section solely for enforcement actions in the illicit market for sports wagering and for implementation of this act. The appropriation in this section constitutes a loan from the general fund to the gambling revolving account that must be repaid with net interest by June 30, 2021.

NEW SECTION, Sec. 15. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 7, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 128

[House Bill 2640]

PRIVATE DETENTION FACILITIES--GROWTH MANAGEMENT ACT

AN ACT Relating to clarifying that facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings are not essential public facilities under the growth management act; amending RCW 36.70A.200; creating a new section; and declaring an emergency.

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

Sec. 1. RCW 36.70A.200 and 2013 c 275 s 5 are each amended to read as follows:

(1)(a) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local

correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

(b) Unless a facility is expressly listed in (a) of this subsection, essential public facilities do not include facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings but are not used for punishment, correction, counseling, or rehabilitation following the conviction of a criminal offense. Facilities included under this subsection (1)(b) shall not include facilities detaining persons under RCW 71.09.020 (6) or (15) or chapter 10.77 or 71.05 RCW.

(2) Each county and city planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

(3) Any city or county not planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW 42.17A.005, corporation, partnership, association, and limited liability entity.

(7) Counties or cities siting facilities pursuant to subsection (2) or (3) of this section shall comply with RCW 71.09.341.

(8) The failure of a county or city to act by the deadlines established in subsections (2) and (3) of this section is not:

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW 43.155.070 or 70.146.070;

(b) A consideration for grants or loans provided under RCW 43.17.250(3);
or

(c) A basis for any petition under RCW 36.70A.280 or for any private cause of action.

NEW SECTION. Sec. 2. This act applies retroactively to land use actions imposed prior to January 1, 2018, as well as prospectively.

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

Passed by the House March 9, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 129

[House Bill 2669]

SEATTLE NHL HOCKEY SPECIAL LICENSE PLATES

AN ACT Relating to certain sports-related special license plates; reenacting and amending RCW 46.17.220, 46.18.200, and 46.68.420; adding a new section to chapter 46.04 RCW; and providing an effective date.

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

Sec. 1. RCW 46.17.220 and 2019 c 384 s 2 and 2019 c 177 s 2 are each reenacted and amended to read as follows:

In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16A 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
(1) 4-H	\$ 40.00	\$ 30.00	RCW 46.68.420
(2) Amateur radio license	\$ 5.00	N/A	RCW 46.68.070
(3) Armed forces	\$ 40.00	\$ 30.00	RCW 46.68.425
(4) Breast cancer awareness	\$ 40.00	\$ 30.00	RCW 46.68.425
(5) Collector vehicle	\$ 35.00	N/A	RCW 46.68.030
(6) Collegiate	\$ 40.00	\$ 30.00	RCW 46.68.430
(7) Endangered wildlife	\$ 40.00	\$ 30.00	RCW 46.68.425
(8) Fred Hutch	\$ 40.00	\$ 30.00	RCW 46.68.420
(9) Gonzaga University alumni association	\$ 40.00	\$ 30.00	RCW 46.68.420
(10) Helping kids speak	\$ 40.00	\$ 30.00	RCW 46.68.420
(11) Horseless carriage	\$ 35.00	N/A	RCW 46.68.030
(12) Keep kids safe	\$ 45.00	\$ 30.00	RCW 46.68.425
(13) Law enforcement memorial	\$ 40.00	\$ 30.00	RCW 46.68.420
(14) Military affiliate radio system	\$ 5.00	N/A	RCW 46.68.070
(15) Music matters	\$ 40.00	\$ 30.00	RCW 46.68.420
(16) Professional firefighters and paramedics	\$ 40.00	\$ 30.00	RCW 46.68.420
(17) Purple Heart	\$ 40.00	\$ 30.00	RCW 46.68.425
(18) Ride share	\$ 25.00	N/A	RCW 46.68.030
(19) San Juan Islands	\$ 40.00	\$ 30.00	RCW 46.68.420

(20) Seattle Mariners	\$ 40.00	\$ 30.00	RCW 46.68.420
(21) <u>Seattle NHL hockey</u>	<u>\$ 40.00</u>	<u>\$ 30.00</u>	<u>RCW 46.68.420</u>
((22)) (22) Seattle Seahawks	\$ 40.00	\$ 30.00	RCW 46.68.420
((23)) (23) Seattle Sounders FC	\$ 40.00	\$ 30.00	RCW 46.68.420
((24)) (24) Seattle Storm	\$ 40.00	\$ 30.00	RCW 46.68.420
((25)) (25) Seattle University	\$ 40.00	\$ 30.00	RCW 46.68.420
((26)) (26) Share the road	\$ 40.00	\$ 30.00	RCW 46.68.420
((27)) (27) Ski & ride Washington	\$ 40.00	\$ 30.00	RCW 46.68.420
((28)) (28) Square dancer	\$ 40.00	N/A	RCW 46.68.070
((29)) (29) State flower	\$ 40.00	\$ 30.00	RCW 46.68.420
((30)) (30) Volunteer firefighters	\$ 40.00	\$ 30.00	RCW 46.68.420
((31)) (31) Washington farmers and ranchers	\$ 40.00	\$ 30.00	RCW 46.68.420
((32)) (32) Washington lighthouses	\$ 40.00	\$ 30.00	RCW 46.68.420
((33)) (33) Washington state aviation	\$ 40.00	\$ 30.00	RCW 46.68.420
((34)) (34) Washington state parks	\$ 40.00	\$ 30.00	RCW 46.68.425
((35)) (35) Washington state wrestling	\$ 40.00	\$ 30.00	RCW 46.68.420
((36)) (36) Washington tennis	\$ 40.00	\$ 30.00	RCW 46.68.420
((37)) (37) Washington's fish collection	\$ 40.00	\$ 30.00	RCW 46.68.425
((38)) (38) Washington's national parks	\$ 40.00	\$ 30.00	RCW 46.68.420
((39)) (39) Washington's wildlife collection	\$ 40.00	\$ 30.00	RCW 46.68.425
((40)) (40) We love our pets	\$ 40.00	\$ 30.00	RCW 46.68.420
((41)) (41) Wild on Washington	\$ 40.00	\$ 30.00	RCW 46.68.425

Sec. 2. RCW 46.18.200 and 2019 c 384 s 1 and 2019 c 177 s 1 are each reenacted and amended to read as follows:

(1) Special license plate series reviewed and approved by the department:

(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 department.

(2) The department approves and shall issue the following special license plates, subject to subsection (5) of this section:

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
4-H	Displays the "4-H" logo.
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.
Breast cancer awareness	Displays a pink ribbon symbolizing breast cancer awareness.
Endangered wildlife	Displays a symbol or artwork symbolizing endangered wildlife in Washington state.
Fred Hutch	Displays the Fred Hutch logo.
Gonzaga University alumni association	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.
Music matters	Displays the "Music Matters" logo.
Professional firefighters and paramedics	Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.
San Juan Islands	Displays a symbol or artwork recognizing the San Juan Islands.
Seattle Mariners	Displays the "Seattle Mariners" logo.
<u>Seattle NHL hockey</u>	<u>Displays the logo of the Seattle NHL hockey team.</u>
Seattle Seahawks	Displays the "Seattle Seahawks" logo.
Seattle Sounders FC	Displays the "Seattle Sounders FC" logo.
Seattle Storm	Displays the "Seattle Storm" logo.
Seattle University	Recognizes Seattle University.

Share the road	Recognizes an organization that promotes bicycle safety and awareness education.
Ski & ride Washington	Recognizes the Washington snowsports industry.
State flower	Recognizes the Washington state flower.
Volunteer firefighters	Recognizes volunteer firefighters.
Washington farmers and ranchers	Recognizes farmers and ranchers in Washington state.
Washington lighthouses	Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.
Washington state aviation	Displays a Stearman biplane in the foreground with an image of Mount Rainier in the background.
Washington state parks	Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.
Washington state wrestling	Promotes and supports college wrestling in the state of Washington.
Washington tennis	Builds awareness and year-round opportunities for tennis in Washington state. Displays a symbol or artwork recognizing tennis in Washington state.
Washington's fish collection	Recognizes Washington's fish.
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.

(3) Applicants for initial and renewal professional firefighters and paramedics special license plates must show proof of eligibility by providing a certificate of current membership from the Washington state council of firefighters.

(4) Applicants for initial volunteer firefighters special license plates must (a) have been a volunteer firefighter for at least ten years or be a volunteer firefighter for one or more years and (b) have documentation of service from the district of the appropriate fire service. If the volunteer firefighter leaves firefighting service before ten years of service have been completed, the volunteer firefighter shall surrender the license plates to the department on the registration renewal date. If the volunteer firefighter stays in service for at least ten years and then leaves, the license plate may be retained by the former volunteer firefighter and as long as the license plate is retained for use the person will continue to pay the future registration renewals. A qualifying volunteer firefighter may have no more than one set of license plates per vehicle, and a maximum of two sets per applicant, for their personal vehicles. If the volunteer firefighter is convicted of a violation of RCW 46.61.502 or a felony, the license plates must be surrendered upon conviction.

(5) The department shall not issue the Seattle NHL hockey special license plate until the department receives signature sheets satisfying the requirements identified in RCW 46.18.110(2)(f).

Sec. 3. RCW 46.68.420 and 2019 c 384 s 3 and 2019 c 177 s 3 are each reenacted and amended to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under RCW 46.17.220;

(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 fund))~~ 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 fee amounts for each special license plate to the following appropriate account as created in this section in the custody of the state treasurer:

ACCOUNT	CONDITIONS FOR USE OF FUNDS
4-H programs	Support Washington 4-H programs
Fred Hutch	Support cancer research at the Fred Hutchinson cancer research center
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
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
Music matters awareness	Promote music education in schools throughout Washington
San Juan Islands programs	Provide funds to the Madrona institute
Seattle Mariners	Provide funds to the sports mentoring program and to support the Washington world fellows program in the following manner: (a) Seventy-five percent to the office of the lieutenant governor solely to administer the sports mentoring program established under RCW 43.15.100, to encourage youth who have economic needs or face adversities to experience spectator sports or get involved in youth sports, and (b) up to twenty-five percent to the office of the lieutenant governor solely to administer the Washington world fellows program, an equity focused program

Seattle NHL hockey

Provide funds to the NHL Seattle foundation and to support the boundless Washington program in the following manner: (a) Fifty percent to the NHL Seattle foundation, or its successor organization, to help marginalized youth succeed in life through increased access to sports and other opportunities; (b) twenty-five percent to the office of the lieutenant governor solely to administer the boundless Washington program to facilitate opportunities for young people with physical and sensory disabilities to enjoy and experience the outdoors; and (c) twenty-five percent to the NHL Seattle foundation, or its successor organization, for providing financial support to allow youth to participate in hockey

Seattle Seahawks

Provide funds to InvestED and to support the Washington world fellows program in the following manner: (a) Seventy-five percent, to InvestED, to encourage secondary students who have economic needs to stay in school, return to school, or get involved within their learning community; and (b) twenty-five percent to the office of the lieutenant governor solely to administer the Washington world fellows program, including the provision of fellowships

Seattle Sounders FC	Provide funds to Washington state mentors and the association of Washington generals created in RCW 43.15.030 in the following manner: (a) Seventy percent and the remaining proceeds, if any, to Washington state mentors, to increase the number of mentors in the state by offering mentoring grants throughout Washington state that foster positive youth development and academic success, with up to twenty percent of these proceeds authorized for program administration costs; and (b) up to thirty percent, not to exceed forty-thousand dollars annually as adjusted for inflation by the office of financial management, to the association of Washington generals, to develop Washington state educational, veterans, international relations, and civics projects and to recognize the outstanding public service of individuals or groups in the state of Washington
Seattle Storm	Provide funds to the Washington state legislative youth advisory council and the association of Washington generals created in RCW 43.15.030 in the following manner: Twenty-five thousand dollars per year of the net proceeds to the legislative youth advisory council, or its successor organization; and the remaining net proceeds on an annual basis, to the association of Washington generals for the purpose of providing grants to support and enhance athletic, recreational, and other opportunities for women and girls, and especially those with disabilities
Seattle University	Fund scholarships for students attending or planning to attend Seattle University
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
State flower	Support Meerkerk Rhododendron Gardens and provide for grants to other qualified nonprofit organizations' efforts to preserve rhododendrons
Volunteer firefighters	Receive and disseminate funds for purposes on behalf of volunteer firefighters, their families, and others deemed in need
Washington farmers and ranchers	Provide funds to the Washington FFA Foundation for educational programs in Washington state
Washington state aviation	Provide funds to the department of transportation to support infrastructure improvements at public use airports in Washington state
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 state wrestling	Provide funds to the Washington state wrestling foundation to fund new and existing college wrestling programs

Washington tennis	Provide funds to cities to assist in the construction and maintenance of a public tennis facility with at least four indoor tennis courts. A city is eligible for construction funds if the city does not already have a public or private facility with at least four indoor tennis courts. Funds for construction must first be made available to the most populous eligible city, according to the most recent census, for a time period not to exceed five years after January 1, 2017. After the five-year time period, the funds for construction must be made available to the next most populous eligible city. Funds for the maintenance of a public tennis facility with at least four indoor tennis courts must first be made available to the first eligible city that utilizes funds for construction provided by chapter 16, Laws of 2016
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) Except as otherwise provided in this section, 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) Except as otherwise provided in this section, 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) Funds from the Seattle Seahawks account may be provided to the lieutenant governor solely for the purpose of administering the Washington world fellows program. Of the amounts received by the lieutenant governor's

office under this subsection, at least ninety percent must be provided as fellowships under the program.

(6) Beginning January 1, 2019, funds from the Seattle Mariners account may be provided to the office of lieutenant governor solely for the purpose of administering the sports mentoring program. Of the amounts received by the office of lieutenant governor, at least ninety percent must be applied towards services directly provided to youth participants.

(7) 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 46.18.100(1).

NEW SECTION. Sec. 4. A new section is added to chapter 46.04 RCW to read as follows:

"Seattle NHL hockey special license plates" means special license plates issued under RCW 46.18.200 that display the logo of the national hockey league team based in Seattle.

NEW SECTION. Sec. 5. This act takes effect October 1, 2020.

Passed by the House March 10, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 130

[Second Substitute House Bill 2737]

CHILDREN'S MENTAL HEALTH WORK GROUP--VARIOUS PROVISIONS

AN ACT Relating to revising the name, term, membership, and duties of the children's mental health work group; amending RCW 74.09.4951; and providing an expiration date.

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

Sec. 1. RCW 74.09.4951 and 2019 c 360 s 2 are each amended to read as follows:

(1) ~~((A children's mental))~~ The children and youth behavioral health work group is established to identify barriers to and opportunities for accessing ~~((mental))~~ behavioral health services for children and their families, and to advise the legislature on statewide ~~((mental))~~ behavioral health services for this population.

(2) The work group shall consist of members and alternates as provided in this subsection. Members must represent the regional, racial, and cultural diversity of all children and families in the state. ~~((Members of the children's mental health work group created in chapter 96, Laws of 2016, and serving on the work group as of December 1, 2017, may continue to serve as members of the work group without reappointment.))~~

(a) The president of the senate shall appoint one member and one alternate from each of the two largest caucuses in the senate.

(b) The speaker of the house of representatives shall appoint one member and one alternate from each of the two largest caucuses in the house of representatives.

(c) The governor shall appoint six members representing the following state agencies and offices: The department of children, youth, and families; the department of social and health services; the health care authority; the department of health; the office of homeless youth prevention and protection programs; and the office of the governor.

(d) The governor shall appoint ~~((one member representing each of))~~ the following members:

(i) ~~((Behavioral))~~ One representative of behavioral health administrative services organizations;

(ii) ~~((Community))~~ One representative of community mental health agencies;

(iii) ~~((Medicaid))~~ One representative of medicaid managed care organizations;

(iv) ~~((A))~~ One regional provider of co-occurring disorder services;

(v) ~~((Pediatricians))~~ One pediatrician or primary care provider((s));

(vi) ~~((Providers))~~ One provider specializing in infant or early childhood mental health;

(vii) ~~((Child health advocacy groups))~~ One representative who advocates for behavioral health issues on behalf of children and youth;

(viii) ~~((Early))~~ One representative of early learning and child care providers;

(ix) ~~((The))~~ One representative of the evidence-based practice institute;

(x) ~~((Parents))~~ Two parents or caregivers of children who have ~~((been the recipient of early childhood mental))~~ received behavioral health services, one of which must have a child under the age of six;

(xi) ~~((A))~~ One representative of an education or teaching institution that provides training for mental health professionals;

(xii) ~~((Foster))~~ One foster parent((s));

(xiii) ~~((Providers))~~ One representative of providers of culturally and linguistically appropriate health services to traditionally underserved communities;

(xiv) ~~((Pediatricians))~~ One pediatrician located east of the crest of the Cascade mountains; ~~((and))~~

(xv) ~~((Child))~~ One child psychiatrist((s));

(xvi) One representative of an organization representing the interests of individuals with developmental disabilities;

(xvii) Two youth representatives who have received behavioral health services;

(xviii) One representative of a private insurance organization;

(xix) One representative from the statewide family youth system partner roundtable established in the *T.R. v. Strange and McDermott*, formerly the *T.R. v. Dreyfus and Porter*, settlement agreement; and

(xx) One substance use disorder professional.

(e) The governor shall request participation by a representative of tribal governments.

(f) The superintendent of public instruction shall appoint one representative from the office of the superintendent of public instruction.

(g) The insurance commissioner shall appoint one representative from the office of the insurance commissioner.

(h) The work group shall choose its cochairs, one from among its legislative members and one from among the executive branch members. The representative from the health care authority shall convene at least two, but not more than four, meetings of the work group each year.

(i) The cochairs may invite additional members of the house of representatives and the senate to participate in work group activities, including as leaders of advisory groups to the work group. These legislators are not required to be formally appointed members of the work group in order to participate in or lead advisory groups.

(3) The work group shall:

(a) Monitor the implementation of enacted legislation, programs, and policies related to ~~((children's mental))~~ children and youth behavioral health, including provider payment for ~~((depression screenings for youth and new mothers,))~~ mood, anxiety, and substance use disorder prevention, screening, diagnosis, and treatment for children and young mothers; consultation services for child care providers caring for children with symptoms of trauma~~((;))~~; home visiting services~~((;))~~; and streamlining agency rules for providers of behavioral health services;

(b) Consider system strategies to improve coordination and remove barriers between the early learning, K-12 education, and health care systems; ~~((and))~~

(c) Identify opportunities to remove barriers to treatment and strengthen ~~((mental))~~ behavioral health service delivery for children and youth;

(d) Determine the strategies and resources needed to:

(i) Improve inpatient and outpatient access to behavioral health services;

(ii) Support the unique needs of young children prenatally through age five, including promoting health and social and emotional development in the context of children's family, community, and culture; and

(iii) Develop and sustain system improvements to support the behavioral health needs of children and youth; and

(e) Consider issues and recommendations put forward by the statewide family youth system partner roundtable established in the *T.R. v. Strange and McDermott*, formerly the *T.R. v. Dreyfus and Porter*, settlement agreement.

(4) At the direction of the cochairs, the work group may convene advisory groups to evaluate specific issues and report related findings and recommendations to the full work group.

~~((5))~~ ~~((a))~~ The work group shall convene an advisory group ~~((to develop a funding model for:~~

~~((i) The partnership access line activities described in RCW 71.24.061, including the partnership access line for moms and kids and community referral facilitation;~~

~~((ii) Delivering partnership access line services to educational service districts for the training and support of school staff managing children with challenging behaviors; and~~

~~((iii) Expanding partnership access line consultation services to include consultation for health care professionals serving adults.~~

(b) The work group cochairs shall invite representatives from the following organizations and interests to participate as advisory group members under this subsection:

(i) Private insurance carriers;

- ~~(ii) Medicaid-managed care plans;~~
- ~~(iii) Self-insured organizations;~~
- ~~(iv) Seattle children's hospital;~~
- ~~(v) The partnership access line;~~
- ~~(vi) The office of the insurance commissioner;~~
- ~~(vii) The University of Washington school of medicine; and~~
- ~~(viii) Other organizations and individuals, as determined by the cochairs.~~

~~(e) The funding model must build upon previous funding model efforts by the health care authority, including work completed pursuant to chapter 288, Laws of 2018. The funding model must:~~

~~(i) Determine the annual cost of operating the partnership access line and its various components and collect a proportional share of program cost from each health insurance carrier; and~~

~~(ii) Differentiate between partnership access line activities eligible for medicaid funding and activities that are nonmedicaid-eligible.~~

~~(d) By December 1, 2019, the advisory group formed under this subsection must deliver the funding model and any associated recommendations to the work group-) focused on school-based behavioral health and suicide prevention. The advisory group shall advise the full work group on creating and maintaining an integrated system of care through a tiered support framework for kindergarten through twelfth grade school systems defined by the office of the superintendent of public instruction and behavioral health care systems that can rapidly identify students in need of care and effectively link these students to appropriate services, provide age-appropriate education on behavioral health and other universal supports for social-emotional wellness for all students, and improve both education and behavioral health outcomes for students. The work group cochairs may invite nonwork group members to participate as advisory group members.~~

~~(6)(a) Staff support for the work group, including administration of work group meetings and preparation of ((the updated)) full work group recommendations and reports required under ((subsection (8) of) this section, must be provided by the health care authority.~~

~~(b) Additional staff support for legislative members of the work group may be provided by senate committee services and the house of representatives office of program research.~~

~~(c) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must provide staff support to the school-based behavioral health and suicide prevention advisory group, including administration of advisory group meetings and the preparation and delivery of advisory group recommendations to the full work group.~~

~~(7) Legislative members of the work group are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW. Advisory group members who are not members of the work group are not entitled to reimbursement.~~

~~(8) The work group shall update the findings and recommendations reported to the legislature by the children's mental health work group in December 2016~~

pursuant to chapter 96, Laws of 2016. The work group must submit the updated report to the governor and the appropriate committees of the legislature by December 1, 2020. Beginning November 1, 2020, and annually thereafter, the work group shall provide recommendations in alignment with subsection (3) of this section to the governor and the legislature.

(9) This section expires December 30, (~~2020~~) 2026.

Passed by the House March 11, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 131

[Engrossed House Bill 2755]

AIR AMBULANCE SERVICES--CLAIMS DATA

AN ACT Relating to transparency regarding the cost of air ambulance services; and amending RCW 43.371.060.

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

Sec. 1. RCW 43.371.060 and 2019 c 319 s 6 are each amended to read as follows:

(1)(a) Under the supervision of and through contract with the authority, the lead organization shall prepare health care data reports using the database and the statewide health performance and quality measure set. Prior to the lead organization releasing any health care data reports that use claims data, the lead organization must submit the reports to the authority for review.

(b) By October 31st of each year, the lead organization shall submit to the director a list of reports it anticipates producing during the following calendar year. The director may establish a public comment period not to exceed thirty days, and shall submit the list and any comment to the appropriate committees of the legislature for review.

(2)(a) Health care data reports that use claims data prepared by the lead organization for the legislature and the public should promote awareness and transparency in the health care market by reporting on:

(i) Whether providers and health systems deliver efficient, high quality care; and

(ii) Geographic and other variations in medical care and costs as demonstrated by data available to the lead organization.

(b) Measures in the health care data reports should be stratified by demography, income, language, health status, and geography when feasible with available data to identify disparities in care and successful efforts to reduce disparities.

(c) Comparisons of costs among providers and health care systems must account for differences in the case mix and severity of illness of patients and populations, as appropriate and feasible, and must take into consideration the cost impact of subsidization for uninsured and government-sponsored patients, as well as teaching expenses, when feasible with available data.

(3) The lead organization may not publish any data or health care data reports that:

- (a) Directly or indirectly identify individual patients;
- (b) Disclose a carrier's proprietary financial information;
- (c) Compare performance in a report generated for the general public that includes any provider in a practice with fewer than four providers; or
- (d) Contain medicaid data that is in direct conflict with the biannual medicaid forecast.

(4) The lead organization may not release a report that compares and identifies providers, hospitals, or data suppliers unless:

(a) It allows the data supplier, the hospital, or the provider to verify the accuracy of the information submitted to the data vendor, comment on the reasonableness of conclusions reached, and submit to the lead organization and data vendor any corrections of errors with supporting evidence and comments within thirty days of receipt of the report;

(b) It corrects data found to be in error within a reasonable amount of time; and

(c) The report otherwise complies with this chapter.

(5) The authority and the lead organization may use claims data to identify and make available information on payers, providers, and facilities, but may not use claims data to recommend or incentivize direct contracting between providers and employers.

(6) The lead organization shall make information about claims data related to the provision of air ambulance service available on a web site that is accessible to the public in a searchable format by geographic region, provider, and other relevant information.

(7)(a) The lead organization shall distinguish in advance to the authority when it is operating in its capacity as the lead organization and when it is operating in its capacity as a private entity. Where the lead organization acts in its capacity as a private entity, it may only access data pursuant to RCW 43.371.050(4) (b), (c), or (d).

(b) Except as provided in RCW 43.371.050(4), claims or other data that contain direct patient identifiers or proprietary financial information must remain exclusively in the custody of the data vendor and may not be accessed by the lead organization.

Passed by the House February 17, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 25, 2020.

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CHAPTER 132

[Substitute House Bill 2803]

INDIAN TRIBE COMPACTS--STATE TAXES

AN ACT Relating to authorizing the governor to enter into compacts with Indian tribes addressing certain state retail sales tax, certain state use tax, and certain state business and occupation tax revenues, as specified in a memorandum of understanding entered into by the state, Tulalip tribes, and Snohomish county, in January 2020, and including other terms necessary for the department of revenue to administer any such compact; adding new sections to chapter 43.06 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 43.06 RCW to read as follows:

(1) The legislature intends to further the government-to-government relationship between the state of Washington and federally recognized Indian tribes in the state of Washington by authorizing the governor to enter into compacts concerning the state's retail sales, use, and business and occupation taxes on certain activities.

(2) The legislature finds that these compacts will benefit all Washingtonians by providing a means to promote economic development and providing needed revenues for tribal governments and Indian persons.

(3) The state and the tribes have a long-standing history of working together to develop cooperative agreements on taxation for cigarettes, fuel, timber, and marijuana. It is the legislature's intent, given the positive experiences from the nearly two decades of cooperation, to build on these successes and provide the governor with the authority to address state sales, use, and business and occupation taxes on certain activities.

(4) In addition, it is the legislature's intent that these compacts will have no impact on the taxation of any transaction that is the subject of other compacts, contracts, or agreements authorized elsewhere in this chapter.

NEW SECTION. Sec. 2. A new section is added to chapter 43.06 RCW to read as follows:

(1)(a) The governor may enter into compacts with tribes concerning revenue collected by the state from the state sales tax, state use tax, and certain state business and occupation taxes, to the extent these taxes are imposed on qualified transactions. All compacts must meet the requirements under this section.

(b)(i) Except with regard to the terms of a compacting tribe's qualified capital investment, the governor may delegate the authority to negotiate compacts to the department.

(ii) In negotiating the terms of a compacting tribe's qualified capital investment, the governor must be satisfied that the compacting tribe's qualified capital investment is substantially proportionate to the compacting tribe's estimated tax revenue under the compact as compared to qualified capital investments contained in other compacts. For purposes of estimating a compacting tribe's tax revenue under a compact, tax revenue from new development is not included in the estimate.

(2) Any compact authorized under this section must include provisions that allow the compacting tribe to receive, beginning on the compact's implementation date, the following amounts of tax collected on qualified transactions and received by the state:

(a) One hundred percent of certain state business and occupation tax revenues;

(b) The first five hundred thousand dollars of the total amount of state sales tax and state use tax collected during each calendar year from taxpayers, regardless of whether the taxpayers meet the requirements of a new development. If this five hundred thousand dollar cap is reached during a calendar year, any amounts collected from taxpayers that do not meet the requirements of a new development will be deemed to have been collected and applied to the cap first, but only in the calendar month in which the cap is reached;

(c) The following amounts of state sales tax and state use tax collected during each calendar year from taxpayers meeting the requirements of a new development:

(i) Twenty-five percent of any amount over the cap described in (b) of this subsection (2); or

(ii) Sixty percent of any amount over the cap described in (b) of this subsection (2), if the compacting tribe has completed a qualified capital investment; and

(d) Beginning January 1st of the fourth calendar year following the signing of the compact, the following amounts of state sales tax and state use tax collected during each calendar year from taxpayers that do not meet the requirements of a new development:

(i) Twenty-five percent of any amount over the cap described in (b) of this subsection (2); or

(ii) Fifty percent of any amount over the cap described in (b) of this subsection (2), if the compacting tribe has completed a qualified capital investment.

(3) The parties to any compact must agree to include the following provisions in the compact:

(a) A process for determining when any qualified capital investment is complete;

(b) A process to verify compliance with the terms of the compact;

(c) A delineation of the respective roles and responsibilities of the compacting tribe and the department;

(d) A process to resolve disputes, including the use of a nonjudicial process;

(e) An agreement that the compact resolves all current and future disputes between the compacting tribe and state and local taxing authorities, while the compact is in effect, to the extent such disputes relate to the levying, assessment, and collection of taxes related to the following:

(i) Transactions between nonmembers, where such transactions are subject to any state sales tax, local sales tax, and any other taxes in effect or authorized as of the effective date of this section, except for any business and occupation tax under chapter 82.04 RCW other than certain state business and occupation taxes;

(ii) State and local use tax imposed on nonmembers and sourced to a location within the Indian country of the compacting tribe pursuant to RCW 82.32.730; and

(iii) State and local personal property taxes imposed on nonmembers;

(f) An agreement that in the event of a change in state tax laws that affects the negotiated terms of a compact, or a change in the department's interpretation regarding the property taxation of nonmember-owned improvements on Indian trust land:

(i) The parties must discuss in good faith any changes in the compact or this section that may be appropriate to preserve the intended benefits of the compact; and

(ii) A compacting tribe may terminate the compact if the good faith discussions do not result in a mutually satisfactory resolution;

(g)(i) An agreement that the department must perform all functions related to the administration and collection of the taxes collected on qualified

transactions. The department may not impose any charge on a compacting tribe for these services. However, the department may seek legislative appropriations to cover its administrative costs associated with compact negotiations and administration.

(ii) As part of the department's authority under (g)(i) of this subsection (3), the department will apply the provisions contained in Title 82 RCW insofar as they are applicable to the taxes at issue in any compact authorized under this section;

(h) An agreement that the compacting tribe will provide information the department determines is necessary to fulfill the department's tax administration obligations under the compact, including information related to parcel ownership and business operations in the compact covered area; and

(i) Terms specifying the duration of the compact, and any related terms.

(4)(a) A compacting tribe may examine department records related to the payment of tax amounts to the compacting tribe. The compacting tribe must agree to keep information obtained from the department pursuant to a compact confidential to the same extent as the department is required to keep that information confidential pursuant to RCW 82.32.330.

(b) Information received by the state or open to state review under the terms of a compact is deemed tax information under RCW 82.32.330.

(5) The amounts in subsection (2) of this section must be paid to the compacting tribe on a monthly basis within sixty days after the department receives the tax amounts.

(6) All refunds and credits the department issues to taxpayers of amounts previously paid to the compacting tribe under the terms of a compact will be charged to the compacting tribe.

(7) Funds dedicated under RCW 82.08.020 and 82.12.0201 to the performance audits of government account under RCW 43.09.475 are not reduced by any payment to the compacting tribe.

(8) The department may adopt rules as may be necessary to administer the provisions of this section.

(9) This section does not affect the depositing of state sales tax, state use tax, and certain state business and occupation tax into the general fund as required by RCW 82.32.380.

(10) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Certain state business and occupation tax" means the tax imposed in chapter 82.04 RCW with respect to any qualified transaction as defined in (o)(i) of this subsection (10).

(b) "Compact" means a compact authorized by this section.

(c)(i) "Compact covered area" means: (A) Trust land, whether located within or outside of the boundaries of the compacting tribe's reservation; and (B) fee land within the boundaries of the compacting tribe's reservation and under tribal or tribal-member ownership.

(ii) For purposes of this subsection (10)(c), "tribal or tribal-member ownership" means fee land with a greater than fifty percent ownership interest being held by any combination of the compacting tribe or its tribal members.

(iii) "Compact covered area" does not include any land that, as of the effective date of this section, was fee land in which one or more nonmembers held a majority ownership, but only with respect to:

(A) A business that was in operation on that land as of the effective date of this section and continues to be in operation on that same land; or

(B) A substantially similar successor business to a business described in (c)(iii)(A) of this subsection (10) is in operation on that same land.

(d) "Compacting tribe" means, with respect to any specific compact, the tribe that is a party to the compact.

(e) "Department" means the department of revenue.

(f) "Implementation date" means the date, negotiated by the parties to the compact, on which the department is required to begin administering the terms of such compact.

(g) "Indian country" has the same meaning as provided in 18 U.S.C. Sec. 1151, as existing on the effective date of this section.

(h) "Indian reservation" means all lands, notwithstanding the issuance of any patent, within the boundaries of areas set aside by the United States for the use and occupancy of Indian tribes by treaty, law, or executive order, or otherwise designated or described "reservation" by any federal act, and that are currently recognized as "Indian reservations" by the United States department of the interior. The term applies to all land within the boundaries of the Indian reservation, regardless of whether the land is owned by nonmembers, tribal members, or an Indian tribe.

(i) "Indian tribe" or "tribe" means a federally recognized Indian tribe located at least partially within the geographical boundaries of the state of Washington and includes its enterprises, subsidiaries, and constituent parts.

(j) "Local sales tax" means any sales tax that a local taxing authority is authorized to impose under chapter 82.14 RCW, RCW 81.104.170, or any other provision of state law.

(k) "Local use tax" means any use tax that a local taxing authority is authorized to impose under chapter 82.14 RCW, RCW 81.104.170, or any other provision of state law.

(l) "New development" means, with respect to any specific compact and the compact covered area associated with that compact, a person that:

(i) Is subject to state sales tax or state use tax collection or payment obligations as a result of business activity within the compact covered area;

(ii) Conducts business operations in a structure within the compact covered area, and construction of that structure began on or after the date the compact is signed by the parties, but not including any such construction involving the renovation of or addition to a structure existing before the date the compact is signed by the parties; and

(iii) Has not previously been subject to state sales tax or state use tax collection or payment obligations as a result of that same business activity operated within a different structure located elsewhere within the compact covered area.

(m) "Nonmember" means, with respect to any specific compact:

(i) A natural person who is not a tribal member of the compacting tribe;

(ii) A tribe that is not the compacting tribe; or

(iii) Any entity where not more than fifty percent of the ownership interests are held by any combination of the compacting tribe or any tribal members of the compacting tribe.

(n) "Qualified capital investment" means a contribution to the development and construction of a project agreed to by the governor and the compacting tribe.

(o) "Qualified transaction" means:

(i) A retail sale subject to state sales tax, involving a seller and purchaser who are both nonmembers, and that is sourced to a location within the compact covered area pursuant to RCW 82.32.730; or

(ii) Any use by a nonmember upon which the state use tax is imposed and sourced to a location within the compact covered area pursuant to RCW 82.32.730.

(p) "State sales tax" means the tax imposed in RCW 82.08.020(1).

(q) "State use tax" means the tax imposed in RCW 82.12.020 at the rate in RCW 82.08.020(1).

(r) "Tribal member" means an enrolled member of a federally recognized tribe, or in the context of a marital community, the spouse of a tribal member of the compacting tribe.

NEW SECTION. Sec. 3. Nothing in this act in any way limits, restricts, reduces, or affects local taxes authorized under chapter 82.14 RCW, RCW 81.104.170, Title 35, 36, or 84 RCW, or any other provision of state law authorizing a local tax.

Passed by the House February 18, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 25, 2020.

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CHAPTER 133

[House Bill 2826]

MARIJUANA VAPOR PRODUCTS--LIQUOR AND CANNABIS BOARD

AN ACT Relating to clarifying the authority of the liquor and cannabis board to regulate marijuana vapor products; amending RCW 69.50.342; reenacting and amending RCW 69.50.101; adding a new section to chapter 69.50 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that recent reports of lung illnesses associated with vapor products demand serious attention by the state in the interest of protecting public health and preventing youth access. While state law grants the liquor and cannabis board broad authority to regulate vapor products containing marijuana, the legislature finds that risks to public health and youth access can be mitigated by clarifying that the board is granted specific authority to prohibit the use of any additive, solvent, ingredient, or compound in marijuana vapor product production and processing and to prohibit any device used in conjunction with a marijuana vapor product.

Sec. 2. RCW 69.50.101 and 2019 c 394 s 9, 2019 c 158 s 12, and 2019 c 55 s 11 are each reenacted and amended to read as follows:

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

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "Board" means the Washington state liquor and cannabis board.

(d) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(e) "CBD product" means any product containing or consisting of cannabidiol.

(f) "Commission" means the pharmacy quality assurance commission.

(g) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

(h)(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, or chapter 69.77 RCW 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.

(i) "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.

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

(k) "Designated provider" has the meaning provided in RCW 69.51A.010.

(l) "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.

(m) "Dispenser" means a practitioner who dispenses.

(n) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(o) "Distributor" means a person who distributes.

(p) "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.

(q) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(r) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(s) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(t) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(u) "Isomer" means an optical isomer, but in subsection (gg)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(v) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(w) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(x) "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.

(y) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

(1) 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; or

(2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds used for licensed hemp production under chapter 15.140 RCW.

(z) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(aa) "Marijuana processor" means a person licensed by the ~~((state liquor and cannabis))~~ board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(bb) "Marijuana producer" means a person licensed by the ~~((state liquor and cannabis))~~ board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(cc) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(dd) "Marijuana researcher" means a person licensed by the ~~((state liquor and cannabis))~~ board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

(ee) "Marijuana retailer" means a person licensed by the ~~((state liquor and cannabis))~~ board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

(ff) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (y) of this section, and have a THC concentration no

greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

(gg) "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) of this subsection.

(hh) "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.

(ii) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(jj) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(kk) "Plant" has the meaning provided in RCW 69.51A.010.

(ll) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(mm) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical

nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(nn) "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.

(oo) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(pp) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(qq) "Recognition card" has the meaning provided in RCW 69.51A.010.

(rr) "Retail outlet" means a location licensed by the (~~state liquor and cannabis~~) board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

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

(tt) "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.

(uu) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(vv) "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.

(ww) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

(xx) "Youth access" means the level of interest persons under the age of twenty-one may have in a vapor product, as well as the degree to which the

product is available or appealing to such persons, and the likelihood of initiation, use, or addiction by adolescents and young adults.

Sec. 3. RCW 69.50.342 and 2019 c 394 s 4 are each amended to read as follows:

(1) For the purpose of carrying into effect the provisions of chapter 3, Laws of 2013 according to their true intent or of supplying any deficiency therein, the (~~state liquor and cannabis~~) board may adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the (~~state liquor and cannabis~~) board is empowered to adopt rules regarding the following:

(a) The equipment and management of retail outlets and premises where marijuana is produced or processed, and inspection of the retail outlets and premises where marijuana is produced or processed;

(b) The books and records to be created and maintained by licensees, the reports to be made thereon to the (~~state liquor and cannabis~~) board, and inspection of the books and records;

(c) Methods of producing, processing, and packaging marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(d) Security requirements for retail outlets and premises where marijuana is produced or processed, and safety protocols for licensees and their employees;

(e) Screening, hiring, training, and supervising employees of licensees;

(f) Retail outlet locations and hours of operation;

(g) Labeling requirements and restrictions on advertisement of marijuana, useable marijuana, marijuana concentrates, cannabis health and beauty aids, and marijuana-infused products for sale in retail outlets;

(h) Forms to be used for purposes of this chapter and chapter 69.51A RCW or the rules adopted to implement and enforce these chapters, the terms and conditions to be contained in licenses issued under this chapter and chapter 69.51A RCW, and the qualifications for receiving a license issued under this chapter and chapter 69.51A RCW, including a criminal history record information check. The (~~state liquor and cannabis~~) board may submit any criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The (~~state liquor and cannabis~~) board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(i) Application, reinstatement, and renewal fees for licenses issued under this chapter and chapter 69.51A RCW, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this chapter and chapter 69.51A RCW;

(j) The manner of giving and serving notices required by this chapter and chapter 69.51A RCW or rules adopted to implement or enforce these chapters;

(k) Times and periods when, and the manner, methods, and means by which, licensees transport and deliver marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

(l) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this chapter or chapter 69.51A RCW or the rules adopted to implement and enforce these chapters;

(m) The prohibition of any type of device used in conjunction with a marijuana vapor product and the prohibition of the use of any type of additive, solvent, ingredient, or compound in the production and processing of marijuana products, including marijuana vapor products, when the board determines, following consultation with the department of health or any other authority the board deems appropriate, that the device, additive, solvent, ingredient, or compound may pose a risk to public health or youth access; and

(n) Requirements for processors to submit under oath to the department of health a complete list of all constituent substances and the amount and sources thereof in each marijuana vapor product, including all additives, thickening agents, preservatives, compounds, and any other substance used in the production and processing of each marijuana vapor product.

(2) Rules adopted on retail outlets holding medical marijuana endorsements must be adopted in coordination and consultation with the department.

(3) The board must adopt rules to perfect and expand existing programs for compliance education for licensed marijuana businesses and their employees. The rules must include a voluntary compliance program created in consultation with licensed marijuana businesses and their employees. The voluntary compliance program must include recommendations on abating violations of this chapter and rules adopted under this chapter.

NEW SECTION. Sec. 4. A new section is added to chapter 69.50 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, marijuana processors may incorporate in marijuana vapor products a characterizing flavor if the characterizing flavor is derived from botanical terpenes naturally occurring in the cannabis plant, regardless of source, and if the characterizing flavor mimics the terpene profile found in a cannabis plant. Characterizing flavors authorized under this section do not include any synthetic terpenes.

(2) If the board determines a characterizing flavor otherwise authorized under this section may pose a risk to public health or youth access, the board may, by rule adopted under RCW 69.50.342, prohibit the use in marijuana vapor products of such a characterizing flavor.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 18, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 134

[House Bill 2858]

COUNTY ASSESSORS--ASSESSMENT ROLLS FILING TIMELINE

AN ACT Relating to requirements for the filing of assessment rolls; and amending RCW 84.40.320.

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

Sec. 1. RCW 84.40.320 and 2016 c 202 s 49 are each amended to read as follows:

The assessor shall add up and note the amount of each column in the detail and assessment lists in such manner as prescribed or approved by the state department of revenue, as will provide a convenient and permanent record of assessment. The assessor shall also make, under proper headings, a certification of the assessment rolls and on the 15th day of July, or on the 15th day of August if the county legislative authority has extended the petition filing time limit from thirty to up to sixty days as authorized in RCW 84.40.038(1)(d), shall file the same with the clerk of the county board of equalization for the purpose of equalization by the said board. Such certificate shall be verified by an affidavit, substantially in the following form:

State of Washington, County, ss.

I,, Assessor, do solemnly swear that the assessment rolls and this certificate contain a correct and full list of all the real and personal property subject to taxation in this county for the assessment year (year), so far as I have been able to ascertain the same; and that the assessed value set down in the proper column, opposite the several kinds and descriptions of property, is in each case, except as otherwise provided by law, one hundred percent of the true and fair value of such property, to the best of my knowledge and belief, and that the assessment rolls and this certificate are correct, as I verily believe.

., Assessor.

Subscribed and sworn to before me this day of, (year) (L. S.), Auditor of county.

PROVIDED, That the failure of the assessor to complete the certificate shall in nowise invalidate the assessment. After the same has been duly equalized by the county board of equalization, the same shall be delivered to the county assessor.

- Passed by the House February 18, 2020.
- Passed by the Senate March 6, 2020.
- Approved by the Governor March 25, 2020.
- Filed in Office of Secretary of State March 26, 2020.

CHAPTER 135

[Substitute House Bill 2889]

UTILITY TAXES--DISCLOSURE

AN ACT Relating to utility tax disclosures; and adding a new section to chapter 35.92 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 35.92 RCW to read as follows:

(1) Any city or town that operates its own water, sewer or wastewater, or stormwater utility and imposes a fee or tax on the gross revenue of such a utility shall disclose the fee or tax rate to its utility customers. Such disclosure shall include statements, as applicable, that "the amount billed includes a fee or tax up to (dollar amount or percentage) calculated on the gross revenue of the water utility; a fee or tax up to (dollar amount or percentage) calculated on gross revenue of the sewer or wastewater utility; a fee or tax up to (dollar amount or percentage) calculated on the gross revenue of the stormwater utility."

(2) The disclosures required by this section must occur through at least one of the following methods:

- (a) On regular billing statements provided electronically or in written form;
- (b) On the city or town's web site, if the city or town provides written notice to customers or taxpayers that such information is available on its web site; or
- (c) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

Passed by the House March 9, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 136

[Third Substitute Senate Bill 5164]

VICTIMS OF HUMAN TRAFFICKING--PUBLIC ASSISTANCE

AN ACT Relating to providing public assistance to victims of certain crimes including human trafficking; amending RCW 74.04.005, 74.08A.120, and 74.09.035; adding a new section to chapter 74.04 RCW; and providing an effective date.

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

Sec. 1. RCW 74.04.005 and 2018 c 40 s 1 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

- (1) "Aged, blind, or disabled assistance program" means the program established under RCW 74.62.030.
- (2) "Applicant" means any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.
- (3) "Authority" means the health care authority.
- (4) "County or local office" means the administrative office for one or more counties or designated service areas.
- (5) "Department" means the department of social and health services.
- (6) "Director" means the director of the health care authority.
- (7) "Essential needs and housing support program" means the program established in RCW 43.185C.220.
- (8) "Federal aid assistance" means the specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which

payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(9) "Income" means:

(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him or her to decrease his or her need for public assistance or to aid in rehabilitating him or her or his or her dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In addition, for cash assistance the department may disregard income pursuant to RCW 74.08A.230 and 74.12.350.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(10) "Need" means the difference between the applicant's or recipient's standards of assistance for himself or herself and the dependent members of his or her family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his or her family.

(11) "Public assistance" or "assistance" means public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, benefits under RCW 74.62.030 and 43.185C.220, and federal aid assistance.

(12) "Recipient" means any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(13) "Resource" means any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent. The department may by rule designate resources that an applicant may retain and not be ineligible for public assistance because of such resources. Exempt resources shall include, but are not limited to:

(a) A home that an applicant, recipient, or their dependents is living in, including the surrounding property;

(b) Household furnishings and personal effects;

(c) One motor vehicle, other than a motor home, used and useful having an equity value not to exceed ten thousand dollars;

(d) A motor vehicle necessary to transport a household member with a physical disability. This exclusion is limited to one vehicle per person with a physical disability;

(e) All other resources, including any excess of values exempted, not to exceed six thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance;

(f) Applicants for or recipients of benefits under RCW 74.62.030 and 43.185C.220 shall have their eligibility based on resource limitations consistent with the temporary assistance for needy families program rules adopted by the department; and

(g) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property if:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(14) "Secretary" means the secretary of social and health services.

(15) "Standards of assistance" means the level of income required by an applicant or recipient to maintain a level of living specified by the department.

(16) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(17) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders, and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

(18)(a) "Victim of human trafficking" means a noncitizen and any qualifying family members who have:

(i) Filed or are preparing to file an application for T nonimmigrant status with the appropriate federal agency pursuant to 8 U.S.C. Sec. 1101(a)(15)(T), as it existed on January 1, 2020;

(ii) Filed or are preparing to file an application with the appropriate federal agency for status pursuant to 8 U.S.C. Sec. 1101(a)(15)(U), as it existed on January 1, 2020; or

(iii) Been harmed by either any violation of chapter 9A.40 or 9.68A RCW, or both, or by substantially similar crimes under federal law or the laws of any other state, and who:

(A) Are otherwise taking steps to meet the conditions for federal benefits eligibility under 22 U.S.C. Sec. 7105, as it existed on January 1, 2020; or

(B) Have filed or are preparing to file an application with the appropriate federal agency for status under 8 U.S.C. Sec. 1158.

(b)(i) "Qualifying family member" means:

(A) A victim's spouse and children; and

(B) When the victim is under twenty-one years of age, a victim's parents and unmarried siblings under the age of eighteen.

(ii) "Qualifying family member" does not include a family member who has been charged with or convicted of attempt, conspiracy, solicitation, or commission of any crime referenced in this subsection or described under 8 U.S.C. Sec. 1101(a)(15)(T) or (U) as either existed on January 1, 2020, when the crime is against a spouse who is a victim of human trafficking or against the child of a victim of human trafficking.

Sec. 2. RCW 74.08A.120 and 1999 c 120 s 4 are each amended to read as follows:

(1) The department may establish a food assistance program for legal immigrants and victims of human trafficking as defined in RCW 74.04.005 who are ineligible for the federal food stamp program.

(2) The rules for the state food assistance program shall follow exactly the rules of the federal food stamp program except for the provisions pertaining to immigrant status.

(3) The benefit under the state food assistance program shall be established by the legislature in the biennial operating budget.

(4) The department may enter into a contract with the United States department of agriculture to use the existing federal food stamp program coupon system for the purposes of administering the state food assistance program.

(5) In the event the department is unable to enter into a contract with the United States department of agriculture, the department may issue vouchers to eligible households for the purchase of eligible foods at participating retailers.

NEW SECTION. **Sec. 3.** A new section is added to chapter 74.04 RCW to read as follows:

Victims of human trafficking, as defined in RCW 74.04.005, are eligible for state family assistance programs as provided in rule on the effective date of this section, who otherwise meet program eligibility requirements.

Sec. 4. RCW 74.09.035 and 2013 2nd sp.s. c 10 s 7 are each amended to read as follows:

(1) To the extent of available funds, medical care services may be provided to:

(a) Victims of human trafficking, as defined in RCW 74.04.005, who are not eligible for medicaid under RCW 74.09.510, section 1902(a)(10)(A)(i)(VIII) of the social security act, or apple health for kids under RCW 74.09.470, who otherwise qualify for state family assistance programs under section 3 of this act;

(b) Persons eligible for the aged, blind, or disabled assistance program authorized in RCW 74.62.030 and who are not eligible for medicaid under RCW 74.09.510; and

~~((b))~~ (c) Persons eligible for essential needs and housing support under RCW 74.04.805 and who are not eligible for medicaid under RCW 74.09.510.

(2) Enrollment in medical care services may not result in expenditures that exceed the amount that has been appropriated in the operating budget. If it appears that continued enrollment will result in expenditures exceeding the appropriated level for a particular fiscal year, the department may freeze new enrollment and establish a waiting list of persons who may receive benefits only when sufficient funds are available.

(3) Determination of the amount, scope, and duration of medical care services shall be limited to coverage as defined by the authority, except that adult dental, and routine foot care shall not be included unless there is a specific appropriation for these services.

(4) The authority shall enter into performance-based contracts with one or more managed health care systems for the provision of medical care services under this section. The contract must provide for integrated delivery of medical and mental health services.

(5) The authority shall establish standards of assistance and resource and income exemptions, which may include deductibles and coinsurance provisions. In addition, the authority may include a prohibition against the voluntary assignment of property or cash for the purpose of qualifying for assistance.

(6) Eligibility for medical care services shall commence with the date of eligibility for the aged, blind, or disabled assistance program provided under RCW 74.62.030 or the date of eligibility for the essential needs and housing support program under RCW 74.04.805.

(7) To the extent possible, the authority must coordinate with the department of social and health services, food assistance programs for legal immigrants, state family assistance programs, and refugee cash assistance programs.

NEW SECTION. Sec. 5. This act takes effect February 1, 2022.

Passed by the Senate March 10, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 137

[Engrossed Second Substitute Senate Bill 5291]

ALTERNATIVES TO TOTAL CONFINEMENT--PERSONS WITH MINOR CHILDREN

AN ACT Relating to creating alternatives to total confinement for certain qualifying persons with minor children; amending RCW 9.94A.655 and 9.94A.6551; and reenacting and amending RCW 9.94A.030.

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

Sec. 1. RCW 9.94A.030 and 2019 c 331 s 5, 2019 c 271 s 6, 2019 c 187 s 1, and 2019 c 46 s 5007 are each reenacted and amended to read as follows:

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

(1) "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, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(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. However, when a defendant is charged with a recidivist offense, "criminal history" includes a vacated prior conviction for the sole purpose of establishing that such vacated prior conviction constitutes an element of the present recidivist offense as provided in RCW 9.94A.640(3)(b) and 9.96.060(5)(c).

(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); promoting commercial sexual abuse of a minor (RCW 9.68A.101); 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) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "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.

(22) "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.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual, whether pretrial or posttrial, through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

(25) "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.

(26) "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.

(27) "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.

(28) "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.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "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.

~~(32) ("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.~~

~~(33))~~ "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) Sexual exploitation;
- (p) 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;

(q) 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;

(r) Any other class B felony offense with a finding of sexual motivation;

(s) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(t) 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;

(u)(i) A prior conviction for indecent liberties under RCW 9A.44.100(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;

(v) 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 this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

~~((34))~~ (33) "Nonviolent offense" means an offense which is not a violent offense.

~~((35))~~ (34) "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 ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

~~((36))~~ (35) "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, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry 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, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

~~((37))~~ (36) "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) Hate Crime (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.

~~((38))~~ (37) "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 ~~((38))~~ (37)(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.

~~((39))~~ (38) "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; (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.

~~((40))~~ (39) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

~~((41))~~ (40) "Public school" has the same meaning as in RCW 28A.150.010.

~~((42))~~ (41) "Recidivist offense" means a felony offense where a prior conviction of the same offense or other specified offense is an element of the crime including, but not limited to:

(a) Assault in the fourth degree where domestic violence is pleaded and proven, RCW 9A.36.041(3);

(b) Cyberstalking, RCW 9.61.260(3)(a);

(c) Harassment, RCW 9A.46.020(2)(b)(i);

(d) Indecent exposure, RCW 9A.88.010(2)(c);

(e) Stalking, RCW 9A.46.110(5)(b) (i) and (iii);

(f) Telephone harassment, RCW 9.61.230(2)(a); and

(g) Violation of a no-contact or protection order, RCW 26.50.110(5).

~~((43))~~ (42) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, 26.26A, 26.26B, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

~~((44))~~ (43) "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.

~~((45))~~ (44) "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.

~~((46))~~ (45) "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.

~~((47))~~ (46) "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.

~~((48))~~ (47) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(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;

(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 RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, 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.

~~((49))~~ (48) "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.

~~((50))~~ (49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

~~((51))~~ (50) "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.

~~((52))~~ (51) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

~~((53))~~ (52) "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.

~~((54))~~ (53) "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.

~~((55))~~ (54) "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.

~~((56))~~ (55) "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.

~~((57))~~ (56) "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.

~~((58))~~ (57) "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.

~~((59))~~ (58) "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. 2. RCW 9.94A.655 and 2018 c 58 s 45 are each amended 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))~~ A felony ~~((that is a))~~ sex offense ~~((or))~~; a serious violent offense; or a felony offense where the offender was armed with a firearm or deadly weapon in the commission of the 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))~~ no current conviction for a violent offense;

(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))~~ is:

(i) A parent with physical custody of a minor child;

(ii) An expectant parent;

(iii) A legal guardian of a minor child; or

(iv) A biological parent, adoptive parent, custodian, or stepparent with a proven, established, ongoing, and substantial relationship with a minor child that existed at the time of the offense.

(2) Prior juvenile adjudications are not considered offenses when considering eligibility under this section, except for any sex offense, serious violent offense, or felony offense where the offender was armed with a firearm or deadly weapon in the commission of the offense.

(3) To assist the court in making its determination, the court may order the department to complete ~~((either))~~ a risk assessment report, including a family impact statement, or a chemical dependency screening report as provided in RCW 9.94A.500~~((, or both reports))~~ prior to sentencing.

~~((3))~~ (4) If the court is considering this alternative, the court shall request that the department contact the department of children, youth, and families 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 or child abuse or neglect investigation, the department will provide the release of information waiver and request that the department of children, youth, and families or the tribal child welfare agency provide a report to the court. The department of children, youth, and families shall ~~((provide a report))~~, within seven business days of the request: Provide a copy of the most recent court order entered in proceedings under chapter 13.34 or 13.36 RCW pertaining to the offender, and provide a report regarding whether the offender has been cooperative with services ordered by the court in those proceedings; or, if there is no court order or there has not been court involvement, provide a report that includes, at the minimum, the following:

(i) Legal status of the child welfare case or child protective services response;

(ii) Length of time the department of children, youth, and families has ~~((been involved with))~~ had an open child welfare case or child protective services response involving the offender; and

(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))~~.

(b) The department shall report to the court if the offender has been convicted of a crime against a child.

~~((b))~~ (c) 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 department of children, youth, and families in a timely manner.

~~((c))~~ (d) If the offender does not have an open child welfare case with the department of children, youth, and families or with a tribal child welfare agency but has prior involvement, the department will obtain information from the department of children, youth, and families on the number and type of past substantiated referrals of abuse or neglect and report that information to the court. If the department of children, youth, and families has never had any substantiated referrals or an open case with the offender, the department will inform the court.

~~((4))~~ (e) The existence of a prior substantiated referral of child abuse or neglect or of an open child welfare case does not, alone, disqualify the parent from applying or participating in this alternative. The court shall consider whether the child-parent relationship can be readily maintained during parental incarceration, and whether, due to the existence of an open child welfare case, parental incarceration exacerbates the likelihood of termination of the child-parent relationship.

(5) 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. The court shall also give great weight to the minor child's best interest.

~~((5))~~ (6) 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))~~ 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))~~ (7) 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 department of children, youth, and families.

~~((7))~~ (8)(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) At the commencement of such a hearing, the court shall advise the offender sentenced under this section of the offender's right to assistance of counsel and appoint counsel if the offender is indigent.

(c) If the offender is brought back to court, the court may modify the conditions of community custody or impose sanctions under ~~((e))~~ (d) of this subsection, including extending the length of participation in the alternative program by no more than six months.

~~((e))~~ (d) 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))~~ (e) An offender ordered to serve a term of total confinement under ~~((e))~~ (d) of this subsection shall receive credit for any time previously served in confinement under this section.

(f) An offender sentenced under this section is subject to all rules relating to earned release time with respect to any period served in total confinement.

(9) The state and its agencies, officers, agents, or employees are not liable for the acts of offenders participating in the sentencing alternative under this section unless the state or its agencies, officers, agents, or employees act with willful disregard of a known risk of immediate harm.

(10) For the purposes of this section:

(a) "Expectant parent" means a pregnant or other parent awaiting the birth of his or her child, or an adoptive parent or person in the process of a final adoption.

(b) "Minor child" means a child under the age of eighteen.

Sec. 3. RCW 9.94A.6551 and 2018 c 58 s 47 are each amended to read as follows:

For an offender(§) not sentenced under RCW 9.94A.655, 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 classified as a sex offense or a serious 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))~~ no current conviction for a violent offense, or where the offender has a current conviction for a violent offense, he or she has not been determined to be a high risk to reoffend;

(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 is:

(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))~~ A parent with guardianship or legal custody of a minor child;

~~(ii) An expectant parent; or~~

~~(iii) A biological parent, adoptive parent, custodian, or stepparent with a proven, established, ongoing, and substantial relationship with a minor child that existed at the time of the offense; and~~

(f) The department determines that ~~((such a placement))~~ the offender's participation in the parenting program is in the best interests of the child. Nothing in this section provides the department with authority to determine placement of a minor child.

(2) Except for sex offenses and serious violent offenses, prior juvenile adjudications are not considered offenses when considering eligibility for the parenting program developed by the department.

(3) 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 department of children, youth, and families whether the agency has an open child welfare case or prior substantiated referral for abuse or neglect involving the offender.

(4) If the department of children, youth, and families or a tribal jurisdiction has an open child welfare case, the department will seek input from the department of children, youth, and families 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~~), services agreed to by the offender working voluntarily with the department, or services ordered by the court within the ((individual's)) offender'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))~~ (5) 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))~~ (6) 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 after consideration of the offender's stated needs;

(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 department of children, youth, and families, collaborate and communicate with the identified social worker in the provision of services.

~~((5))~~ (7) 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.

(8) For the purposes of this section:

(a) "Expectant parent" means a pregnant or other parent awaiting the birth of his or her child, or an adoptive parent or person in the process of a final adoption.

(b) "Minor child" means a child under the age of eighteen.

Passed by the Senate March 10, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 25, 2020.

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CHAPTER 138

[Engrossed Substitute Senate Bill 5323]

PLASTIC BAGS--RETAIL ESTABLISHMENTS

AN ACT Relating to reducing pollution from plastic bags by establishing minimum state standards for the use of bags at retail establishments; reenacting and amending RCW 43.21B.110 and 43.21B.110; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 70 RCW; creating a new section; prescribing penalties; providing an effective date; and providing expiration dates.

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

NEW SECTION. Sec. 1. (1) State policy has long placed waste reduction as the highest priority in the collection, handling, and management of solid waste. Reducing plastic bag waste holds particular importance among state waste reduction efforts for a number of reasons:

(a) Single-use plastic carryout bags are made of nonrenewable resources and never biodegrade; instead, over time, they break down into tiny particles. Single-use plastic carryout bags, and the particles they break into, are carried into rivers, lakes, Puget Sound, and the world's oceans, posing a threat to animal life and the food chain;

(b) Plastic bags are one of the most commonly found items that litter state roads, beaches, and other public spaces; and

(c) Even when plastic bags avoid the common fate of becoming litter, they are a drain on public resources and a burden on environment and resource conservation goals. For example, if plastic bags are disposed of in commingled recycling systems rather than as garbage or in retailer drop-off programs, they clog processing and sorting machinery, resulting in missorted materials and costly inefficiencies that are ultimately borne by utility ratepayers. Likewise, when green or brown-tinted plastic bags confuse consumers into attempting to dispose of them as compost, the resultant plastic contamination undercuts the ability to use the compost in gardens, farms, landscaping, and surface water and transportation projects.

(2) Alternatives to single-use plastic carryout bags are convenient, functional, widely available, and measure as superior across most environmental performance metrics. Alternatives to single-use plastic carryout bags feature especially superior environmental performance with respect to litter and marine debris, since plastic bags do not biodegrade.

(3) As of 2020, many local governments in Washington have shown leadership in regulating the use of single-use plastic carryout bags. This local leadership has shown the value of establishing state standards that will streamline regulatory inconsistency and reduce burdens on covered retailers caused by a patchwork of inconsistent local requirements across the state.

(4) Data provided from grocery retailers has shown that requests for paper bags have skyrocketed where plastic bag bans have been implemented. To accommodate the anticipated consequences of a statewide plastic bag ban, it is rational to expect additional capacity will be needed in Washington state for manufacturing paper bags. The legislature intends to provide that capacity by prioritizing and expediting siting and permitting of expansions or reconfiguring for paper manufacturing.

(5) Therefore, in order to reduce waste, litter, and marine pollution, conserve resources, and protect fish and wildlife, it is the intent of the legislature to:

(a) Prohibit the use of single-use plastic carryout bags;

(b) Require a pass-through charge on recycled content paper carryout bags and reusable carryout bags made of film plastic, to encourage shoppers to bring their own reusable carryout bags;

(c) Require that bags provided by a retail establishment contain recycled content; and

(d) Encourage the provision of reusable and recycled content paper carryout bags by retail establishments.

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

(1) "Carryout bag" means any bag that is provided by a retail establishment at home delivery, the check stand, cash register, point of sale, or other point of departure to a customer for use to transport or carry away purchases.

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

(3) "Pass-through charge" means a charge to be collected and retained by retail establishments from their customers when providing recycled content paper carryout bags and reusable carryout bags made of film plastic.

(4) "Recycled content paper carryout bag" means a paper carryout bag provided by a retail establishment to a customer that meets the requirements in section 3(6)(a) of this act.

(5) "Retail establishment" means any person, corporation, partnership, business, facility, vendor, organization, or individual that sells or provides food, merchandise, goods, or materials directly to a customer including home delivery, temporary stores, or vendors at farmers markets, street fairs, and festivals.

(6) "Reusable carryout bag" means a carryout bag made of cloth or other durable material with handles that is specifically designed and manufactured for long-term multiple reuse and meets the requirements of section 3(6)(b) of this act.

(7) "Single-use plastic carryout bag" means any carryout bag that is made from plastic that is designed and suitable only to be used once and disposed.

NEW SECTION. **Sec. 3.** (1) Beginning January 1, 2021, except as provided in this section and section 4 of this act, a retail establishment may not provide to a customer or a person at an event:

(a) A single-use plastic carryout bag;

(b) A paper carryout bag or reusable carryout bag made of film plastic that does not meet recycled content requirements; or

(c) Beginning January 1, 2026, a reusable carryout bag made of film plastic with a thickness of less than four mils, in the event that the 2025 legislature does not amend this section to reflect the recommendations to the legislature made consistent with section 7 of this act.

(2)(a) A retail establishment may provide a reusable carryout bag or a recycled content paper carryout bag of any size to a customer at the point of sale. A retail establishment may make reusable carryout bags available to customers through sale.

(b)(i) Until December 31, 2025, a retail establishment must collect a pass-through charge of eight cents for every recycled content paper carryout bag with a manufacturer's stated capacity of one-eighth barrel (eight hundred eighty-two cubic inches) or greater or reusable carryout bag made of film plastic it provides, except as provided in subsection (5) of this section and section 4 of this act.

(ii) Beginning January 1, 2026, a retail establishment must collect a pass-through charge of twelve cents for reusable carryout bags made of film plastic and eight cents for recycled content paper carryout bags, in the event that the 2025 legislature does not amend this section to reflect the recommendations to the legislature made consistent with section 7 of this act. It is the intent of the legislature for the 2025 legislature to reassess the amount of the pass-through charge authorized under this subsection (2)(b), taking into consideration the content of the report to the legislature under section 7 of this act.

(c) A retail establishment must keep all revenue from pass-through charges. The pass-through charge is a taxable retail sale. A retail establishment must show all pass-through charges on a receipt provided to the customer.

(3) Carryout bags provided by a retail establishment do not include:

(a) Bags used by consumers inside stores to:

(i) Package bulk items, such as fruit, vegetables, nuts, grains, candy, greeting cards, or small hardware items such as nails, bolts, or screws;

(ii) Contain or wrap items where dampness or sanitation might be a problem including, but not limited to:

(A) Frozen foods;

(B) Meat;

(C) Fish;

(D) Flowers; and

(E) Potted plants;

(iii) Contain unwrapped prepared foods or bakery goods;

(iv) Contain prescription drugs; or

(v) Protect a purchased item from damaging or contaminating other purchased items when placed in a recycled content paper carryout bag or reusable carryout bag; or

(b) Newspaper bags, mailing pouches, sealed envelopes, door hanger bags, laundry/dry cleaning bags, or bags sold in packages containing multiple bags for uses such as food storage, garbage, or pet waste.

(4)(a) Any compostable film bag that a retail establishment provides to customers for products, including for products bagged in stores prior to checkout, must meet the requirements for compostable products and film bags in chapter 70.360 RCW.

(b) A retail establishment may not use or provide polyethylene or other noncompostable plastic bags for bagging of customer products in stores, as carryout bags, or for home delivery that do not meet the requirements for noncompostable products and film bags in chapter 70.360 RCW.

(5) Except as provided by local regulations enacted as of April 1, 2020, a retail establishment may provide a bag restricted under subsection (1) of this section from existing inventory until one year after the effective date of this section. The retail establishment, upon request by the department, must provide purchase invoices, distribution receipts, or other information documenting that the bag was acquired prior to the effective date of this section.

(6) For the purposes of this section:

(a) A recycled content paper carryout bag must:

(i) Contain a minimum of forty percent postconsumer recycled materials;

(ii) Be capable of composting, consistent with the timeline and specifications of the entire American society of testing materials D6868 and associated test methods that must be met, as it existed as of January 1, 2020; and

(iii) Display in print on the exterior of the paper bag the minimum percentage of postconsumer content.

(b) A reusable carryout bag must:

(i) Have a minimum lifetime of one hundred twenty-five uses, which for purposes of this subsection means the capacity to carry a minimum of twenty-two pounds one hundred twenty-five times over a distance of at least one hundred seventy-five feet;

(ii) Be machine washable or made from a durable material that may be cleaned or disinfected; and

(iii) If made of film plastic:

(A) Be made from a minimum of twenty percent postconsumer recycled content until July 1, 2022, and thereafter must be made from a minimum of forty percent postconsumer recycled content;

(B) Display in print on the exterior of the plastic bag the minimum percentage of postconsumer recycled content, the mil thickness, and that the bag is reusable; and

(C) Have a minimum thickness of no less than 2.25 mils until December 31, 2025, and beginning January 1, 2026, must have a minimum thickness of four mils.

(c) Except for the purposes of subsection (4) of this section, food banks and other food assistance programs are not retail establishments, but are encouraged to take actions to reduce the use of single-use plastic carryout bags.

NEW SECTION. Sec. 4. It is a violation of section 3 of this act for any retail establishment to pay or otherwise reimburse a customer for any portion of the pass-through charge; provided that retail establishments may not collect a pass-through charge from anyone using a voucher or electronic benefits card issued under the women, infants, and children (WIC) or temporary assistance for needy families (TANF) support programs, or the federal supplemental nutrition assistance program (SNAP, also known as basic food), or the Washington state food assistance program (FAP).

NEW SECTION. Sec. 5. (1) Until June 1, 2025, the department shall prioritize the expedited processing of applications for permits related to the expansion or reconfiguration of an existing pulp and paper mill for the purpose of manufacturing paper bags or raw materials used to manufacture paper bags.

(2) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

(3) The enforcement of this chapter must be based primarily on complaints filed with the department and local governments. The department must establish a forum for the filing of complaints. Local governments and any person may file complaints with the department using the forum and local governments may review complaints filed with the department via the forum for purposes of the local government carrying out education and outreach to retail establishments. The forum established by the department may include a complaint form on the department's web site, a telephone hotline, or a public outreach strategy relying upon electronic social media to receive complaints that allege violations. The department, in collaboration with the local governments, must provide education and outreach activities to inform retail establishments, consumers, and other interested individuals about the requirements of this chapter.

(4) The department or local government shall work with retail establishments, retail associations, unions, and other organizations to create educational elements regarding the ban and the benefits of reusable carryout bags. Educational elements may include signage at store locations, informational literature, and employee training by October 1, 2020.

(5) Retail establishments are encouraged to educate their staff to promote reusable bags as the best option for carryout bags and to post signs encouraging customers to use reusable carryout bags.

(6) A violation of this chapter is subject to a civil penalty of up to two hundred fifty dollars. Each calendar day of operation or activity in violation of this chapter comprises a new violation. Penalties issued under this section are appealable to the pollution control hearings board established in chapter 43.21B RCW.

(7) If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by July 1, 2020, from the waste reduction, recycling, and litter control account for purposes of implementing the education and outreach activities required under this section, then this act is null and void.

NEW SECTION. Sec. 6. (1) Except as provided in subsection (2) of this section, a city, town, county, or municipal corporation may not implement a local carryout bag ordinance. Except as provided in subsection (2) of this section, any carryout bag ordinance that was enacted as of April 1, 2020, is preempted by this chapter.

(2)(a) A city, town, county, or municipal corporation carryout bag ordinance enacted as of April 1, 2020, that has established a pass-through charge of ten cents is not preempted with respect to the amount of the pass-through charge until January 1, 2026.

(b) A city, town, county, or municipal corporation ordinance not specified in (a) of this subsection and enacted as of April 1 2020, is not preempted until January 1, 2021.

NEW SECTION. Sec. 7. (1) By December 1, 2024, the department of commerce, in consultation with the department, must submit a report to the appropriate committees of the legislature in order to allow an opportunity for the legislature to amend the mil thickness requirements for reusable carryout bags made of film plastic, the amount of the pass-through charges for bags, or to make other needed revisions to this chapter during the 2025 legislative session. The report required under this section must include:

(a) An assessment of the effectiveness of the pass-through charge for reducing the total volume of bags purchased and encouraging the use of reusable carryout bags;

(b) An assessment of the sufficiency of the amount of the pass-through charge allowed under chapter 70.--- RCW (the new chapter created in section 13 of this act) relative to the cost of the authorized bags to retail establishments and an assessment of the pricing and availability of various types of carryout bags. For purposes of conducting this assessment, the department and the department of commerce may request, but not require, retail establishments and bag distributors to furnish information regarding the cost of various types of paper and plastic carryout bags provided to retail establishments; and

(c) Recommendations for revisions to chapter 70.--- RCW (the new chapter created in section 13 of this act), if needed.

(2) This section expires July 1, 2027.

NEW SECTION. Sec. 8. A new section is added to chapter 82.04 RCW to read as follows:

In computing the tax due under this chapter, there may be deducted any amounts derived from the pass-through charge collected by a taxpayer pursuant to chapter 70.--- RCW (the new chapter created in section 13 of this act).

NEW SECTION. Sec. 9. RCW 82.32.805 and 82.32.808 do not apply to this act.

Sec. 10. RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10, and 2019 c 290 s 12 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, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, section 5 of this act, 70.365.070, 70.375.060, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 70.365.070, 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, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(m) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(n) Decisions of 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 by the hearings board 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.

(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. 11. RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10, and 2019 c 290 s 12 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, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, section 5 of this act, 70.365.070, 70.375.060, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 70.365.070, 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, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of 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 by the hearings board 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.

(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. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. Sections 1 through 7 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 14. Section 10 of this act expires June 30, 2021.

NEW SECTION. Sec. 15. Section 11 of this act takes effect June 30, 2021.

Passed by the Senate March 9, 2020.

Passed by the House March 7, 2020.

Approved by the Governor March 25, 2020.
 Filed in Office of Secretary of State March 26, 2020.

CHAPTER 139

[Engrossed Senate Bill 5402]

TAX AND LICENSING LAWS--DEPARTMENT OF REVENUE

AN ACT Relating to improving tax and licensing laws administered by the department of revenue, but not including changes to tax laws that are estimated to affect state or local tax collections as reflected in any fiscal note prepared and approved under the process established in chapter 43.88A RCW; amending RCW 19.02.085, 82.04.192, 82.04.4266, 82.04.4268, 82.04.4269, 82.04.4327, 82.04.4328, 82.08.0201, 82.08.0208, 82.08.025651, 82.08.02807, 82.08.155, 82.08.195, 82.08.806, 82.08.9651, 82.12.0208, 82.12.02749, 82.12.930, 82.12.956, 82.12.9651, 82.14.049, 82.14.400, 82.14.457, 82.16.0497, 82.16.055, 82.23A.010, 82.24.010, 82.24.551, 82.26.121, 82.26.130, 82.26.190, 82.26.200, 82.29A.060, 82.29A.120, 82.32.062, 82.32.300, 82.32.780, 82.60.025, 82.60.063, 82.63.010, 82.74.010, 82.75.010, 82.82.010, 82.85.030, 82.85.080, 84.36.840, 84.37.040, 84.38.040, 84.38.050, 84.38.110, 84.39.020, 84.39.030, 84.56.150, 82.32.805, 82.32.808, 35.90.020, 82.32.050, and 82.32.060; amending 2017 3rd sp.s. c 37 ss 501 and 504 (uncodified); reenacting and amending RCW 82.26.010; creating a new section; decodifying RCW 82.58.005, 82.58.901, and 82.58.902; repealing RCW 82.04.4322, 82.04.4324, 82.04.4326, 82.08.02081, 82.08.02082, 82.08.02087, 82.08.02088, 82.12.02081, 82.12.02082, 82.12.02084, 82.12.02085, 82.12.02086, 82.12.02087, 82.32.755, 82.32.760, 82.66.010, 82.66.020, 82.66.040, 82.66.050, 82.66.060, and 82.66.901; providing an effective date; and declaring an emergency.

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

Sec. 1. 2017 3rd sp.s. c 37 s 501 (uncodified) is amended to read as follows:

(1) This section is the tax preference performance statement for the tax preferences contained in sections 502 and 503, chapter 37, Laws of 2017 3rd sp. sess. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to induce certain designated behavior by taxpayers, improve industry competitiveness, and create or retain jobs, as indicated in RCW 82.32.808(2) (a) through (c).

(3) It is the legislature's specific public policy objective to maintain and expand business in the semiconductor cluster. It is the legislature's intent to extend by ten years the preferential tax rates for manufacturers and processors for hire of semiconductor materials in order to maintain and grow jobs in the semiconductor cluster.

(4) If a review finds that: (a) Since October 19, 2017, at least one project in the semiconductor cluster has located in Clark county, and that this project generates at least two thousand five hundred high-wage jobs, all of which pay twenty dollars per hour or more and at least eighty percent of which pay thirty-five dollars per hour or more; and (b) the number of jobs in the semiconductor cluster in Washington has increased since October 19, 2017, then the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to data from the department of revenue's annual survey (~~(data)~~) for tax years ending

before January 1, 2020, and annual tax performance report for subsequent tax years.

Sec. 2. 2017 3rd sp.s. c 37 s 504 (uncodified) is amended to read as follows:

(1) This section is the tax preference performance statement for the tax preferences contained in sections 505 through 508, chapter 37, Laws of 2017 3rd sp. sess. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to induce certain designated behavior by taxpayers, improve industry competitiveness, and create or retain jobs, as indicated in RCW 82.32.808(2) (a) through (c).

(3) It is the legislature's specific public policy objective to encourage significant construction projects; retain, expand, and attract semiconductor business; and encourage and expand family-wage jobs. It is the legislature's intent to extend by ten years the ~~((preferential tax rates))~~ exemptions for sales and use of gases and chemicals used in the production of semiconductor materials, in order to encourage the growth and retention of the semiconductor business in Washington, thereby strengthening Washington's competitiveness with other states for manufacturing investment.

(4) If a review finds that the number of construction projects in the industry has increased, and that ~~((the))~~ the number of people employed by the solar silicon, silicon manufacturing, and semiconductor fabrication industry in Washington is the same or more than in 2015, and that at least sixty percent of employees earn sixty thousand dollars a year, then the legislature intends to extend the expiration date of the tax preferences.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to data from the department of revenue's annual survey ~~((data))~~ for tax years ending before January 1, 2020, and annual tax performance report for subsequent tax years.

Sec. 3. RCW 19.02.085 and 2013 c 144 s 22 are each amended to read as follows:

(1) To encourage timely renewal by applicants, a business license delinquency fee is imposed on licensees who fail to renew by the business license expiration date. The business license delinquency fee must be the lesser of one hundred fifty dollars or fifty percent of a base comprised of the licensee's renewal fee minus corporate licensing taxes, corporation annual report fee, and any interest fees or penalties charged for late taxes or corporate renewals. The business license delinquency fee must be added to the renewal fee and paid by the licensee before a business license is renewed. The delinquency fee must be deposited in the business license account.

(2) The department must waive or cancel the business license delinquency fee imposed in subsection (1) of this section only if the department determines that the licensee failed to renew a license by the business license expiration date due to an undisputable error or failure by the department. For purposes of this

subsection, an error or failure is undisputable if the department is satisfied, beyond any doubt, that the error or failure occurred.

Sec. 4. RCW 82.04.192 and 2017 c 323 s 514 are each amended to read as follows:

(1) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones.

(2) "Digital audiovisual works" means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(3)(a) "Digital automated service," except as provided in (b) of this subsection (3), means any service transferred electronically that uses one or more software applications.

(b) "Digital automated service" does not include:

(i) Any service that primarily involves the application of human effort by the seller, and the human effort originated after the customer requested the service;

(ii) The loaning or transferring of money or the purchase, sale, or transfer of financial instruments. For purposes of this subsection (3)(b)(ii), "financial instruments" include cash, accounts receivable and payable, loans and notes receivable and payable, debt securities, equity securities, as well as derivative contracts such as forward contracts, swap contracts, and options;

(iii) Dispensing cash or other physical items from a machine;

(iv) Payment processing services;

(v) Parimutuel wagering and handicapping contests as authorized by chapter 67.16 RCW;

(vi) Telecommunications services and ancillary services as those terms are defined in RCW 82.04.065;

(vii) The internet and internet access as those terms are defined in RCW 82.04.297;

(viii) The service described in RCW 82.04.050(6)(c);

(ix) Online educational programs provided by a:

(A) Public or private elementary or secondary school; or

(B) An institution of higher education as defined in sections 1001 or 1002 of the federal higher education act of 1965 (Title 20 U.S.C. Secs. 1001 and 1002), as existing on July 1, 2009. For purposes of this subsection (3)(b)(ix)(B), an online educational program must be encompassed within the institution's accreditation;

(x) Live presentations, such as lectures, seminars, workshops, or courses, where participants are connected to other participants via the internet or telecommunications equipment, which allows audience members and the presenter or instructor to give, receive, and discuss information with each other in real time;

(xi) Travel agent services, including online travel services, and automated systems used by travel agents to book reservations;

(xii)(A) A service that allows the person receiving the service to make online sales of products or services, digital or otherwise, using either: (I) The service provider's web site; or (II) the service recipient's web site, but only when the service provider's technology is used in creating or hosting the service

recipient's web site or is used in processing orders from customers using the service recipient's web site.

(B) The service described in this subsection (3)(b)(xii) does not include the underlying sale of the products or services, digital or otherwise, by the person receiving the service;

(xiii) Advertising services. For purposes of this subsection (3)(b)(xiii), "advertising services" means all services directly related to the creation, preparation, production, or the dissemination of advertisements. Advertising services include layout, art direction, graphic design, mechanical preparation, production supervision, placement, and rendering advice to a client concerning the best methods of advertising that client's products or services. Advertising services also include online referrals, search engine marketing and lead generation optimization, web campaign planning, the acquisition of advertising space in the internet media, and the monitoring and evaluation of web site traffic for purposes of determining the effectiveness of an advertising campaign. Advertising services do not include web hosting services and domain name registration;

(xiv) The mere storage of digital products, digital codes, computer software, or master copies of software. This exclusion from the definition of digital automated services includes providing space on a server for web hosting or the backing up of data or other information;

(xv) Data processing services. For purposes of this subsection (3)(b)(xv), "data processing service" means a primarily automated service provided to a business or other organization where the primary object of the service is the systematic performance of operations by the service provider on data supplied in whole or in part by the customer to extract the required information in an appropriate form or to convert the data to usable information. Data processing services include check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities. Data processing does not include the service described in RCW 82.04.050(6)(c); and

(xvi) Digital goods.

(4) "Digital books" means works that are generally recognized in the ordinary and usual sense as books.

(5) "Digital code" means a code that provides a purchaser with the right to obtain one or more digital products, if all of the digital products to be obtained through the use of the code have the same sales and use tax treatment. "Digital code" does not include a code that represents a stored monetary value that is deducted from a total as it is used by the purchaser. "Digital code" also does not include a code that represents a redeemable card, gift card, or gift certificate that entitles the holder to select digital products of an indicated cash value. A digital code may be obtained by any means, including email or by tangible means regardless of its designation as song code, video code, book code, or some other term.

(6)(a) "Digital goods," except as provided in (b) of this subsection (6), means sounds, images, data, facts, or information, or any combination thereof, transferred electronically, including, but not limited to, specified digital products and other products transferred electronically not included within the definition of specified digital products.

(b) The term "digital goods" does not include:

(i) Telecommunications services and ancillary services as those terms are defined in RCW 82.04.065;

(ii) Computer software as defined in RCW 82.04.215;

(iii) The internet and internet access as those terms are defined in RCW 82.04.297;

(iv)(A) Except as provided in (b)(iv)(B) of this subsection (6), the representation of a personal or professional service in electronic form, such as an electronic copy of an engineering report prepared by an engineer, where the service primarily involves the application of human effort by the service provider, and the human effort originated after the customer requested the service.

(B) The exclusion in (b)(iv)(A) of this subsection (6) does not apply to photographers in respect to amounts received for the taking of photographs that are transferred electronically to the customer, but only if the customer is an end user, as defined in RCW 82.04.190(11), of the photographs. Such amounts are considered to be for the sale of digital goods; and

(v) Services and activities excluded from the definition of digital automated services in subsection (3)(b)(i) through (xv) of this section and not otherwise described in (b)(i) through (iv) of this subsection (6).

(7) "Digital products" means digital goods and digital automated services.

(8) "Electronically transferred" or "transferred electronically" means obtained by the purchaser by means other than tangible storage media. It is not necessary that a copy of the product be physically transferred to the purchaser. So long as the purchaser may access the product, it will be considered to have been electronically transferred to the purchaser.

(9) "Specified digital products" means electronically transferred digital audiovisual works, digital audio works, and digital books.

(10) "Subscription radio services" means the sale of audio programming by a radio broadcaster as defined in RCW (~~(82.08.02081)~~) 82.08.0208, except as otherwise provided in this subsection. "Subscription radio services" does not include audio programming that is sold on a pay-per-program basis or that allows the buyer to access a library of programs at any time for a specific charge for that service.

(11) "Subscription television services" means the sale of video programming by a television broadcaster as defined in RCW (~~(82.08.02081)~~) 82.08.0208, except as otherwise provided in this subsection. "Subscription television services" does not include video programming that is sold on a pay-per-program basis or that allows the buyer to access a library of programs at any time for a specific charge for that service, but only if the seller is not subject to a franchise fee in this state under the authority of Title 47 U.S.C. Sec. 542(a) on the gross revenue derived from the sale.

Sec. 5. RCW 82.04.4266 and 2015 3rd sp.s. c 6 s 202 are each amended to read as follows:

(1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) Selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or

vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) For purposes of this section, "fruits" and "vegetables" do not include marijuana, useable marijuana, or marijuana-infused products.

(3) A person claiming the exemption provided in this section must file a complete annual ~~((survey))~~ tax performance report with the department under RCW ~~((82.32.585))~~ 82.32.534.

(4) This section expires July 1, 2025.

Sec. 6. RCW 82.04.4268 and 2015 3rd sp.s. c 6 s 203 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax, the value of products or the gross proceeds of sales derived from:

(a) Manufacturing dairy products; or

(b) Selling dairy products manufactured by the seller to purchasers who either transport in the ordinary course of business the goods out of this state or purchasers who use such dairy products as an ingredient or component in the manufacturing of a dairy product. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state or sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product.

(2) "Dairy products" has the same meaning as provided in RCW 82.04.260.

(3) A person claiming the exemption provided in this section must file a complete annual ~~((survey))~~ tax performance report with the department under RCW ~~((82.32.585))~~ 82.32.534.

(4) This section expires July 1, 2025.

Sec. 7. RCW 82.04.4269 and 2015 3rd sp.s. c 6 s 204 are each amended to read as follows:

(1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or

(b) Selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) A person claiming the exemption provided in this section must file a complete annual ~~((survey))~~ tax performance report with the department under RCW ~~((82.32.585))~~ 82.32.534.

(3) This section expires July 1, 2025.

Sec. 8. RCW 82.04.4327 and 1985 c 471 s 6 are each amended to read as follows:

In computing tax (~~(there may be deducted)~~) under this chapter, an artistic or cultural organization may deduct from the measure of tax (those):

~~(1) All amounts received by the artistic or cultural (organizations which represent income derived from business activities conducted by the organization) organization; and~~

(2) The value of articles manufactured by the artistic or cultural organization solely for use by the organization in displaying art objects or presenting artistic or cultural exhibitions, performances, or programs for attendance or viewing by the general public.

Sec. 9. RCW 82.04.4328 and 1985 c 471 s 7 are each amended to read as follows:

(1) For the purposes of RCW (~~(82.04.4322, 82.04.4324, 82.04.4326,)~~ 82.04.4327, 82.08.031, and 82.12.031, the term "artistic or cultural organization" means an organization (~~(which)~~ that is organized and operated exclusively for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs, as defined in subsection (2) of this section, for viewing or attendance by the general public. The organization must be a not-for-profit corporation under chapter 24.03 RCW and managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or by a corporation sole under chapter 24.12 RCW. In addition, to qualify for deduction or exemption from taxation under RCW (~~(82.04.4322, 82.04.4324, 82.04.4326,)~~ 82.04.4327, 82.08.031, and 82.12.031, the corporation (~~(shall)~~ must satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation which also would be entitled to the exemption;

(d) The corporation must be duly licensed or certified when licensing or certification is required by law or regulation;

(e) The amounts received that qualify for exemption must be used for the activities for which the exemption is granted;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The director of revenue (~~(shall)~~ must have access to its books in order to determine whether the corporation is exempt from taxes.

(2) The term "artistic or cultural exhibitions, presentations, or performances or cultural or art education programs" includes and is limited to:

(a) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(b) A musical or dramatic performance or series of performances; or

(c) An educational seminar or program, or series of such programs, offered by the organization to the general public on an artistic, cultural, or historical subject.

Sec. 10. RCW 82.08.0201 and 1992 c 194 s 10 are each amended to read as follows:

Before January 1, 1994, and January 1st of each odd-numbered year thereafter:

The department of licensing, with the assistance of the department of revenue, (~~shall~~) must provide the office of financial management and the fiscal committees of the legislature with an updated estimate of the amount of revenue attributable to the taxes imposed in RCW 82.08.020(2)(~~and the amount of revenue not collected as a result of RCW 82.44.023~~)).

Sec. 11. RCW 82.08.0208 and 2009 c 535 s 501 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to the sale of a digital code for one or more digital products if the sale of the digital products to which the digital code relates is exempt from the tax levied by RCW 82.08.020.

(2)(a) The tax imposed by RCW 82.08.020 does not apply to a business or other organization for the purpose of making the digital good or digital automated service, including a digital good or digital automated service acquired through the use of a digital code, or service defined as a retail sale in RCW 82.04.050(6)(c), available free of charge for the use or enjoyment of the general public. The exemption provided in this subsection (2) does not apply unless the purchaser has the legal right to broadcast, rebroadcast, transmit, retransmit, license, relicense, distribute, redistribute, or exhibit the product, in whole or in part, to the general public.

(b) For purposes of this subsection (2), "general public" means all persons and not limited or restricted to a particular class of persons, except that the general public includes:

(i) A class of persons that is defined as all persons residing or owning property within the boundaries of a state, political subdivision of a state, or a municipal corporation; and

(ii) With respect to libraries, authorized library patrons.

(3)(a) The tax imposed by RCW 82.08.020 does not apply to the sale to a business of digital goods, and services rendered in respect to digital goods, if the digital goods and services rendered in respect to digital goods are purchased solely for business purposes. The exemption provided by this subsection (3) also applies to the sale to a business of a digital code if all of the digital goods to be obtained through the use of the code will be used solely for business purposes.

(b) For purposes of this subsection (3), the following definitions apply:

(i) "Business purposes" means any purpose relevant to the business needs of the taxpayer claiming an exemption under this subsection (3). Business purposes do not include any personal, family, or household purpose. The term also does not include any activity conducted by a government entity as that term is defined in RCW 7.25.005; and

(ii) "Services rendered in respect to digital goods" means those services defined as a retail sale in RCW 82.04.050(2)(g).

(4)(a) The tax imposed by RCW 82.08.020 does not apply to the sale of digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) to a buyer that provides the seller with an exemption certificate claiming multiple points of use. An exemption certificate claiming multiple points of use must be in a form and contain such information as required by the department.

(b) A buyer is entitled to use an exemption certificate claiming multiple points of use only if the buyer is a business or other organization and the digital goods or digital automated services purchased, or the digital goods or digital automated services to be obtained by the digital code purchased, or the prewritten computer software or services defined as a retail sale in RCW 82.04.050(6)(c) purchased will be concurrently available for use within and outside this state. A buyer is not entitled to use an exemption certificate claiming multiple points of use for digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) purchased for personal use.

(c) A buyer claiming an exemption under this subsection (4) must report and pay the tax imposed in RCW 82.12.020 and any local use taxes imposed under the authority of chapter 82.14 RCW and RCW 81.104.170 directly to the department in accordance with RCW 82.12.0208 and 82.14.457.

(d) For purposes of this subsection (4), "concurrently available for use within and outside this state" means that employees or other agents of the buyer may use the digital goods, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) simultaneously from one or more locations within this state and one or more locations outside this state. A digital code is concurrently available for use within and outside this state if employees or other agents of the buyer may use the digital goods or digital automated services to be obtained by the code simultaneously at one or more locations within this state and one or more locations outside this state.

(5)(a) Except as provided in (b) of this subsection (5), the tax imposed by RCW 82.08.020 does not apply to sales of audio or video programming by a radio or television broadcaster.

(b)(i) Except as provided in (b)(ii) of this subsection (5), the exemption provided in this subsection (5) does not apply in respect to programming that is sold on a pay-per-program basis or that allows the buyer to access a library of programs at any time for a specific charge for that service.

(ii) The exemption provided in this subsection (5) applies to the sale of programming described in (b)(i) of this subsection (5) if the seller is subject to a franchise fee in this state under the authority of Title 47 U.S.C. Sec. 542(a) on the gross revenue derived from the sale.

(c) For purposes of this subsection (5), "radio or television broadcaster" includes satellite radio providers, satellite television providers, cable television providers, and providers of subscription internet television.

(6) Sellers making tax-exempt sales under subsection (2) or (3) of this section must obtain an exemption certificate from the buyer in a form and manner prescribed by the department. The seller must retain a copy of the exemption certificate for the seller's files. In lieu of an exemption certificate, a

seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement.

Sec. 12. RCW 82.08.025651 and 2011 c 23 s 4 are each amended to read as follows:

(1)(a) The tax levied by RCW 82.08.020 does not apply to sales to a public research institution of machinery and equipment used primarily in a research and development operation, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the machinery and equipment.

(b) Sellers making tax-exempt sales under this section must obtain from the purchaser an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(2) A public research institution claiming the exemption provided in this section must file a complete annual ~~((survey))~~ tax performance report with the department under RCW ~~((82.32.585))~~ 82.32.534.

(3) For purposes of this section, the following definitions apply:

(a) "Machinery and equipment" means those fixtures, pieces of equipment, digital goods, and support facilities that are an integral and necessary part of a research and development operation, and tangible personal property that becomes an ingredient or component of such fixtures, equipment, and support facilities, including repair parts and replacement parts. "Machinery and equipment" may include, but is not limited to: Computers; software; data processing equipment; laboratory equipment, instrumentation, and other devices used in a process of experimentation to develop a new or improved pilot model, plant process, product, formula, or invention; vats, tanks, and fermenters; operating structures; and all equipment used to control, monitor, or operate the machinery and equipment.

(b) "Machinery and equipment" does not include:

(i) Hand-powered tools;

(ii) Property with a useful life of less than one year;

(iii) Buildings; and

(iv) Those building fixtures that are not an integral and necessary part of a research and development operation and that are permanently affixed to and become a physical part of a building, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical.

(c) "Primarily" means greater than fifty percent as measured by time. If machinery and equipment is used simultaneously in a research and development operation and also for other purposes, the use for other purposes must be disregarded during the period of simultaneous use for purposes of determining whether the machinery and equipment is used primarily in a research and development operation.

(d) "Public research institution" means any college or university included within the definitions of state universities, regional universities, or state college in RCW 28B.10.016.

(e) "Research and development operation" means engaging in research and development as defined in RCW 82.63.010.

Sec. 13. RCW 82.08.02807 and 2014 c 97 s 306 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 (~~(shall)~~) does not apply to the sales of medical supplies, chemicals, or materials to an organ procurement organization exempt under RCW 82.04.326. This exemption does not apply to the sale of construction materials, office equipment, building equipment, administrative supplies, or vehicles.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Chemical" means any catalyst, solvent, water, acid, oil, or other additive that physically or chemically interacts with blood, bone, or tissue.

(b) "Materials" means any item of tangible personal property including, but not limited to, bags, packs, collecting sets, filtering materials, testing reagents, antisera, and refrigerants, used or consumed in performing research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue.

(c) "Medical supplies" means any item of tangible personal property, including any repair and replacement parts for such tangible personal property, used by an organ procurement organization exempt under RCW 82.04.326 for the purpose of performing research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue. The term includes tangible personal property used to:

(i) Provide preparatory treatment of blood, bone, or tissue;

(ii) Control, guide, measure, tune, verify, align, regulate, test, or physically support blood, bone, or tissue; or

(iii) Protect the health and safety of employees or others present during research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue.

Sec. 14. RCW 82.08.155 and 2012 c 39 s 1 are each amended to read as follows:

(1)(a) If the department determines that a taxpayer is more than thirty days delinquent in reporting or remitting spirits taxes on a tax return or assessed by the department, including any applicable penalties and interest on such taxes, the department may request that the liquor (~~(control)~~) and cannabis board suspend the taxpayer's spirits license or licenses and refuse to renew any existing spirits license held by the taxpayer or issue any new spirits license to the taxpayer. The department must provide written notice to the affected taxpayer of the department's request to the liquor (~~(control)~~) and cannabis board.

(b) Before the department may make a request to the liquor (~~(control)~~) and cannabis board as authorized in (a) of this subsection (1), the department must have provided the taxpayer with at least seven calendar days prior written notice. This notice must inform the taxpayer that the department intends to request that the liquor (~~(control)~~) and cannabis board suspend the taxpayer's spirits license or licenses and refuse to renew any existing license of the taxpayer or issue any new spirits license to the taxpayer unless, within seven calendar days of the date of the notice, the taxpayer submits any unfiled tax returns for reporting spirits taxes and remits full payment of its outstanding spirits tax liability to the department or negotiates payment arrangements for the unpaid spirits taxes. The notice required by this subsection (1)(b) must include information listing any unfiled tax returns; the amount of unpaid spirits taxes, including any applicable penalties and interest; who to contact to inquire about payment arrangements;

and that the taxpayer may seek administrative review by the department of the notice, and the deadline for seeking such review. Nothing in this subsection (1)(b) requires the department to enter into any payment arrangement proposed by a taxpayer if the department determines that the taxpayer's proposal is not satisfactory.

(c) The department may not make a request to the liquor ~~((control))~~ and cannabis board under (a) of this subsection ~~((1)(a) of this section))~~ relating to any spirits taxes that are the subject of pending administrative review by the department.

(2) A taxpayer's right to administrative review of the notice required in subsection (1)(b) of this section:

(a) May be conducted under any rule adopted pursuant to RCW 82.01.060(4) or as a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494; and

(b) Does not include the right to challenge the amount of any spirits taxes assessed by the department if the taxpayer previously sought or could have sought administrative review of the assessment as provided in RCW 82.32.160.

(3) The notices required by this section may be provided electronically in accordance with RCW 82.32.135.

(4) For purposes of this section:

(a) "Spirits license" has the same meaning as in RCW 66.24.010(3)(c); and

(b) "Spirits taxes" means the taxes imposed in RCW 82.08.150.

Sec. 15. RCW 82.08.195 and 2010 c 111 s 601 are each amended to read as follows:

(1) Except as provided in subsection (6) of this section, a bundled transaction is subject to the tax imposed by RCW 82.08.020 if the retail sale of any of its component products would be subject to the tax imposed by RCW 82.08.020.

(2) The transactions described in RCW 82.08.190(4) (a) and (b) are subject to the tax imposed by RCW 82.08.020 if the service that is the true object of the transaction is subject to the tax imposed by RCW 82.08.020. If the service that is the true object of the transaction is not subject to the tax imposed by RCW 82.08.020, the transaction is not subject to the tax imposed by RCW 82.08.020.

(3) The transaction described in RCW 82.08.190(4)(c) is not subject to the tax imposed by RCW 82.08.020.

(4) The transaction described in RCW 82.08.190(4)(d) is not subject to the tax imposed by RCW 82.08.020.

(5) In the case of a bundled transaction that includes any of the following: Telecommunications service, ancillary service, internet access, or audio or video programming service:

(a) If the price is attributable to products that are taxable and products that are not taxable, the portion of the price attributable to the nontaxable products are subject to the tax imposed by RCW 82.08.020 unless the seller can identify by reasonable and verifiable standards the portion from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes;

(b) If the price is attributable to products that are subject to tax at different tax rates, the total price is attributable to the products subject to the tax at the highest tax rate unless the seller can identify by reasonable and verifiable

standards the portion of the price attributable to the products subject to the tax imposed by RCW 82.08.020 at the lower rate from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes.

(6) The tax imposed by RCW 82.08.020 does not apply in respect to a bundled transaction consisting entirely of the sale of services or of services and prepared food, if the sale is to a resident, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. A single bundled transaction involving both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" has the same meaning as in RCW 82.08.0293.

(7) In the case of the sale of a code that provides a purchaser with the right to obtain more than one digital product or one or more digital products and other products or services, and all of the products and services, digital or otherwise, to be obtained through the use of the code do not have the same sales and use tax treatment, for purposes of the tax imposed by RCW 82.08.020:

(a) The transaction is deemed to be the sale of the products and services to be obtained through the use of the code; and

(b)(i) The tax imposed by RCW 82.08.020 applies to the entire selling price of the code, except as provided in (b)(ii) of this subsection (7).

(ii) If the seller can identify by reasonable and verifiable standards the portion of the selling price attributable to the products and services that are not subject to the tax imposed by RCW 82.08.020 from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes, the tax imposed by RCW 82.08.020 does not apply to that portion of the selling price of the code attributable to the products and services that are not subject to the tax imposed by RCW 82.08.020 nor to that portion of the selling price of the code attributable to any digital goods, the sale of which is exempt under RCW (~~(82.08.02087)~~) 82.08.0208(3).

Sec. 16. RCW 82.08.806 and 2011 c 174 s 204 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales, to a printer or publisher, of computer equipment, including repair parts and replacement parts for such equipment, when the computer equipment is used primarily in the printing or publishing of any printed material, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the computer equipment. This exemption applies only to computer equipment not otherwise exempt under RCW 82.08.02565.

(2) A person taking the exemption under this section must keep records necessary for the department to verify eligibility under this section. This exemption is available only when the purchaser provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) The definitions in this subsection (3) apply throughout this section, unless the context clearly requires otherwise.

(a) "Computer" has the same meaning as in RCW 82.04.215.

(b) "Computer equipment" means a computer and the associated physical components that constitute a computer system, including monitors, keyboards, printers, modems, scanners, pointing devices, and other computer peripheral equipment, cables, servers, and routers. "Computer equipment" also includes digital cameras and computer software.

(c) "Computer software" has the same meaning as in RCW 82.04.215.

(d) "Primarily" means greater than fifty percent as measured by time.

(e) "Printer or publisher" means a person, as defined in RCW 82.04.030, who is subject to tax under RCW 82.04.260(~~((13))~~) (14) or 82.04.280(1)(a).

(4) "Computer equipment" does not include computer equipment that is used primarily for administrative purposes including but not limited to payroll processing, accounting, customer service, telemarketing, and collection. If computer equipment is used simultaneously for administrative and nonadministrative purposes, the administrative use must be disregarded during the period of simultaneous use for purposes of determining whether the computer equipment is used primarily for administrative purposes.

Sec. 17. RCW 82.08.9651 and 2017 3rd sp.s. c 37 s 506 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) Any person who has claimed the (~~(preferential tax rate)~~) exemption under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if:

(a) The number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the (~~(preferential tax rate)~~) exemption is claimed; or

(b) The person is subject to a review under section 501(4)(a), chapter 37, Laws of 2017 3rd sp. sess. and such person does not meet performance criteria in section 501(4)(a), chapter 37, Laws of 2017 3rd sp. sess.

(5) This section expires December 1, 2028.

Sec. 18. RCW 82.12.0208 and 2009 c 535 s 601 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of a digital code for one or more digital products, if the use of the digital products to which the digital code relates is exempt from the tax levied by RCW 82.12.020.

(2) The provisions of this chapter do not apply to the use by a business or other organization of digital goods, digital codes, digital automated services, or services defined as a retail sale in RCW 82.04.050(6)(c) for the purpose of making the digital good or digital automated service, including a digital good or digital automated service acquired through the use of a digital code, or service defined as a retail sale in RCW 82.04.050(6)(c) available free of charge for the use or enjoyment of the general public. For purposes of this subsection (2), "general public" has the same meaning as in RCW 82.08.0208. The exemption provided in this subsection (2) does not apply unless the user has the legal right to broadcast, rebroadcast, transmit, retransmit, license, relicense, distribute, redistribute, or exhibit the product, in whole or in part, to the general public.

(3) The provisions of this chapter do not apply to the use by students of digital goods furnished by a public or private elementary or secondary school, or an institution of higher education as defined in section 1001 or 1002 of the federal higher education act of 1965 (Title 20 U.S.C. Secs. 1001 and 1002), as existing on July 1, 2009.

(4)(a) The provisions of this chapter do not apply in respect to the use of digital goods that are:

- (i) Of a noncommercial nature, such as personal email communications;
- (ii) Created solely for an internal audience; or
- (iii) Created solely for the business needs of the person who created the digital good, including business email communications, but not including the type of digital good that is offered for sale.

(b) This subsection (4) does not apply to the use of any digital goods purchased by the user, the user's donor, or anybody on the user's behalf.

(5) The provisions of this chapter do not apply in respect to the use of digital products or digital codes obtained by the end user free of charge.

(6) The provisions of this chapter do not apply to the use by a business of digital goods, and services rendered in respect to digital goods, where the digital goods and services rendered in respect to digital goods are used solely for business purposes. The exemption provided by this subsection (6) also applies to the use by a business of a digital code if all of the digital goods to be obtained through the use of the code will be used solely for business purposes. For purposes of this subsection (6), the definitions in RCW 82.08.0208 apply.

(7)(a) A business or other organization subject to the tax imposed in RCW 82.12.020 on the use of digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) that are concurrently available for use within and outside this state is entitled to apportion the amount of tax due this state based on users in this state compared to users everywhere. The department may authorize or require an alternative method of apportionment supported by the taxpayer's records that fairly reflects the proportion of in-state to out-of-state use by the taxpayer of the digital goods, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c).

(b) No apportionment under this subsection (7) is allowed unless the apportionment method is supported by the taxpayer's records kept in the ordinary course of business.

(c) For purposes of this subsection (7), the following definitions apply:

(i) "Concurrently available for use within and outside this state" means that employees or other agents of the taxpayer may use the digital goods, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) simultaneously at one or more locations within this state and one or more locations outside this state. A digital code is concurrently available for use within and outside this state if employees or other agents of the taxpayer may use the digital goods or digital automated services to be obtained by the code simultaneously at one or more locations within this state and one or more locations outside this state; and

(ii) "User" means an employee or agent of the taxpayer who is authorized by the taxpayer to use the digital goods, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) in the performance of his or her duties as an employee or other agent of the taxpayer.

(8)(a) Except as provided in (b) of this subsection (8), the provisions of this chapter do not apply to the use of audio or video programming provided by a radio or television broadcaster.

(b)(i) Except as provided in (b)(ii) of this subsection (8), the exemption provided in this subsection (8) does not apply in respect to programming that is sold on a pay-per-program basis or that allows the buyer to access a library of programs at any time for a specific charge for that service.

(ii) The exemption provided in this subsection (8) applies to the sale of programming described in (b)(i) of this subsection (8) if the seller is subject to a franchise fee in this state under the authority of Title 47 U.S.C. Sec. 542(a) on the gross revenue derived from the sale.

(c) For purposes of this subsection (8), "radio or television broadcaster" includes satellite radio providers, satellite television providers, cable television providers, providers of subscription internet television, and persons who provide radio or television broadcasting to listeners or viewers for no charge.

Sec. 19. RCW 82.12.02749 and 2002 c 113 s 3 are each amended to read as follows:

The tax levied by RCW 82.08.020 (~~shall~~) does not apply to the use of medical supplies, chemicals, or materials by an organ procurement organization exempt under RCW 82.04.326. The definitions of medical supplies, chemicals, and materials in RCW (~~82.04.324~~) 82.08.02807 apply to this section. This exemption does not apply to the use of construction materials, office equipment, building equipment, administrative supplies, or vehicles.

Sec. 20. RCW 82.12.930 and 2003 c 5 s 17 are each amended to read as follows:

The provisions of this chapter do not apply with respect to the use by municipal corporations, the state, and all political subdivisions thereof of tangible personal property consumed and/or of labor and services as defined in RCW 82.04.050(2)(a) rendered in respect to contracts for watershed protection and/or flood prevention. This exemption is limited to that portion of the selling

price that is reimbursed by the United States government according to the provisions of the watershed protection and flood prevention act (68 Stat. 666; 16 U.S.C. Sec. ~~((404))~~ 1001 et seq.).

***Sec. 21.** RCW 82.12.956 and 2013 2nd sp.s. c 13 s 1003 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of hog fuel for production of electricity, steam, heat, or biofuel.

(2) For the purposes of this section:

(a) "Biofuel" has the same meaning as provided in RCW 82.08.956; and

(b) "Hog fuel" has the same meaning as provided in RCW 82.08.956(~~and~~

~~(b) "Biofuel" has the same meaning as provided in RCW 43.325.010).~~

(3) This section expires June 30, 2024.

**Sec. 21 was vetoed. See message at end of chapter.*

Sec. 22. RCW 82.12.9651 and 2017 3rd sp.s. c 37 s 508 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) Any person who has claimed the (~~(preferential tax rate)~~) exemption under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if:

(a) The number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the (~~(preferential tax rate)~~) exemption is claimed; or

(b) The person is subject to a review under section 501(4)(a), chapter 37, Laws of 2017 3rd sp. sess. and such person does not meet performance criteria in section 501(4)(a), chapter 37, Laws of 2017 3rd sp. sess.

(5) This section expires December 1, 2028.

Sec. 23. RCW 82.14.049 and 2011 c 174 s 107 are each amended to read as follows:

(1) The legislative authority of any county may impose a sales and use tax, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the county that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax is one percent of the selling price in the case of a sales tax

or rental value of the vehicle in the case of a use tax. Proceeds of the tax may not be used to subsidize any professional sports team and must be used solely for the following purposes:

(a) Acquiring, constructing, maintaining, or operating public sports stadium facilities;

(b) Engineering, planning, financial, legal, or professional services incidental to public sports stadium facilities;

(c) Youth or amateur sport activities or facilities; or

(d) Debt or refinancing debt issued for the purposes of subsection (1) of this section.

(2) In a county of one million or more, at least seventy-five percent of the tax imposed under this section must be used to retire the debt on the stadium under RCW 67.28.180(2)(b)((~~it~~)) (i)(B), until that debt is fully retired.

Sec. 24. RCW 82.14.400 and 2000 c 240 s 1 are each amended to read as follows:

(1) Upon the joint request of a metropolitan park district, a city with a population of more than one hundred fifty thousand, and a county legislative authority in a county with a national park and a population of more than five hundred thousand and less than one million five hundred thousand, the county ~~((shall))~~ must submit an authorizing proposition to the county voters, fixing and imposing a sales and use tax in accordance with this chapter for the purposes designated in subsection (4) of this section and identified in the joint request. Such proposition must be placed on a ballot for a special or general election to be held no later than one year after the date of the joint request.

(2) The proposition is approved if it receives the votes of a majority of those voting on the proposition.

(3) The tax authorized in this section is in addition to any other taxes authorized by law and ~~((shall))~~ 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 county. The rate of tax ~~((shall))~~ must equal no more than one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(4) Moneys received from any tax imposed under this section ~~((shall))~~ must be used solely for the purpose of providing funds for:

(a) Costs associated with financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, reequipping, or improvement of zoo, aquarium, and wildlife preservation and display facilities that are currently accredited by the American zoo and aquarium association; or

(b) Those costs associated with (a) of this subsection and costs related to parks located within a county described in subsection (1) of this section.

(5) The department ~~((of revenue shall))~~ must perform the collection of such taxes on behalf of the county at no cost to the county. In lieu of the charge for the administration and collection of local sales and use taxes under RCW 82.14.050 from which the county is exempt under this subsection (5), a percentage of the tax revenues authorized by this section equal to one-half of the maximum percentage provided in RCW 82.14.050 ~~((shall))~~ must be transferred annually to the department of ~~((community, trade, and economic development))~~ commerce, or its successor agency, from the funds allocated under subsection (6)(b) of this section for a period of twelve years from the first date of distribution of funds

under subsection (6)(b) of this section. The department of (~~community, trade, and economic development~~) commerce, or its successor agency, (~~shall~~) must use funds transferred to it pursuant to this subsection (5) to provide, operate, and maintain community-based housing under chapter 43.185 RCW for (~~persons who are mentally ill~~) individuals with mental illness.

(6) If the joint request and the authorizing proposition include provisions for funding those costs included within subsection (4)(b) of this section, the tax revenues authorized by this section (~~shall~~) must be allocated annually as follows:

(a) Fifty percent to the zoo and aquarium advisory authority; and

(b) Fifty percent to be distributed on a per capita basis as set out in the most recent population figures for unincorporated and incorporated areas only within that county, as determined by the office of financial management, solely for parks, as follows: To any metropolitan park district, to cities and towns not contained within a metropolitan park district, and the remainder to the county. Moneys received under this subsection (6)(b) by a county may not be used to replace or supplant existing per capita funding.

(7) Funds (~~shall~~) must be distributed annually by the county treasurer to the county, and cities and towns located within the county, in the manner set out in subsection (6)(b) of this section.

(8) Prior to expenditure of any funds received by the county under subsection (6)(b) of this section, the county (~~shall~~) must establish a process which considers needs throughout the unincorporated areas of the county in consultation with community advisory councils established by ordinance.

(9) By December 31, 2005, and thereafter, the county or any city with a population greater than eighty thousand must provide at least one dollar match for every two dollars received under this section.

(10) Properties subject to a memorandum of agreement between the federal bureau of land management, the advisory council on historic preservation, and the Washington state historic preservation officer have priority for funding from money received under subsection (6)(b) of this section for implementation of the stipulations in the memorandum of agreement.

(a) At least one hundred thousand dollars of the first four years of allocations under subsection (6)(b) of this section, to be matched by the county or city with one dollar for every two dollars received, (~~shall~~) must be used to implement the stipulations of the memorandum of agreement and for other historical, archaeological, architectural, and cultural preservation and improvements related to the properties.

(b) The amount in (a) of this subsection (~~shall~~) must come equally from the allocations to the county and to the city in which the properties are located, unless otherwise agreed to by the county and the city.

(c) The amount in (a) of this subsection (~~shall~~) may not be construed to displace or be offered in lieu of any lease payment from a county or city to the state for the properties in question.

Sec. 25. RCW 82.14.457 and 2017 c 323 s 527 are each amended to read as follows:

(1) A business or other organization that is entitled under RCW (~~(82.12.02088)~~) 82.12.0208(7) to apportion the amount of state use tax on the use of digital goods, digital codes, digital automated services, prewritten

computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) is also entitled to apportion the amount of local use taxes imposed under the authority of this chapter and RCW 81.104.170 on the use of such products or services.

(2) To ensure that the tax base for state and local use taxes is identical, the measure of local use taxes apportioned under this section must be the same as the measure of state use tax apportioned under RCW ~~((82.12.02088))~~ 82.12.0208(7).

(3) This section does not affect the sourcing of local use taxes.

Sec. 26. RCW 82.16.0497 and 2006 c 213 s 1 are each amended to read as follows:

(1) ~~((Unless the context clearly requires otherwise,))~~ The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Base credit" means the maximum amount of credit against the tax imposed by this chapter that each light and power business or gas distribution business may take each fiscal year as calculated by the department. The base credit is equal to the proportionate share that the total grants received by each light and power business or gas distribution business in the prior fiscal year bears to the total grants received by all light and power businesses and gas distribution businesses in the prior fiscal year multiplied by five million five hundred thousand dollars for fiscal year 2007, and two million five hundred thousand dollars for all other fiscal years before and after fiscal year 2007.

(b) "Billing discount" means a reduction in the amount charged for providing service to qualifying persons in Washington made by a light and power business or a gas distribution business. Billing discount does not include grants received by the light and power business or a gas distribution business.

(c) "Grant" means funds provided to a light and power business or gas distribution business by the department of ~~((community, trade, and economic development))~~ commerce or by a qualifying organization.

(d) "Low-income home energy assistance program" means energy assistance programs for low-income households as defined on December 31, 2000, in the low-income home energy assistance act of 1981 as amended August 1, 1999, 42 U.S.C. Sec. 8623 et seq.

(e) "Qualifying person" means a Washington resident who applies for assistance and qualifies for a grant regardless of whether that person receives a grant.

(f) "Qualifying contribution" means money given by a light and power business or a gas distribution business to a qualifying organization, exclusive of money received in the prior fiscal year from its customers for the purpose of assisting other customers.

(g) "Qualifying organization" means an entity that has a contractual agreement with the department of ~~((community, trade, and economic development))~~ commerce to administer in a specified service area low-income home energy assistance funds received from the federal government and such other funds that may be received by the entity.

(2) Subject to the limitations in this section, a light and power business or a gas distribution business may take a credit each fiscal year against the tax imposed under this chapter.

(a)(i) A credit may be taken for qualifying contributions if the dollar amount of qualifying contributions for the fiscal year in which the tax credit is taken is greater than one hundred twenty-five percent of the dollar amount of qualifying contributions given in fiscal year 2000.

(ii) If no qualifying contributions were given in fiscal year 2000, a credit (~~(shall be)~~) is allowed for the first fiscal year that qualifying contributions are given. Thereafter, credit (~~(shall be)~~) is allowed if the qualifying contributions given exceed one hundred twenty-five percent of qualifying contributions given in the first fiscal year.

(iii) The amount of credit (~~(shall be)~~) is fifty percent of the dollar amount of qualifying contributions given in the fiscal year in which the tax credit is taken.

(b)(i) A credit may be taken for billing discounts if the dollar amount of billing discounts for the fiscal year in which the tax credit is taken is greater than one hundred twenty-five percent of the dollar amount of billing discounts given in fiscal year 2000.

(ii) If no billing discounts were given in fiscal year 2000, a credit (~~(shall be)~~) is allowed in the first fiscal year that billing discounts are given. Thereafter, credit (~~(shall be)~~) is allowed if the dollar amount of billing discounts given exceeds one hundred twenty-five percent of billing discounts given in the first fiscal year.

(iii) The amount of credit (~~(shall be)~~) is fifty percent of the dollar amount of the billing discounts given in the fiscal year in which the tax credit is taken.

(c) The total amount of credit that may be taken for qualifying contributions and billing discounts in a fiscal year is limited to the base credit for the same fiscal year.

(3)(a)(i) Except as provided in (a)(ii) of this subsection, the total amount of credit, statewide, that may be taken in any fiscal year (~~(shall)~~) may not exceed two million five hundred thousand dollars.

(ii) The total amount of credit, statewide, that may be taken in fiscal year 2007 (~~(shall)~~) may not exceed five million five hundred thousand dollars.

(b) By May 1st of each year starting in 2002, the department of (~~community, trade, and economic development shall~~) commerce must notify the department of revenue in writing of the grants received in the current fiscal year by each light and power business and gas distribution business.

(4)(a) Not later than June 1st of each year beginning in 2002, the department (~~(shall)~~) must publish the base credit for each light and power business and gas distribution business for the next fiscal year.

(b) Not later than July 1st of each year beginning in 2002, application for credit must (~~(by)~~) be made to the department including but not limited to the following information: Billing discounts given by the applicant in fiscal year 2000; qualifying contributions given by the applicant in the prior fiscal year; the amount of money received in the prior fiscal year from customers for the purpose of assisting other customers; the base credit for the next fiscal year for the applicant; the qualifying contributions anticipated to be given in the next fiscal year; and billing discounts anticipated to be given in the next fiscal year. No credit under this section will be allowed to a light and power business or gas distribution business that does not file the application by July 1st.

(c) Not later than August 1st of each year beginning in 2002, the department ~~((shall))~~ must notify each applicant of the amount of credit that may be taken in that fiscal year.

(d) The balance of base credits not used by other light and power businesses and gas distribution businesses ~~((shall))~~ must be ratably distributed to applicants under the formula in subsection (1)(a) of this section. The total amount of credit that may be taken by an applicant is the base credit plus any ratable portion of unused base credit.

(5) The credit taken under this section is limited to the amount of tax imposed under this chapter for the fiscal year. The credit must be claimed in the fiscal year in which the billing reduction is made. Any unused credit expires. Refunds ~~((shall))~~ may not be given in place of credits.

(6) No credit may be taken for billing discounts made before July 1, 2001. Within two weeks of May 8, 2001, the department of ~~((community, trade, and economic development shall))~~ commerce must notify the department of revenue in writing of the grants received in fiscal year 2001 by each light and power business and gas distribution business. Within four weeks of May 8, 2001, the department of revenue ~~((shall))~~ must publish the base credit for each light and power business and gas distribution business for fiscal year 2002. Within eight weeks of May 8, 2001, application to the department must be made showing the information required in subsection (4)(b) of this section. Within twelve weeks of May 8, 2001, the department ~~((shall))~~ must notify each applicant of the amount of credit that may be taken in fiscal year 2002.

Sec. 27. RCW 82.16.055 and 1980 c 149 s 3 are each amended to read as follows:

(1) In computing tax under this chapter there ~~((shall))~~ must be deducted from the gross income:

(a) An amount equal to the cost of production at the plant for consumption within the state of Washington of:

(i) Electrical energy produced or generated from cogeneration as defined in RCW 82.35.020, as existing on June 30, 2006; and

(ii) Electrical energy or gas produced or generated from renewable energy resources such as solar energy, wind energy, hydroelectric energy, geothermal energy, wood, wood wastes, municipal wastes, agricultural products and wastes, and end-use waste heat; and

(b) Those amounts expended to improve consumers' efficiency of energy end use or to otherwise reduce the use of electrical energy or gas by the consumer.

(2) This section applies only to new facilities for the production or generation of energy from cogeneration or renewable energy resources or measures to improve the efficiency of energy end use on which construction or installation is begun after June 12, 1980, and before January 1, 1990.

(3) Deductions under subsection (1)(a) of this section ~~((shall))~~ must be allowed for a period not to exceed thirty years after the project is placed in operation.

(4) Measures or projects encouraged under this section ~~((shall))~~ must at the time they are placed in service be reasonably expected to save, produce, or generate energy at a total incremental system cost per unit of energy delivered to end use which is less than or equal to the incremental system cost per unit of

energy delivered to end use from similarly available conventional energy resources which utilize nuclear energy or fossil fuels and which the gas or electric utility could acquire to meet energy demand in the same time period.

(5) The department of revenue, after consultation with the utilities and transportation commission in the case of investor-owned utilities and the governing bodies of locally regulated utilities, ~~((shall))~~ must determine the eligibility of individual projects and measures for deductions under this section.

Sec. 28. RCW 82.23A.010 and 2012 1st sp.s. c 3 s 4 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

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

(4) "Rack" means a mechanism for delivering petroleum products from a refinery or terminal into a truck, trailer, railcar, or other means of nonbulk transfer. For the purposes of this definition:

(a) "Terminal" has the same ~~((definition as in RCW 82.36.010 and))~~ meaning as provided in RCW 82.38.020; and

(b) "Nonbulk transfer" means a transfer that does not meet the definition of "bulk transfer" as defined in RCW ~~((82.36.010 and))~~ 82.38.020.

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

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

Sec. 29. RCW 82.24.010 and 2012 2nd sp.s. c 4 s 1 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter~~((÷))~~ unless the context clearly requires otherwise.

(1) "Board" means the liquor ~~((control))~~ and cannabis board.

(2) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a

wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state. "Cigarette" includes a roll-your-own cigarette.

(3) "Cigarette paper" means any paper or any other material except tobacco, prepared for use as a cigarette wrapper.

(4) "Cigarette tube" means cigarette paper made into a hollow cylinder for use in making cigarettes.

(5) "Commercial cigarette-making machine" means a machine that is operated in a retail establishment and that is capable of being loaded with loose tobacco, cigarette paper or tubes, and any other components related to the production of roll-your-own cigarettes, including filters.

(6) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian wholesaler or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country. For purposes of this chapter "Indian country" is defined in the manner set forth in 18 U.S.C. Sec. 1151.

(7) "Precollection obligation" means the obligation of a seller otherwise exempt from the tax imposed by this chapter to collect the tax from that seller's buyer.

(8) "Retailer" means every person, other than a wholesaler, who purchases, sells, offers for sale or distributes any one or more of the articles taxed herein, irrespective of quantity or amount, or the number of sales, and all persons operating under a retailer's registration certificate.

(9) "Retail selling price" means the ordinary, customary or usual price paid by the consumer for each package of cigarettes, less the tax levied by this chapter and less any similar tax levied by this state.

(10) "Roll-your-own cigarettes" means cigarettes produced by a commercial cigarette-making machine.

(11) "Stamp" means the stamp or stamps by use of which the tax levy under this chapter is paid or identification is made of those cigarettes with respect to which no tax is imposed.

(12) "Wholesaler" means every person who purchases, sells, or distributes any one or more of the articles taxed herein to retailers for the purpose of resale only.

(13) The meaning attributed, in chapter 82.04 RCW, to the words "person," "sale," "business" and "successor" applies equally in this chapter.

Sec. 30. RCW 82.24.551 and 1997 c 420 s 10 are each amended to read as follows:

The department (~~shall~~) must appoint, as duly authorized agents, enforcement officers of the liquor (~~control~~) and cannabis board to enforce provisions of this chapter. These officers (~~shall~~) are not (~~be~~) considered employees of the department.

Sec. 31. RCW 82.26.010 and 2010 1st sp.s. c 22 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) "Actual price" means the total amount of consideration for which tobacco products are sold, valued in money, whether received in money or

otherwise, including any charges by the seller necessary to complete the sale such as charges for delivery, freight, transportation, or handling.

(2) "Affiliated" means related in any way by virtue of any form or amount of common ownership, control, operation, or management.

(3) "Board" means the liquor ~~((control))~~ and cannabis board.

(4) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.

(5) "Cigar" means a roll for smoking that is of any size or shape and that is made wholly or in part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco. "Cigar" does not include a cigarette.

(6) "Cigarette" has the same meaning as in RCW 82.24.010.

(7) "Department" means the department of revenue.

(8) "Distributor" means (a) any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale, (b) any person who makes, manufactures, fabricates, or stores tobacco products in this state for sale in this state, (c) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers, (d) any person engaged in the business of selling tobacco products in this state who handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

(9) "Indian country" means the same as defined in chapter 82.24 RCW.

(10) "Little cigar" means a cigar that has a cellulose acetate integrated filter.

(11) "Manufacturer" means a person who manufactures and sells tobacco products.

(12) "Manufacturer's representative" means a person hired by a manufacturer to sell or distribute the manufacturer's tobacco products, and includes employees and independent contractors.

(13) "Moist snuff" means tobacco that is finely cut, ground, or powdered; is not for smoking; and is intended to be placed in the oral, but not the nasal, cavity.

(14) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. The term excludes any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(15) "Place of business" means any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale, including any vessel, vehicle, airplane, train, or vending machine.

(16) "Retail outlet" means each place of business from which tobacco products are sold to consumers.

(17) "Retailer" means any person engaged in the business of selling tobacco products to ultimate consumers.

(18)(a) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person.

(b) The term "sale" includes a gift by a person engaged in the business of selling tobacco products, for advertising, promoting, or as a means of evading the provisions of this chapter.

(19)(a) "Taxable sales price" means:

(i) In the case of a taxpayer that is not affiliated with the manufacturer, distributor, or other person from whom the taxpayer purchased tobacco products, the actual price for which the taxpayer purchased the tobacco products;

(ii) In the case of a taxpayer that purchases tobacco products from an affiliated manufacturer, affiliated distributor, or other affiliated person, and that sells those tobacco products to unaffiliated distributors, unaffiliated retailers, or ultimate consumers, the actual price for which that taxpayer sells those tobacco products to unaffiliated distributors, unaffiliated retailers, or ultimate consumers;

(iii) In the case of a taxpayer that sells tobacco products only to affiliated distributors or affiliated retailers, the price, determined as nearly as possible according to the actual price, that other distributors sell similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers;

(iv) In the case of a taxpayer that is a manufacturer selling tobacco products directly to ultimate consumers, the actual price for which the taxpayer sells those tobacco products to ultimate consumers;

(v) In the case of a taxpayer that has acquired tobacco products under a sale as defined in subsection (18)(b) of this section, the price, determined as nearly as possible according to the actual price, that the taxpayer or other distributors sell the same tobacco products or similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers; or

(vi) In any case where (a)(i) through (v) of this subsection do not apply, the price, determined as nearly as possible according to the actual price, that the taxpayer or other distributors sell the same tobacco products or similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers.

(b) For purposes of (a)(i) and (ii) of this subsection only, "person" includes both persons as defined in subsection (14) of this section and any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(c) The department may adopt rules regarding the determination of taxable sales price under this subsection.

(20) "Taxpayer" means a person liable for the tax imposed by this chapter.

(21) "Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, and any other product, regardless of form, that contains tobacco and is intended

for human consumption or placement in the oral or nasal cavity or absorption into the human body by any other means, but does not include cigarettes as defined in RCW 82.24.010.

(22) "Unaffiliated distributor" means a distributor that is not affiliated with the manufacturer, distributor, or other person from whom the distributor has purchased tobacco products.

(23) "Unaffiliated retailer" means a retailer that is not affiliated with the manufacturer, distributor, or other person from whom the retailer has purchased tobacco products.

Sec. 32. RCW 82.26.121 and 1997 c 420 s 11 are each amended to read as follows:

The department (~~((shall))~~) must appoint, as duly authorized agents, enforcement officers of the liquor (~~((control))~~) and cannabis board to enforce provisions of this chapter. These officers (~~((shall))~~) are not (~~((be))~~) considered employees of the department.

Sec. 33. RCW 82.26.130 and 2002 c 325 s 5 are each amended to read as follows:

(1) The department (~~((shall))~~) must by rule establish the invoice detail required under RCW 82.26.060 for a distributor under RCW 82.26.010(~~((3))~~) (8)(d) and for those invoices required to be provided to retailers under RCW 82.26.070.

(2) If a retailer fails to keep invoices as required under chapter 82.32 RCW, the retailer is liable for the tax owed on any uninvoiced tobacco products but not penalties and interest, except as provided in subsection (3) of this section.

(3) If the department finds that the nonpayment of tax by the retailer was willful or if in the case of a second or plural nonpayment of tax by the retailer, penalties and interest (~~((shall))~~) must be assessed in accordance with chapter 82.32 RCW.

Sec. 34. RCW 82.26.190 and 2009 c 154 s 6 are each amended to read as follows:

(1)(a) No person may engage in or conduct business as a distributor or retailer in this state after September 30, 2005, without a valid license issued under this chapter. Any person who sells tobacco products to persons other than ultimate consumers or who meets the definition of distributor under RCW 82.26.010(~~((3))~~) (8)(d) must obtain a distributor's license under this chapter. Any person who sells tobacco products to ultimate consumers must obtain a retailer's license under this chapter.

(b) A violation of this subsection (1) is punishable as a class C felony according to chapter 9A.20 RCW.

(2)(a) No person engaged in or conducting business as a distributor or retailer in this state may:

(i) Refuse to allow the department or the board, on demand, to make a full inspection of any place of business where any of the tobacco products taxed under this chapter are sold, stored, or handled, or otherwise hinder or prevent such inspection;

(ii) Make, use, or present or exhibit to the department or the board any invoice for any of the tobacco products taxed under this chapter that bears an untrue date or falsely states the nature or quantity of the goods invoiced; or

(iii) Fail to produce on demand of the department or the board all invoices of all the tobacco products taxed under this chapter within five years prior to such demand unless the person can show by satisfactory proof that the nonproduction of the invoices was due to causes beyond the person's control.

(b) No person, other than a licensed distributor or retailer, may transport tobacco products for sale in this state for which the taxes imposed under this chapter have not been paid unless:

(i) Notice of the transportation has been given as required under RCW 82.26.140;

(ii) The person transporting the tobacco products actually possesses invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of tobacco products being transported; and

(iii) The tobacco products are consigned to or purchased by a person in this state who is licensed under this chapter.

(c) A violation of this subsection (2) is a gross misdemeanor.

(3) Any person licensed under this chapter as a distributor, and any person licensed under this chapter as a retailer, ~~((shall))~~ may not operate in any other capacity unless the additional appropriate license is first secured. A violation of this subsection (3) is a misdemeanor.

(4) The penalties provided in this section are in addition to any other penalties provided by law for violating the provisions of this chapter or the rules adopted under this chapter.

Sec. 35. RCW 82.26.200 and 2005 c 180 s 17 are each amended to read as follows:

(1) A retailer that obtains tobacco products from an unlicensed distributor or any other person that is not licensed under this chapter must be licensed both as a retailer and a distributor under this chapter and is liable for the tax imposed under RCW 82.26.020 with respect to the tobacco products acquired from the unlicensed person that are held for sale, handling, or distribution in this state. For the purposes of this subsection, "person" includes both persons defined in RCW 82.26.010~~((10))~~ (14) and any person immune from state taxation, such as the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(2) Every distributor licensed under this chapter ~~((shall))~~ must sell tobacco products to retailers located in Washington only if the retailer has a current retailer's license under this chapter.

Sec. 36. RCW 82.29A.060 and 1994 c 95 s 1 are each amended to read as follows:

(1) All administrative provisions in chapters 82.02 and 82.32 RCW ~~((shall be))~~ are applicable to taxes imposed pursuant to this chapter.

(2)~~(a)~~ A lessee, or a sublessee in the case where the sublessee is responsible for paying the tax imposed under this chapter, of property used for residential purposes may petition the county board of equalization for a change in appraised value when the department of revenue establishes taxable rent under RCW 82.29A.020(2)~~((4b))~~ (g) based on an appraisal done by the county assessor at the request of the department. The petition must be on forms prescribed or approved by the department of revenue and any petition not conforming to those

requirements or not properly completed (~~(shall)~~) may not be considered by the board. The petition must be filed with the board within the time period set forth in RCW 84.40.038. A decision of the board of equalization may be appealed by the taxpayer to the board of tax appeals as provided in RCW 84.08.130.

(b) A sublessee, in the case where the sublessee is responsible for paying the tax imposed under this chapter, of property used for residential purposes may petition the department for a change in taxable rent when the department of revenue establishes taxable rent under RCW 82.29A.020(2)(~~(b)~~) (g).

(c) Any change in tax resulting from an appeal under this subsection (~~(shall)~~) must be allocated to the lessee or sublessee responsible for paying the tax.

(3) This section (~~(shall)~~) does not authorize the issuance of any levy upon any property owned by the public lessor.

(4) In selecting leasehold excise tax returns for audit the department of revenue (~~(shall)~~) must give priority to any return an audit of which is specifically requested in writing by the county assessor or treasurer or other chief financial officer of any city or county affected by such return. Notwithstanding the provisions of RCW 82.32.330, findings of fact and determinations of the amount of taxable rent made pursuant to the provisions of this chapter (~~(shall)~~) must be open to public inspection at all reasonable times.

Sec. 37. RCW 82.29A.120 and 2017 3rd sp.s. c 37 s 1302 are each amended to read as follows:

(1)(a) After computation of the taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040, the following credits are allowed in determining the tax payable:

(i) For lessees and sublessees who would qualify for a property tax exemption under RCW 84.36.381 if the property were privately owned, the tax otherwise due after this credit must be reduced by a percentage equal to the percentage reduction in property tax that would result from the property tax exemption under RCW 84.36.381; and

(ii) A credit of thirty-three percent of the tax otherwise due is allowed with respect to a product lease.

(b)(i) For a leasehold interest in real property owned by a state university, a credit is allowed equal to the amount that the tax under this chapter exceeds the property tax that would apply if the real property were privately owned by the taxpayer.

(ii) The credit under this subsection (1)(b) is available only if the tax parcel that is subject to the leasehold interest has a market value in excess of ten million dollars. If the leasehold interest attaches to two or more parcels, the credit is available if at least one of the tax parcels has a market value in excess of ten million dollars. In either case, the market value must be determined as of January 1st of the year prior to the year for which the credit is claimed.

(iii) For purposes of calculating the credit under this subsection (1)(b):

(A) If a tax parcel does not have current assessed value in accordance with RCW 84.40.020, a market value appraisal performed by a Washington state-certified general real estate appraiser, as defined in RCW 18.140.010, is sufficient to establish the market value. If the underlying real property that is the subject of the leasehold interest consists of a part of one or more tax parcels, this

appraisal must include the market value of the part of the parcel or parcels to which the leasehold interest applies; and

(B) The property tax that would otherwise apply to the real property that is the subject of the leasehold interest is calculated using the existing consolidated levy rate for the property's tax code area.

(iv) The definitions in this subsection apply throughout this subsection (1)(b) unless the context clearly requires otherwise.

(A) "Market value" means the true and fair value of the property as that term is used in RCW 84.40.030, based on the property's highest and best use and determined by any reasonable means approved by the department.

(B) "Real property" has the same meaning as in RCW 84.04.090 and also includes all improvements upon the land the fee of which is still vested in the public owner.

(C) "State university" has the same meaning as "state universities" as provided in RCW 28B.10.016.

(v) The credit provided under this subsection (1)(b) may not be claimed for tax reporting periods beginning on or after January 1, 2032.

(2) ~~((This section expires))~~ No credit under subsection (1)(b) of this section may be claimed or approved on or after January 1, 2032.

Sec. 38. RCW 82.32.062 and 2002 c 57 s 1 are each amended to read as follows:

(1) In addition to the procedure set forth in RCW 82.32.060 and as an exception to the four-year period explicitly set forth in RCW 82.32.060, an offset for a tax that has been paid in excess of that properly due may be taken under the following conditions:

~~((+))~~ (a) The tax paid in excess of that properly due was sales ((tax paid on the purchase of property acquired for leasing; (2))) or use tax paid on property purchased for the purpose of leasing;

(b) The taxpayer was at the time of purchase entitled to purchase the property at wholesale under RCW 82.04.060; and

~~((3))~~ (c) The taxpayer substantiates that ((sales tax was paid at the time of purchase)) the taxpayer paid sales or use tax on the purchase of the property and that there was no intervening use of the ((equipment)) property by the taxpayer.

(2) The offset under this section is applied to and reduced by the amount of retail sales tax otherwise due from the beginning of lease of the property until the offset is extinguished.

Sec. 39. RCW 82.32.300 and 2019 c 445 s 209 are each amended to read as follows:

(1) The ~~((administration of this and chapters 82.04 through 82.27 RCW of this title is vested in the department, which must))~~ department must administer this chapter and such other provisions of the Revised Code of Washington as specifically provided by law. To that end, the department may prescribe forms and rules of procedure for the determination of the taxable status of any person, for the making of returns and for the ascertainment, assessment, and collection of taxes and penalties imposed thereunder.

(2)(a) The department ~~((must))~~ may make and publish rules ~~((and regulations))~~, not inconsistent therewith, necessary to enforce provisions of this chapter ~~((and chapters 82.02 through 82.23B and 82.27 RCW, and the liquor and~~

~~cannabis board must)) and such other provisions of the Revised Code of Washington that the department is empowered by law to enforce. The liquor and cannabis board may make and publish rules necessary to enforce chapters 82.24, 82.26, and 82.25 RCW((, which has)).~~

(b) Rules adopted by the department or liquor and cannabis board under the authority of this subsection have the same force and effect as if specifically included ((therein)) in law, unless declared invalid by the judgment of a court of record not appealed from.

(3) The department may employ such clerks, specialists, and other assistants as are necessary. Salaries and compensation of such employees must be fixed by the department and charged to the proper appropriation for the department.

(4) The department must exercise general supervision of the collection of taxes and, in the discharge of such duty, may institute and prosecute such suits or proceedings in the courts as may be necessary and proper.

Sec. 40. RCW 82.32.780 and 2010 c 112 s 2 are each amended to read as follows:

(1)(a) Taxpayers seeking to obtain a new reseller permit or to renew or reinstate a reseller permit, other than taxpayers subject to the provisions of RCW 82.32.783, must apply to the department in a form and manner prescribed by the department. The department must use its best efforts to rule on applications within sixty days of receiving a complete application. If the department fails to rule on an application within sixty days of receiving a complete application, the taxpayer may either request a review as provided in subsection (6) of this section or resubmit the application. Nothing in this subsection may be construed as preventing the department from ruling on an application more than sixty days after the department received the application.

(b) An application must be denied if:

(i) The department determines that, based on the nature of the applicant's business, the applicant is not entitled to make purchases at wholesale or is otherwise prohibited from using a reseller permit;

(ii) The application contains any material misstatement; or

(iii) The application is incomplete.

(c) The department may also deny an application if it determines that denial would be in the best interest of collecting taxes due under this title.

(d) The department's decision to approve or deny an application may be based on tax returns previously filed with the department by the applicant, a current or previous examination of the applicant's books and records by the department, information provided by the applicant in the master application and the reseller permit application, and other information available to the department.

(e) The department must refuse to accept an application to renew a reseller permit that is received more than ninety days before the expiration of the reseller permit.

(2) Notwithstanding subsection (1) of this section, the department may issue or renew a reseller permit for a taxpayer that has not applied for the permit or renewal of the permit if it appears to the department's satisfaction, based on the nature of the taxpayer's business activities and any other information available to the department, that the taxpayer is entitled to make purchases at wholesale.

(3)(a) Except as otherwise provided in this section, reseller permits issued, renewed, or reinstated under this section will be valid for a period of forty-eight months from the date of issuance, renewal, or reinstatement.

(b)(i) A reseller permit is valid for a period of twenty-four months and may be renewed for the period prescribed in (a) of this subsection (3) if the permit is issued to a taxpayer who:

(A) Is not registered with the department under RCW 82.32.030;

(B) Has been registered with the department under RCW 82.32.030 for a continuous period of less than one year as of the date that the department received the taxpayer's application for a reseller permit;

(C) Was on nonreporting status as authorized under RCW 82.32.045(~~((4))~~)
(5) at the time that the department received the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit;

(D) Has filed tax returns reporting no business activity for purposes of sales and business and occupation taxes for the twelve-month period immediately preceding the date that the department received the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit; or

(E) Has failed to file tax returns covering any part of the twelve-month period immediately preceding the department's receipt of the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit.

(ii) The provisions of this subsection (3)(b) do not apply to reseller permits issued to any business owned by a federally recognized Indian tribe or by an enrolled member of a federally recognized Indian tribe, if the business does not engage in any business activity that subjects the business to any tax imposed by the state under chapter 82.04 RCW. Permits issued to such businesses are valid for the period provided in (a) of this subsection (3).

(iii) Nothing in this subsection (3)(b) may be construed as affecting the department's right to deny a taxpayer's application for a reseller permit or to renew or reinstate a reseller permit as provided in subsection (1)(b) and (c) of this section.

(c) A reseller permit is no longer valid if the permit holder's certificate of registration is revoked, the permit holder's tax reporting account is closed by the department, or the permit holder otherwise ceases to engage in business.

(d) The department may provide by rule for a uniform expiration date for reseller permits issued, renewed, or reinstated under this section, if the department determines that a uniform expiration date for reseller permits will improve administrative efficiency for the department. If the department adopts a uniform expiration date by rule, the department may extend or shorten the twenty-four or forty-eight month period provided in (a) and (b) of this subsection for a period not to exceed six months as necessary to conform the reseller permit to the uniform expiration date.

(4)(a) The department may revoke a taxpayer's reseller permit for any of the following reasons:

(i) The taxpayer used or allowed or caused its reseller permit to be used to purchase any item or service without payment of sales tax, but the taxpayer or other purchaser was not entitled to use the reseller permit for the purchase;

(ii) The department issued the reseller permit to the taxpayer in error;

(iii) The department determines that the taxpayer is no longer entitled to make purchases at wholesale; or

(iv) The department determines that revocation of the reseller permit would be in the best interest of collecting taxes due under this title.

(b) The notice of revocation must be in writing and is effective on the date specified in the revocation notice. The notice must also advise the taxpayer of its right to a review by the department.

(c) The department may refuse to reinstate a reseller permit revoked under (a)(i) of this subsection until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full. In the event a taxpayer whose reseller permit has been revoked under this subsection reorganizes, the new business resulting from the reorganization is not entitled to a reseller permit until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full.

(d) For purposes of this subsection, "reorganize" or "reorganization" means: (i) The transfer, however effected, of a majority of the assets of one business to another business where any of the persons having an interest in the ownership or management in the former business maintain an ownership or management interest in the new business, either directly or indirectly; (ii) a mere change in identity or form of ownership, however effected; or (iii) the new business is a mere continuation of the former business based on significant shared features such as owners, personnel, assets, or general business activity.

(5) The department may provide the public with access to reseller permit numbers on its web site, including the name of the permit holder, the status of the reseller permit, the expiration date of the permit, and any other information that is disclosable under RCW 82.32.330(3)((~~H~~)) (k).

(6) The department must provide by rule for the review of the department's decision to deny, revoke, or refuse to reinstate a reseller permit or the department's failure to rule on an application within the time prescribed in subsection (1)(a) of this section. Such review must be consistent with the requirements of chapter 34.05 RCW.

(7) As part of its continuing efforts to educate taxpayers on their sales and use tax responsibilities, the department will educate taxpayers on the appropriate use of a reseller permit or other documentation authorized under RCW 82.04.470 and the consequences of misusing such permits or other documentation.

Sec. 41. RCW 82.60.025 and 2010 1st sp.s. c 16 s 4 are each amended to read as follows:

The lessor or owner of a qualified building is not eligible for a deferral unless:

(1) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or

(2)(a) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(b) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual (~~survey~~) tax performance report required under RCW 82.60.070; and

(c) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

Sec. 42. RCW 82.60.063 and 2010 1st sp.s. c 16 s 10 are each amended to read as follows:

(1) Subject to the conditions in this section, a person is not liable for the amount of deferred taxes outstanding for an investment project when the person temporarily ceases to use its qualified buildings and qualified machinery and equipment for manufacturing or research and development activities in a county with a population of less than twenty thousand persons for a period not to exceed twenty-four months from the date that the department sent its assessment for the amount of outstanding deferred taxes to the taxpayer.

(2) The relief from repayment of deferred taxes under this section does not apply unless the number of qualified employment positions maintained at the investment project after manufacturing or research and development activities are temporarily ceased is at least ten percent of the number of qualified employment positions employed at the investment project at the time the deferral was approved by the department. If a person has been approved for more than one deferral under this chapter, relief from repayment of deferred taxes under this section does not apply unless the number of qualified employment positions maintained at the investment project after manufacturing or research and development activities are temporarily ceased is at least ten percent of the highest number of qualified employment positions at the investment project at the time any of the deferrals were approved by the department. If, at any time during the twenty-four month period after the department has sent the taxpayer an assessment for outstanding deferred taxes resulting from the person temporarily ceasing to use its qualified buildings and qualified machinery and equipment for manufacturing or research and development activities, the number of qualified employment positions falls below the ten percent threshold in this subsection, the amount of deferred taxes outstanding for the project is immediately due.

(3) The lessor of an investment project for which a deferral has been granted under this chapter who has passed the economic benefits of the deferral to the lessee is not eligible for relief from the payment of deferred taxes under this section.

(4) A person seeking relief from the payment of deferred taxes under this section must apply to the department in a form and manner prescribed by the department. The application required under this subsection must be received by the department within thirty days of the date that the department sent its assessment for outstanding deferred taxes resulting from the person temporarily ceasing to use its qualified buildings and qualified machinery and equipment for manufacturing or research and development activities. The department must approve applications that meet the requirements in this section for relief from the payment of deferred taxes.

(5) A person is entitled to relief under this section only once.

(6) A person whose application for relief from the payment of deferred taxes has been approved under this section must continue to file an annual ~~((survey))~~ tax performance report as required under RCW 82.60.070(1) or any successor statute. In addition, the person must file, in a form and manner prescribed by the department, a report on the status of the business and the outlook for commencing manufacturing or research and development activities.

Sec. 43. RCW 82.63.010 and 2015 3rd sp.s. c 5 s 303 are each amended to read as follows:

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

(1) "Advanced computing" means technologies used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from handheld calculators to super computers, and peripheral equipment.

(2) "Advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value-added metals, electronic materials, composites, polymers, and biomaterials.

(3) "Applicant" means a person applying for a tax deferral under this chapter.

(4) "Biotechnology" means the application of technologies, such as recombinant DNA techniques, biochemistry, molecular and cellular biology, genetics and genetic engineering, cell fusion techniques, and new bioprocesses, using living organisms, or parts of organisms, to produce or modify products, to improve plants or animals, to develop microorganisms for specific uses, to identify targets for small molecule pharmaceutical development, or to transform biological systems into useful processes and products or to develop microorganisms for specific uses.

(5) "Department" means the department of revenue.

(6) "Electronic device technology" means technologies involving microelectronics; semiconductors; electronic equipment and instrumentation; radio frequency, microwave, and millimeter electronics; optical and optoelectrical devices; and data and digital communications and imaging devices.

(7) "Eligible investment project" means an investment project which either initiates a new operation, or expands or diversifies a current operation by expanding, renovating, or equipping an existing facility. The lessor or owner of the qualified building is not eligible for a deferral unless:

(a) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or

(b)(i) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(ii) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual ~~((survey))~~ tax performance report required under RCW 82.63.020(2); and

(iii) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

(8) "Environmental technology" means assessment and prevention of threats or damage to human health or the environment, environmental cleanup, and the development of alternative energy sources.

(9)(a) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(i) Construction of the qualified building, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(ii) Construction of the qualified building, if the economic benefits of the deferral are passed to a lessee as provided in subsection (7) of this section; or

(iii) Tenant improvements for a qualified building, if the economic benefits of the deferral are passed to a lessee as provided in subsection (7) of this section.

(b) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(c) If the investment project is a phased project, "initiation of construction" (~~shall apply~~) applies separately to each phase.

(10) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction or improvement of the project.

(11) "Multiple qualified buildings" means qualified buildings leased to the same person when such structures: (a) Are located within a five-mile radius; and (b) the initiation of construction of each building begins within a sixty-month period.

(12) "Person" has the meaning given in RCW 82.04.030 and includes state universities as defined in RCW 28B.10.016.

(13) "Pilot scale manufacturing" means design, construction, and testing of preproduction prototypes and models in the fields of biotechnology, advanced computing, electronic device technology, advanced materials, and environmental technology other than for commercial sale. As used in this subsection, "commercial sale" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(14) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for pilot scale manufacturing or qualified research and development, including plant offices and other facilities that are an essential or an integral part of a structure used for pilot scale manufacturing or qualified research and development. If a building or buildings are used partly for pilot scale manufacturing or qualified research and development, and partly for other purposes, the applicable tax deferral (~~shall be~~) is determined by apportionment of the costs of construction under rules adopted by the department. Such rules may include provisions for determining the amount of the deferral based on apportionment of costs of construction of an investment project consisting of a building or multiple buildings, where qualified research and development or pilot scale manufacturing activities are shifted within a building or from one building to another building.

(15)(a) "Qualified machinery and equipment" means fixtures, equipment, and support facilities that are an integral and necessary part of a pilot scale manufacturing or qualified research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment, instrumentation, and other devices used in a process of experimentation to develop a new or improved pilot model, plant

process, product, formula, invention, or similar property; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; vats, tanks, and fermenters; operating structures; and all other equipment used to control, monitor, or operate the machinery. For purposes of this chapter, qualified machinery and equipment must be either new to the taxing jurisdiction of the state or new to the certificate holder, except that used machinery and equipment may be treated as qualified machinery and equipment if the certificate holder either brings the machinery and equipment into Washington or makes a retail purchase of the machinery and equipment in Washington or elsewhere.

(b) "Qualified machinery and equipment" does not include any fixtures, equipment, or support facilities, if the sale to or use by the recipient is not eligible for an exemption under RCW 82.08.02565 or 82.12.02565 solely because the recipient is an ineligible person as defined in RCW 82.08.02565.

(16) "Qualified research and development" means research and development performed within this state in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

(17) "Recipient" means a person receiving a tax deferral under this chapter.

(18) "Research and development" means activities performed to discover technological information, and technical and nonroutine activities concerned with translating technological information into new or improved products, processes, techniques, formulas, inventions, or software. The term includes exploration of a new use for an existing drug, device, or biological product if the new use requires separate licensing by the federal food and drug administration under chapter 21, C.F.R., as amended. The term does not include adaptation or duplication of existing products where the products are not substantially improved by application of the technology, nor does the term include surveys and studies, social science and humanities research, market research or testing, quality control, sale promotion and service, computer software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

Sec. 44. RCW 82.74.010 and 2006 c 354 s 6 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Cold storage warehouse" means a storage warehouse owned or operated by a wholesaler or third-party warehouse as those terms are defined in RCW 82.08.820 to store fresh and/or frozen perishable fruits or vegetables, dairy products, seafood products, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

(3) "Dairy product" means dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products such as whey and casein.

(4) "Dairy product manufacturing" means manufacturing, as defined in RCW 82.04.120, of dairy products.

(5) "Department" means the department of revenue.

(6) "Eligible investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project. The lessor or owner of a qualified building is not eligible for a deferral unless (a) the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or (b)(i) the lessor by written contract agrees to pass the economic benefit of the deferral to the lessee in the form of reduced rent payments, and (ii) the lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual ~~((survey))~~ tax performance report under RCW 82.74.040. The economic benefit of the deferral to the lessee may be evidenced by any type of payment, credit, or any other financial arrangement between the lessor or owner of the qualified building and the lessee.

(7) "Fresh fruit and vegetable processing" means manufacturing as defined in RCW 82.04.120 which consists of the canning, preserving, freezing, processing, or dehydrating fresh fruits and/or vegetables.

(8)(a) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(i) Construction of the qualified building, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(ii) Construction of the qualified building, if the economic benefits of the deferral are passed to a lessee as provided in subsection (6) of this section; or

(iii) Tenant improvements for a qualified building, if the economic benefits of the deferral are passed to a lessee as provided in subsection (6) of this section.

(b) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(c) If the investment project is a phased project, "initiation of construction" applies separately to each phase.

(9) "Person" has the meaning given in RCW 82.04.030.

(10) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, plant, or laboratory used for fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development. If a building is used partly for fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development and partly for other purposes, the applicable tax deferral ~~((shall be))~~ is determined by apportionment of the costs of construction under rules adopted by the department.

(11) "Qualified machinery and equipment" means all industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a fresh fruit and vegetable processing, dairy product manufacturing, seafood

product manufacturing, cold storage (~~(warehouse)~~ warehousing, or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(12) "Recipient" means a person receiving a tax deferral under this chapter.

(13) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process related to fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, or cold storage warehousing before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(14) "Seafood product" means any edible marine fish and shellfish that remains in a raw, raw frozen, or raw salted state.

(15) "Seafood product manufacturing" means the manufacturing, as defined in RCW 82.04.120, of seafood products.

Sec. 45. RCW 82.75.010 and 2010 c 114 s 145 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Biotechnology" means a technology based on the science of biology, microbiology, molecular biology, cellular biology, biochemistry, or biophysics, or any combination of these, and includes, but is not limited to, recombinant DNA techniques, genetics and genetic engineering, cell fusion techniques, and new bioprocesses, using living organisms, or parts of organisms.

(3) "Biotechnology product" means any virus, therapeutic serum, antibody, protein, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product produced through the application of biotechnology that is used in the prevention, treatment, or cure of diseases or injuries to humans.

(4) "Department" means the department of revenue.

(5)(a) "Eligible investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(b) The lessor or owner of a qualified building is not eligible for a deferral unless:

(i) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or

(ii)(A) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(B) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual ~~((survey))~~ tax performance report required under RCW 82.75.070; and

(C) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

(6)(a) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(i) Construction of the qualified building, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(ii) Construction of the qualified building, if the economic benefits of the deferral are passed to a lessee as provided in subsection (5)(b)(ii)(A) of this section; or

(iii) Tenant improvements for a qualified building, if the economic benefits of the deferral are passed to a lessee as provided in subsection (5)(b)(ii)(A) of this section.

(b) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(c) If the investment project is a phased project, "initiation of construction" applies separately to each phase.

(7) "Manufacturing" has the meaning provided in RCW 82.04.120.

(8) "Medical device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, that is designed or developed and:

(a) Recognized in the national formulary, or the United States pharmacopeia, or any supplement to them;

(b) Intended for use in the diagnosis of disease, or in the cure, mitigation, treatment, or prevention of disease or other conditions in human beings or other animals; or

(c) Intended to affect the structure or any function of the body of human beings or other animals, and which does not achieve any of its primary intended purposes through chemical action within or on the body of human beings or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(9) "Person" has the meaning provided in RCW 82.04.030.

(10) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for biotechnology product manufacturing or medical device manufacturing activities, including plant offices, commercial laboratories for process development, quality assurance and quality control, and warehouses or other facilities for the storage of raw material or finished goods if the facilities are an essential or an integral part of a factory, plant, or laboratory used for biotechnology product manufacturing or medical device manufacturing. If a building is used partly for biotechnology product manufacturing or medical device manufacturing and partly for other purposes, the applicable tax deferral must be determined by apportionment of the costs of construction under rules adopted by the department.

(11) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a biotechnology product manufacturing or medical device manufacturing operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(12) "Recipient" means a person receiving a tax deferral under this chapter.

Sec. 46. RCW 82.82.010 and 2008 c 15 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) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Corporate headquarters" means a facility or facilities where corporate staff employees are physically employed, and where the majority of the company's management services are handled either on a regional or a national basis. Company management services may include: Accounts receivable and payable, accounting, data processing, distribution management, employee benefit plan, financial and securities accounting, information technology, insurance, legal, merchandising, payroll, personnel, purchasing procurement, planning, reporting and compliance, research and development, tax, treasury, or other headquarters-related services. "Corporate headquarters" does not include a facility or facilities used for manufacturing, wholesaling, or warehousing.

(3) "Department" means the department of revenue.

(4) "Eligible area" means a designated community empowerment zone approved under RCW 43.31C.020.

(5)(a) "Eligible investment project" means an investment project in a qualified building or buildings in an eligible area, as defined in subsection (4) of this section, which will have employment at the qualified building or buildings of at least three hundred employees in qualified employment positions, each of whom must earn for the year reported at least the average annual wage for the state for that year as determined by the employment security department.

(b) The lessor or owner of a qualified building or buildings is not eligible for a deferral unless:

(i) The underlying ownership of the building or buildings vests exclusively in the same person; or

(ii)(A) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(B) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual ~~((survey))~~ tax performance report required under RCW 82.82.020; and

(C) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

(6) "Investment project" means a capital investment of at least thirty million dollars in a qualified building or buildings including tangible personal property

and fixtures that will be incorporated as an ingredient or component of such buildings during the course of their construction, and including labor and services rendered in the planning, installation, and construction of the project.

(7) "Manufacture" has the same meaning as provided in RCW 82.04.120.

(8) "Operationally complete" means a date no later than one year from the date the project is issued an occupancy permit by the local permit issuing authority.

(9) "Person" has the same meaning as provided in RCW 82.04.030.

(10) "Qualified building or buildings" means construction of a new structure or structures or expansion of an existing structure or structures to be used for corporate headquarters. If a building is used partly for corporate headquarters and partly for other purposes, the applicable tax deferral is determined by apportionment of the costs of construction under rules adopted by the department.

(11) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year. The term "entire tax year" means a full-time position that is filled for a period of twelve consecutive months. The term "full-time" means at least thirty-five hours a week, four hundred fifty-five hours a quarter, or one thousand eight hundred twenty hours a year.

(12) "Recipient" means a person receiving a tax deferral under this chapter.

(13) "Warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for storage for compensation.

(14) "Wholesale sale" has the same meaning as provided in RCW 82.04.060.

Sec. 47. RCW 82.85.030 and 2015 3rd sp.s. c 6 s 403 are each amended to read as follows:

The lessor or owner of a qualified building is not eligible for a deferral unless:

(1) The underlying ownership of the building, machinery, and equipment vests exclusively in the same person; or

(2)(a) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(b) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual ((survey)) tax performance report required under RCW ((~~82.32.585~~) 82.32.534; and

(c) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

Sec. 48. RCW 82.85.080 and 2015 3rd sp.s. c 6 s 408 are each amended to read as follows:

(1) Each recipient of a deferral of taxes granted under this chapter must file a complete annual ((survey)) tax performance report with the department under RCW ((~~82.32.585~~) 82.32.534. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.85.030, the lessee must file a complete annual ((survey)) tax performance report, and the applicant is not required to file a complete annual ((survey)) tax performance report.

(2) If, on the basis of a ~~((survey))~~ tax performance report under RCW ~~((82.32.585))~~ 82.32.534 or other information, the department finds that an investment project is not eligible for tax deferral under this chapter due to the fact the investment project is no longer used for qualified activities, the amount of deferred taxes outstanding for the investment project is immediately due and payable.

(3) If the economic benefits of a tax deferral under this chapter are passed to a lessee as provided in RCW 82.85.030, the lessee is responsible for payment to the extent the lessee has received the economic benefit.

Sec. 49. RCW 84.36.840 and 2016 c 217 s 6 are each amended to read as follows:

(1) In order to determine whether organizations, associations, corporations, or institutions, except those exempted under RCW 84.36.020, 84.36.049, and 84.36.030, are exempt from property taxes, and before the exemption is allowed for any year, the superintendent or manager or other proper officer of the organization, association, corporation, or institution claiming exemption from taxation must file with the department of revenue a statement certifying that the income and the receipts thereof, including donations to it, have been applied to the actual expenses of operating and maintaining it, or for its capital expenditures, and to no other purpose. This report must also include a statement of the receipts and disbursements of the exempt organization, association, corporation, or institution.

(2) ~~((Educational institutions claiming exemption under RCW 84.36.050 must also file a list of all property claimed to be exempt, the purpose for which it is used, the revenue derived from it for the preceding year, the use to which the revenue was applied, the number of students who attended the school or college, the total revenues of the institution with the source from which they were derived, and the purposes to which the revenues were applied, listing the items of such revenues and expenditures in detail.~~

~~((3))~~ The reports required under ~~((subsections (1) and (2) of))~~ this section may be submitted electronically, in a format provided or approved by the department, or mailed to the department. The reports must be submitted on or before March 31st of each year. The department must remove the tax exemption from the property of any organization, association, corporation, or institution that does not file the required report with the department on or before the due date. However, the department must allow a reasonable extension of time for filing upon receipt of a written request on or before the required filing date and for good cause shown therein.

Sec. 50. RCW 84.37.040 and 2007 sp.s. c 2 s 4 are each amended to read as follows:

(1) Each claimant electing to defer payment of special assessments or real property tax obligations, or both, under this chapter ~~((shall))~~ must file with the county assessor, on forms prescribed by the department and supplied by the assessor, a written declaration thereof. The declaration to defer special assessments and/or real property taxes for any year ~~((shall))~~ must be filed no later than the first day of September of the year for which the deferral is sought ~~((: PROVIDED, That))~~; however, for good cause shown, the department may waive this requirement.

(2) The declaration (~~((shall))~~) must designate the property to which the deferral applies, and (~~((shall))~~) must include a statement setting forth (a) a list of all members of the claimant's household, (b) the claimant's equity value in his or her residence, (c) facts establishing the eligibility for the deferral under the provisions of this chapter, and (d) any other relevant information required by the rules of the department. (~~(Each copy shall)~~) The declaration must be signed by the claimant subject to the penalties as provided in chapter 9A.72 RCW for false swearing.

(3) The county assessor (~~((shall))~~) must determine if each claimant (~~((shall be))~~) is granted a deferral for each year but the claimant (~~((shall have))~~) has the right to appeal this determination to the county board of equalization, in accordance with the provisions of RCW 84.40.038, whose decision (~~((shall be))~~) is final as to the deferral of that year.

Sec. 51. RCW 84.38.040 and 2013 c 23 s 353 are each amended to read as follows:

(1) Each claimant electing to defer payment of special assessments and/or real property tax obligations under this chapter (~~((shall))~~) must file with the county assessor, on forms prescribed by the department and supplied by the assessor, a written declaration thereof. The declaration to defer special assessments and/or real property taxes for any year (~~((shall))~~) must be filed no later than thirty days before the tax or assessment is due or thirty days after receiving notice under RCW 84.64.050, whichever is later(~~(: PROVIDED, That)~~); however, for good cause shown, the department may waive this requirement.

(2) The declaration (~~((shall))~~) must designate the property to which the deferral applies, and (~~((shall))~~) must include a statement setting forth (a) a list of all members of the claimant's household, (b) the claimant's equity value in his or her residence, (c) facts establishing the eligibility for the deferral under the provisions of this chapter, and (d) any other relevant information required by the rules of the department. (~~(Each copy shall)~~) The declaration must be signed by the claimant subject to the penalties as provided in chapter 9A.72 RCW for false swearing. The first declaration to defer filed in a county (~~((shall))~~) must include proof of the claimant's age acceptable to the assessor.

(3) The county assessor (~~((shall))~~) must determine if each claimant (~~((shall be))~~) is granted a deferral for each year but the claimant (~~((shall have))~~) has the right to appeal this determination to the county board of equalization, in accordance with the provisions of RCW 84.40.038, whose decision (~~((shall be))~~) is final as to the deferral of that year.

Sec. 52. RCW 84.38.050 and 1979 ex.s. c 214 s 8 are each amended to read as follows:

(1)(a) Declarations to defer property taxes for all years following the first year may be made by filing with the county assessor no later than thirty days before the tax is due a renewal form (~~((in duplicate))~~), prescribed by the department of revenue and supplied by the county assessor, which affirms the continued eligibility of the claimant.

(b) In January of each year, the county assessor (~~((shall))~~) must send to each claimant who has been granted deferral of ad valorem taxes for the previous year renewal forms and notice to renew.

(2) Declarations to defer special assessments (~~(shall)~~) must be made by filing with the assessor no later than thirty days before the special assessment is due on a form to be prescribed by the department of revenue and supplied by the county assessor. Upon approval, the full amount of special assessments upon such claimant's residence (~~(shall)~~) must be deferred but not to exceed an amount equal to eighty percent of the claimant's equity value in said property.

Sec. 53. RCW 84.38.110 and 1984 c 220 s 24 are each amended to read as follows:

The county assessor (~~(shall)~~) must:

(1) Immediately transmit (~~(one)~~) a copy of each declaration to defer to the department of revenue. The department may audit any declaration and (~~(shall)~~) must notify the assessor as soon as possible of any claim where any factor appears to disqualify the claimant for the deferral sought.

(2) Transmit (~~(one)~~) a copy of each declaration to defer a special assessment to the local improvement district which imposed such assessment.

(3) Compute the dollar tax rate for the county as if any deferrals provided by this chapter did not exist.

(4) As soon as possible notify the department of revenue and the county treasurer of the amount of real property taxes deferred for that year and notify the department of revenue and the respective treasurers of municipal corporations of the amount of special assessments deferred for each local improvement district within such unit.

Sec. 54. RCW 84.39.020 and 2005 c 253 s 2 are each amended to read as follows:

(1) Each claimant applying for assistance under RCW 84.39.010 (~~(shall)~~) must file a claim with the department, on forms prescribed by the department, no later than thirty days before the tax is due. The department may waive this requirement for good cause shown. The department (~~(shall)~~) must supply forms to the county assessor to allow persons to apply for the program at the county assessor's office.

(2) The claim (~~(shall)~~) must designate the property to which the assistance applies and (~~(shall)~~) must include a statement setting forth (a) a list of all members of the claimant's household, (b) facts establishing the eligibility under this section, and (c) any other relevant information required by the rules of the department. (~~Each copy shall~~) The claim must be signed by the claimant subject to the penalties as provided in chapter 9A.72 RCW for false swearing. The first claim (~~(shall)~~) must include proof of the claimant's age acceptable to the department.

(3) The following documentation (~~(shall)~~) must be filed with a claim along with any other documentation required by the department:

(a) The deceased veteran's DD 214 report of separation, or its equivalent, that must be under honorable conditions;

(b) A copy of the applicant's certificate of marriage to the deceased;

(c) A copy of the deceased veteran's death certificate; and

(d) A letter from the United States veterans' administration certifying that the death of the veteran meets the requirements of RCW 84.39.010(2).

(4) The department of veterans affairs (~~(shall)~~) must assist an eligible widow or widower in the preparation and submission of an application and the procurement of necessary substantiating documentation.

~~((4))~~ (5) The department (~~(shall)~~) must determine if each claimant is eligible each year. Any applicant aggrieved by the department's denial of assistance may petition the state board of tax appeals to review the denial and the board (~~(shall)~~) must consider any appeals to determine (a) if the claimant is entitled to assistance and (b) the amount or portion thereof.

Sec. 55. RCW 84.39.030 and 2005 c 253 s 3 are each amended to read as follows:

(1) Claims for assistance for all years following the first year may be made by filing with the department no later than thirty days before the tax is due a renewal form (~~(in duplicate)~~), prescribed by the department, that affirms the continued eligibility of the claimant.

(2) In January of each year, the department (~~(shall)~~) must send to each claimant who has been granted assistance for the previous year a renewal form~~(s)~~ and notice to renew.

Sec. 56. RCW 84.56.150 and 1961 c 15 s 84.56.150 are each amended to read as follows:

If any person, firm, or corporation (~~(shall remove)~~) removes from one county to another in this state personal property (~~(which)~~) that has been assessed in the former county for a tax (~~(which)~~) that is unpaid at the time of such removal, the treasurer of the county from which the property is removed (~~(shall)~~) must certify to the treasurer of the county to which the property has been (~~(removed)~~) moved a statement of the tax together with all delinquencies and penalties.

Sec. 57. RCW 82.32.805 and 2013 2nd sp.s. c 13 s 1701 are each amended to read as follows:

(1)(a) Except as otherwise provided in this section, every new tax preference expires on the first day of the calendar year that is subsequent to the calendar year that is ten years from the effective date of the tax preference. With respect to any new property tax exemption, the exemption does not apply to taxes levied for collection beginning in the calendar year that is subsequent to the calendar year that is ten years from the effective date of the tax preference.

(b) A future amendment that expands a tax preference does not extend the tax preference beyond the period provided in this subsection unless an extension is expressly and unambiguously stated in the amendment.

(2) Subsection (1) of this section does not apply if legislation creating a new tax preference includes an expiration date for the new tax preference or an exemption from this section in its entirety or from the provisions of subsection (1) of this section, whether or not such exemption is codified.

(3) Subsection (1) of this section does not apply to any existing tax preference that is amended to clarify an ambiguity or correct a technical inconsistency. Future enacted legislation intended to make such clarifications or corrections must explicitly indicate this intent.

(4) For the purposes of this section, the following definitions apply:

(a) "New tax preference" means a tax preference that initially takes effect after August 1, 2013, or a tax preference in effect as of August 1, 2013, that is

expanded or extended after August 1, 2013, even if the expanding or extending amendment includes any other change to the tax preference.

(b) "Tax preference" has the same meaning as in RCW 43.136.021 with respect to any state tax administered by the department, except does not include the Washington estate and transfer tax in chapter 83.100 RCW.

(5) The department must provide written notice to the office of the code reviser of a ten-year expiration date required under this section for a new tax preference.

Sec. 58. RCW 82.32.808 and 2017 c 135 s 8 are each amended to read as follows:

(1) As provided in this section, every bill enacting a new tax preference must include a tax preference performance statement, unless the legislation enacting the new tax preference contains an explicit exemption from the requirements of this section.

(2) A tax preference performance statement must state the legislative purpose for the new tax preference. The tax preference performance statement must indicate one or more of the following general categories, by reference to the applicable category specified in this subsection, as the legislative purpose of the new tax preference:

(a) Tax preferences intended to induce certain designated behavior by taxpayers;

(b) Tax preferences intended to improve industry competitiveness;

(c) Tax preferences intended to create or retain jobs;

(d) Tax preferences intended to reduce structural inefficiencies in the tax structure;

(e) Tax preferences intended to provide tax relief for certain businesses or individuals; or

(f) A general purpose not identified in (a) through (e) of this subsection.

(3) In addition to identifying the general legislative purpose of the tax preference under subsection (2) of this section, the tax preference performance statement must provide additional detailed information regarding the legislative purpose of the new tax preference.

(4) A new tax preference performance statement must specify clear, relevant, and ascertainable metrics and data requirements that allow the joint legislative audit and review committee and the legislature to measure the effectiveness of the new tax preference in achieving the purpose designated under subsection (2) of this section.

(5) If the tax preference performance statement for a new tax preference indicates a legislative purpose described in subsection (2)(b) or (c) of this section, any taxpayer claiming the new tax preference must file an annual tax performance report in accordance with RCW 82.32.534.

(6)(a) Taxpayers claiming a new tax preference must report the amount of the tax preference claimed by the taxpayer to the department as otherwise required by statute or determined by the department as part of the taxpayer's regular tax reporting responsibilities. For new tax preferences allowing certain types of gross income of the business to be excluded from business and occupation or public utility taxation, the tax return must explicitly report the amount of the exclusion, regardless of whether it is structured as an exemption or deduction, if the taxpayer is otherwise required to report taxes to the

department on a monthly or quarterly basis. For a new sales and use tax exemption, the total purchase price or value of the exempt product or service subject to the exemption claimed by the buyer must be reported on an addendum to the buyer's tax return if the buyer is otherwise required to report taxes to the department on a monthly or quarterly basis and the buyer is required to submit an exemption certificate, or similar document, to the seller.

(b) This subsection does not apply to:

(i) Property tax exemptions;

(ii) Tax preferences required by constitutional law;

(iii) Tax preferences for which the tax benefit to the taxpayer is less than one thousand dollars per calendar year; or

(iv) Taxpayers who are annual filers.

(c) The department may waive the filing requirements of this subsection for taxpayers who are not required to file electronically any return or report under this chapter.

(7)(a) Except as otherwise provided in this subsection, the amount claimed by a taxpayer for any new tax preference is subject to public disclosure and is not considered confidential tax information under RCW 82.32.330, if the reporting periods subject to disclosure ended at least twenty-four months prior to the date of disclosure and the taxpayer is required to report the amount of the tax preference claimed by the taxpayer to the department under subsection (6) of this section.

(b)(i) The department may waive the public disclosure requirement under (a) of this subsection (7) for good cause. Good cause may be demonstrated by a reasonable showing of economic harm to a taxpayer if the information specified under this subsection is disclosed. The waiver under this subsection (7)(b)(i) only applies to the new tax preferences provided in chapter 13, Laws of 2013 2nd sp. sess.

(ii) The amount of the tax preference claimed by a taxpayer during a calendar year is confidential under RCW 82.32.330 and may not be disclosed under this subsection if the amount for the calendar year is less than ten thousand dollars.

(c) In lieu of the disclosure and waiver requirements under this subsection, the requirements under RCW 82.32.534 apply to any tax preference that requires a tax performance report.

(8) If a new tax preference does not include the information required under subsections (2) through (4) of this section, the joint legislative audit and review committee is not required to perform a tax preference review under chapter 43.136 RCW, and it is legislatively presumed that it is the intent of the legislature to allow the new tax preference to expire upon its scheduled expiration date.

(9) For the purposes of this section, "tax preference" and "new tax preference" have the same meaning as provided in RCW 82.32.805.

(10) The provisions of this section do not apply to the extent that legislation creating a new tax preference provides an exemption, in whole or in part, from this section, whether or not such exemption is codified.

Sec. 59. RCW 35.90.020 and 2017 c 209 s 2 are each amended to read as follows:

(1) Except as otherwise provided in subsection (7) of this section, a city that requires a general business license of any person that engages in business activities within that city must partner with the department to have such license issued, and renewed if the city requires renewal, through the business licensing service in accordance with chapter 19.02 RCW.

(a) Except as otherwise provided in subsection (3) of this section, the department must phase in the issuance and renewal of general business licenses of cities that required a general business license as of July 1, 2017, and are not already partnering with the department, as follows:

(i) Between January 1, 2018, and December 31, 2021, the department must partner with at least six cities per year;

(ii) Between January 1, 2022, and December 31, 2027, the department must partner with the remaining cities; or

(iii) Between July 1, 2017 and December 31, 2022, the department must partner with all cities requiring a general business license if specific funding for the purposes of this subsection (~~((1)(a))~~) (1)(a)(iii) is appropriated in the omnibus appropriations act.

(b) A city that imposes a general business license requirement and does not partner with the department as of January 1, 2018, may continue to issue and renew its general business licenses until the city partners with the department as provided in subsection (4) of this section.

(2)(a) A city that did not require a general business license as of July 1, 2017, but imposes a new general business license requirement after that date must advise the department in writing of its intent to do so at least ninety days before the requirement takes effect.

(b) If a city subject to (a) of this subsection (2) imposes a new general business license requirement after July 1, 2017, the department, in its sole discretion, may adjust resources to partner with the imposing city as of the date that the new general business licensing requirement takes effect. If the department cannot reallocate resources, the city may issue and renew its general business license until the department is able to partner with the city.

(3) The department may delay assuming the duties of issuing and renewing general business licenses beyond the dates provided in subsection (1)(a) of this section if:

(a) Insufficient funds are appropriated for this specific purpose;

(b) The department cannot ensure the business licensing system is adequately prepared to handle all general business licenses due to unforeseen circumstances;

(c) The department determines that a delay is necessary to ensure that the transition to mandatory department issuance and renewal of general business licenses is as seamless as possible; or

(d) The department receives a written notice from a city within sixty days of the date that the city appears on the department's biennial partnership plan, which includes an explanation of the fiscal or technical challenges causing the city to delay joining the system. A delay under this subsection (3)(d) may be for no more than three years.

(4)(a) In consultation with affected cities and in accordance with the priorities established in subsection (5) of this section, the department must establish a biennial plan for partnering with cities to assume the issuance and

renewal of general business licenses as required by this section. The plan must identify the cities that the department will partner with and the dates targeted for the department to assume the duties of issuing and renewing general business licenses.

(b) By January 1, 2018, and January 1st of each even-numbered year thereafter until the department has partnered with all cities that currently impose a general business license requirement and that have not declined to partner with the department under subsection (7) of this section, the department must submit the partnering plan required in (a) of this subsection (4) to the governor; legislative fiscal committees; house local government committee; senate ((agriculture, water, trade and)) financial institutions, economic development and trade committee; senate local government committee; affected cities; association of Washington cities; association of Washington business; national federation of independent business; and Washington retail association.

(c) The department may, in its sole discretion, alter the plan required in (a) of this subsection (4) with a minimum notice of thirty days to affected cities.

(5) When determining the plan to partner with cities for the issuance and renewal of general business licenses as required in subsection (4) of this section, cities that notified the department of their wish to partner with the department before January 1, 2017, must be allowed to partner before other cities.

(6) A city that partners with the department for the issuance and renewal of general business licenses through the business licensing service in accordance with chapter 19.02 RCW may not issue and renew those licenses.

(7) ((A)) (a) Except as provided in (b) of this subsection, a city may decline to partner with the department for the issuance and renewal of a general business license as provided in subsection (1) of this section if the city participates in the online local business license and tax filing portal known as "FileLocal" as of July 1, 2020.

(b) A city that receives at least one million nine hundred fifty thousand dollars in fiscal year 2020 for temporary streamlined sales tax mitigation under the 2019 omnibus appropriations act, section 722, chapter 415, Laws of 2019, may decline to partner with the department for the issuance and renewal of a general business license as provided in subsection (1) of this section if the city participates in FileLocal as of July 1, 2021.

(c) For the purposes of this subsection (7), a city is considered to be a FileLocal participant as of the date that a business may access FileLocal for purposes of applying for or renewing that city's general business license and reporting and paying that city's local business and occupation taxes. A city that ceases participation in FileLocal after July 1, 2020, or July 1, 2021, in the case of a city eligible for the extension under (b) of this subsection, must partner with the department for the issuance and renewal of its general business license as provided in subsection (1) of this section.

(8) By January 1, 2019, and each January 1st thereafter through January 1, 2028, the department must submit a progress report to the legislature. The report required by this subsection must provide information about the progress of the department's efforts to partner with all cities that impose a general business license requirement and include:

(a) A list of cities that have partnered with the department as required in subsection (1) of this section;

- (b) A list of cities that have not partnered with the department;
- (c) A list of cities that are scheduled to partner with the department during the upcoming calendar year;
- (d) A list of cities that have declined to partner with the department as provided in subsection (7) of this section;
- (e) An explanation of lessons learned and any process efficiencies incorporated by the department;
- (f) Any recommendations to further simplify the issuance and renewal of general business licenses by the department; and
- (g) Any other information the department considers relevant.

Sec. 60. RCW 82.32.050 and 2008 c 181 s 501 are each amended to read as follows:

(1) If upon examination of any returns or from other information obtained by the department it appears that a tax or penalty has been paid less than that properly due, the department shall assess against the taxpayer such additional amount found to be due and shall add thereto interest on the tax only. The department shall notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount and the additional amount shall become due and shall be paid within thirty days from the date of the notice, or within such further time as the department may provide.

(a) For tax liabilities arising before January 1, 1992, interest shall be computed at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until the earlier of December 31, 1998, or the date of payment. After December 31, 1998, the rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(b) For tax liabilities arising after December 31, 1991, the rate of interest shall be variable and computed as provided in subsection (2) of this section from the last day of the year in which the deficiency is incurred until the date of payment. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(c) ~~(Interest)~~ (i) Except as otherwise provided in (c)(ii) of this subsection (1), interest imposed after December 31, 1998, shall be computed from the last day of the month following each calendar year included in a notice, and the last day of the month following the final month included in a notice if not the end of a calendar year, until the due date of the notice.

(ii) For interest associated with annual tax reporting periods having a due date as prescribed in RCW 82.32.045(3), interest must be computed from the last day of April immediately following each such annual reporting period included in the notice, until the due date of the notice.

(iii) If payment in full is not made by the due date of the notice, additional interest shall be computed under this subsection (1)(c) until the date of payment. The rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(2) For the purposes of this section, the rate of interest to be charged to the taxpayer 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.

(3) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the due date of any assessment or correction of an assessment for additional taxes, penalties, or interest as the department deems proper.

(4) No assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the close of the tax year, except (a) against a taxpayer who has not registered as required by this chapter, (b) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (c) where a taxpayer has executed a written waiver of such limitation. The execution of a written waiver shall also extend the period for making a refund or credit as provided in RCW 82.32.060(2).

(5) For the purposes of this section, "return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department of revenue and that has a statutorily defined due date.

Sec. 61. RCW 82.32.060 and 2009 c 176 s 4 are each amended to read as follows:

(1) If, upon receipt of an application by a taxpayer for a refund or for an audit of the taxpayer's records, or upon an examination of the returns or records of any taxpayer, it is determined by the department that within the statutory period for assessment of taxes, penalties, or interest prescribed by RCW 82.32.050 any amount of tax, penalty, or interest has been paid in excess of that properly due, the excess amount paid within, or attributable to, such period must be credited to the taxpayer's account or must be refunded to the taxpayer, at the taxpayer's option. Except as provided in subsection (2) of this section, no refund or credit may be made for taxes, penalties, or interest paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(2)(a) The execution of a written waiver under RCW 82.32.050 or 82.32.100 will extend the time for making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the department discovers a refund or credit is due.

(b) A refund or credit must be allowed for an excess payment resulting from the failure to claim a bad debt deduction, credit, or refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003, less than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(3) Any such refunds must be made by means of vouchers approved by the department and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide. However, taxpayers who are required

to pay taxes by electronic funds transfer under RCW 82.32.080 must have any refunds paid by electronic funds transfer if the department has the necessary account information to facilitate a refund by electronic funds transfer.

(4) Any judgment for which a recovery is granted by any court of competent jurisdiction, not appealed from, for tax, penalties, and interest which were paid by the taxpayer, and costs, in a suit by any taxpayer must be paid in the same manner, as provided in subsection (3) of this section, upon the filing with the department of a certified copy of the order or judgment of the court.

(a) Interest at the rate of three percent per annum must be allowed by the department and by any court on the amount of any refund, credit, or other recovery allowed to a taxpayer for taxes, penalties, or interest paid by the taxpayer before January 1, 1992. This rate of interest applies for all interest allowed through December 31, 1998. Interest allowed after December 31, 1998, must be computed at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(b) For refunds or credits of amounts paid or other recovery allowed to a taxpayer after December 31, 1991, the rate of interest must be the rate as computed for assessments under RCW 82.32.050(2) less one percent. This rate of interest applies for all interest allowed through December 31, 1998. Interest allowed after December 31, 1998, must be computed at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(5) Interest allowed on a credit notice or refund issued after December 31, 2003, must be computed as follows:

(a) If all overpayments for each calendar year and all reporting periods ending with the final month included in a notice or refund were made on or before the due date of the final return for each calendar year or the final reporting period included in the notice or refund:

(i) Interest must be computed from January 31st following each calendar year included in a notice or refund; (~~01~~)

(ii) Interest must be computed from the last day of the month following the final month included in a notice or refund; or

(iii) For interest associated with annual tax reporting periods having a due date as prescribed in RCW 82.32.045(3), interest must be computed from the last day of April following each such annual reporting period included in a notice or refund.

(b) If the taxpayer has not made all overpayments for each calendar year and all reporting periods ending with the final month included in a notice or refund on or before the dates specified by RCW 82.32.045 for the final return for each calendar year or the final month included in the notice or refund, interest must be computed from the last day of the month following the date on which payment in full of the liabilities was made for each calendar year included in a notice or refund, and the last day of the month following the date on which payment in full of the liabilities was made if the final month included in a notice or refund is not the end of a calendar year.

(c) Interest included in a credit notice must accrue up to the date the taxpayer could reasonably be expected to use the credit notice, as defined by the department's rules. If a credit notice is converted to a refund, interest must be

recomputed to the date the refund is issued, but not to exceed the amount of interest that would have been allowed with the credit notice.

NEW SECTION. Sec. 62. Sections 60 and 61 of this act apply both prospectively and retroactively to January 1, 2020.

NEW SECTION. Sec. 63. Sections 60 through 62 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. 64. The following acts or parts of acts are each repealed:

(1) RCW 82.04.4322 (Deductions—Artistic or cultural organization—Compensation from United States, state, etc., for artistic or cultural exhibitions, performances, or programs) and 1981 c 140 s 1;

(2) RCW 82.04.4324 (Deductions—Artistic or cultural organization—Deduction for tax under RCW 82.04.240—Value of articles for use in displaying art objects or presenting artistic or cultural exhibitions, performances, or programs) and 1981 c 140 s 2;

(3) RCW 82.04.4326 (Deductions—Artistic or cultural organizations—Tuition charges for attending artistic or cultural education programs) and 1981 c 140 s 3;

(4) RCW 82.08.02081 (Exemptions—Audio or video programming) and 2009 c 535 s 502;

(5) RCW 82.08.02082 (Exemptions—Digital products or services—Ingredient or component—Made available for free) and 2017 c 323 s 517, 2010 c 111 s 401, & 2009 c 535 s 503;

(6) RCW 82.08.02087 (Exemptions—Digital goods and services—Purchased for business purposes) and 2010 c 111 s 402 & 2009 c 535 s 504;

(7) RCW 82.08.02088 (Exemptions—Digital products—Business buyers—Concurrently available for use within and outside state) and 2017 c 323 s 518 & 2009 c 535 s 701;

(8) RCW 82.12.02081 (Exemptions—Audio or video programming) and 2009 c 535 s 602;

(9) RCW 82.12.02082 (Exemptions—Digital products or services—Made available for free to general public) and 2017 c 323 s 521, 2010 c 111 s 501, & 2009 c 535 s 603;

(10) RCW 82.12.02084 (Exemptions—Digital goods—Use by students) and 2009 c 535 s 604;

(11) RCW 82.12.02085 (Exemptions—Digital goods—Noncommercial—Internal audience—Not for sale) and 2009 c 535 s 605;

(12) RCW 82.12.02086 (Exemptions—Digital products or codes—Free of charge) and 2009 c 535 s 606;

(13) RCW 82.12.02087 (Exemptions—Digital goods, codes, and services—Used for business purposes) and 2010 c 111 s 502 & 2009 c 535 s 607;

(14) RCW 82.32.755 (Sourcing compliance—Taxpayer relief—Interest and penalties—Streamlined sales and use tax agreement) and 2007 c 6 s 1601;

(15) RCW 82.32.760 (Sourcing compliance—Taxpayer relief—Credits—Streamlined sales and use tax agreement) and 2007 c 6 s 1602;

(16) RCW 82.66.010 (Definitions) and 1995 c 352 s 1;

(17) RCW 82.66.020 (Application for deferral—Contents—Ruling) and 1995 c 352 s 2;

(18) RCW 82.66.040 (Repayment schedule—Interest, penalties) and 1998 c 339 s 1 & 1995 c 352 s 4;

(19) RCW 82.66.050 (Applications not confidential) and 1995 c 352 s 6;

(20) RCW 82.66.060 (Administration) and 1995 c 352 s 5; and

(21) RCW 82.66.901 (Effective date—1995 c 352) and 1995 c 352 s 9.

NEW SECTION. Sec. 65. The following sections are decodified:

(1) RCW 82.58.005 (Findings);

(2) RCW 82.58.901 (Effective date—2002 c 267 §§ 1-9); and

(3) RCW 82.58.902 (Contingent effective date—2002 c 267 §§ 10 and 11).

NEW SECTION. Sec. 66. Section 37 of this act takes effect January 1, 2022.

Passed by the Senate March 10, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 25, 2020, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 26, 2020.

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

"I am returning herewith, without my approval as to Section 21, Engrossed Senate Bill No. 5402 entitled:

"AN ACT Relating to improving tax and licensing laws administered by the department of revenue, but not including changes to tax laws that are estimated to affect state or local tax collections as reflected in any fiscal note prepared and approved under the process established in chapter 43.88A RCW."

This bill makes technical corrections to a variety of tax laws with the intent to correct errors and simplify the statutes wherever possible, without having any substantive effect on tax policy or revenue collections.

Section 21 updates an out of date reference to the definition of "hog fuel." This section is being vetoed because it duplicates the change to RCW 82.12.956 made in section 3 of House Bill 2848.

For these reasons I have vetoed Section 21 of Engrossed Senate Bill No. 5402.

With the exception of Section 21, Engrossed Senate Bill No. 5402 is approved."

CHAPTER 140

[Engrossed Senate Bill 5457]

PUBLIC WORKS CONTRACT BIDDING--NAMING OF SUBCONTRACTORS BY PRIME CONTRACTORS

AN ACT Relating to the naming of subcontractors by prime contract bidders on public works contracts; and amending RCW 39.30.060.

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

Sec. 1. RCW 39.30.060 and 2003 c 301 s 5 are each amended to read as follows:

(1) Every invitation to bid on a prime contract that is expected to cost one million dollars or more for the construction, alteration, or repair of any public building or public work of the state or a state agency or municipality as defined

under RCW 39.04.010 or an institution of higher education as defined under RCW 28B.10.016 shall require each prime contract bidder to submit ~~((as part of the bid, or within))~~:

(a) Within one hour after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of: HVAC (heating, ventilation, and air conditioning); plumbing as described in chapter 18.106 RCW; and electrical as described in chapter 19.28 RCW, or to name itself for the work; or

(b) Within forty-eight hours after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of structural steel installation and rebar installation.

(2) The prime contract bidder shall not list more than one subcontractor for each category of work identified, unless subcontractors vary with bid alternates, in which case the prime contract bidder must indicate which subcontractor will be used for which alternate. Failure of the prime contract bidder to submit as part of the bid the names of such subcontractors or to name itself to perform such work or the naming of two or more subcontractors to perform the same work shall render the prime contract bidder's bid nonresponsive and, therefore, void.

~~((2))~~ (3) Substitution of a listed subcontractor in furtherance of bid shopping or bid peddling before or after the award of the prime contract is prohibited and the originally listed subcontractor is entitled to recover monetary damages from the prime contract bidder who executed a contract with the public entity and the substituted subcontractor but not from the public entity inviting the bid. It is the original subcontractor's burden to prove by a preponderance of the evidence that bid shopping or bid peddling occurred. Substitution of a listed subcontractor may be made by the prime contractor for the following reasons:

(a) Refusal of the listed subcontractor to sign a contract with the prime contractor;

(b) Bankruptcy or insolvency of the listed subcontractor;

(c) Inability of the listed subcontractor to perform the requirements of the proposed contract or the project;

(d) Inability of the listed subcontractor to obtain the necessary license, bonding, insurance, or other statutory requirements to perform the work detailed in the contract; ~~((or))~~

(e) Refusal or inability to provide a letter of bondability from a surety company; or

(f) The listed subcontractor is barred from participating in the project as a result of a court order or summary judgment.

~~((3))~~ (4) The requirement of this section to name the prime contract bidder's proposed ~~((HVAC, plumbing, and electrical))~~ subcontractors applies only to proposed HVAC, plumbing, ~~((and))~~ electrical, structural steel installation, and rebar installation subcontractors who will contract directly with the prime contract bidder submitting the bid to the public entity.

~~((4))~~ (5) This section does not apply to job order contract requests for proposals under RCW ~~((39.10.130))~~ 39.10.420.

(6) The legislature finds that there are hundreds of capital construction projects completed each year which include complex contracting and bidding requirements. It is the intent of the legislature to review current subcontractor

listing requirements to allow fair, transparent, and competitive bidding while prohibiting bid shopping. The capital projects advisory review board must submit a report to the governor and the appropriate committees of the legislature by November 1, 2020. The report must:

(a) Evaluate current subcontractor listing policies and practices;

(b) Recommend appropriate expansion of the number of subcontractors that may be listed in order to improve transparency and fairness without reducing competitive bidding and access to public works by minority and women-owned businesses; and

(c) Recommend possible project threshold and time frames for purposes of subcontractor listings for all scopes of work that are not required to list under law, including: The timing of subcontractor listing, bond requirements for subcontractors, general contractors standard contract request, and general contractor/construction manager and design-build applications.

Passed by the Senate January 24, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 141

[Second Substitute Senate Bill 5488]

YOUTH AND YOUNG ADULTS--CRIMINAL SENTENCING

AN ACT Relating to the sentencing of youth and young adults; and amending RCW 9.94A.533.

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

Sec. 1. RCW 9.94A.533 and 2018 c 7 s 8 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range

determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun or bump-fire stock, possession of a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun or bump-fire stock in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes

listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun or bump-fire stock, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun or bump-fire stock in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.827. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

Notwithstanding any other provision of law, all impaired driving enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other impaired driving enhancements, for all offenses sentenced under this chapter.

An offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c).

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (a)(i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (a)(i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total

confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one-year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in the sexual conduct in return for a fee, an additional one-year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10)(a) For a person age eighteen or older convicted of any criminal street gang-related felony offense for which the person compensated, threatened, or solicited a minor in order to involve the minor in the commission of the felony offense, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by one hundred twenty-five percent. If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

(b) This subsection does not apply to any criminal street gang-related felony offense for which involving a minor in the commission of the felony offense is an element of the offense.

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

(11) An additional twelve months and one day shall be added to the standard sentence range for a conviction of attempting to elude a police vehicle as defined by RCW 46.61.024, if the conviction included a finding by special allegation of endangering one or more persons under RCW 9.94A.834.

(12) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.831.

(13) An additional twelve months shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)) or felony physical control under the influence (RCW 46.61.504(6)) for each child passenger under the age of sixteen who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions. If the addition of a minor child enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(14) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.832.

(15) Regardless of any provisions in this section, if a person is being sentenced in adult court for a crime committed under age eighteen, the court has full discretion to depart from mandatory sentencing enhancements and to take the particular circumstances surrounding the defendant's youth into account.

Passed by the Senate March 10, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 142

[Engrossed Substitute Senate Bill 5522]

CODE CITY ANNEXATIONS--INTERLOCAL AGREEMENT WITH COUNTY

AN ACT Relating to providing code cities with the ability to annex unincorporated areas pursuant to a jointly approved interlocal agreement with the county; adding a new section to chapter 35A.14 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 city annexations of unincorporated areas within urban growth areas will be more efficient and effective if the county and city develop a jointly approved interlocal agreement so as not to create illogical boundaries or islands of unincorporated territory.

NEW SECTION. Sec. 2. A new section is added to chapter 35A.14 RCW to read as follows:

(1) A code city as provided in subsection (2) of this section may annex unincorporated territory pursuant to an interlocal agreement. This method of

annexation shall be an alternative method and is additional to all other methods provided for in this chapter.

(2) The county legislative authority of a county and the governing body of a code city may jointly initiate an annexation process for unincorporated territory by adopting an interlocal agreement as provided in chapter 39.34 RCW and under this section between the county and code city within the county. If a code city is proposing to annex territory where the sole access or majority of egress and ingress for the territory proposed for annexation is served by the transportation network of an adjacent city, or that will include areas in a fire protection district under Title 52 RCW, regional fire protection service authority under chapter 52.26 RCW, water-sewer district under Title 57 RCW, or transportation benefit district under chapter 36.73 RCW, the code city must provide written notice to the governing authority of such adjacent city, regional fire protection service authority, fire protection district, water-sewer district, or transportation benefit district. Such adjacent city or notified district shall have thirty calendar days from the date of the notice to provide written notice of its interest in being a party to the interlocal agreement. If timely notice is provided, such city or district shall be included as a party to the interlocal agreement. If the adjacent city or district does not approve the interlocal agreement, the annexation may not proceed under this section. For purposes of this subsection, "adjacent" means that the territory proposed for annexation is contiguous with the existing city limits of the nonannexing city. The interlocal agreement must ensure that for a period of five years after the annexation any parcel zoned for residential development within the annexed area shall:

(a) Maintain a zoning designation that provides for residential development; and

(b) Not have its minimum gross residential density reduced below the density allowed for by the zoning designation for that parcel prior to annexation.

(3) The county and code city shall jointly agree on the boundaries of the annexation and its effective date. The interlocal agreement shall describe the boundaries of the territory to be annexed and set a date for a public hearing on such agreement for annexation. An interlocal agreement may include phased annexation of territory, and may be amended following the same process as initial approval, including adding additional territory. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall:

(a) Separately or jointly, publish a notice of availability of the agreement at least once a week for four weeks before the date of the hearing in one or more newspapers of general circulation within the code city and one or more newspapers of general circulation within the territory proposed for annexation; and

(b) If the legislative body has the ability to do so, post the notice of availability of the agreement on its web site for the same four weeks that the notice is published in the newspapers under (a) of this subsection. The notice shall describe where the public may review the agreement and the territory to be annexed.

(4) On the date set for hearing, the public shall be afforded an opportunity to be heard. Following the hearing, if the legislative body determines to effect the annexation, they shall do so by ordinance. If the annexation agreement includes

phased annexation of territory, the legislative body shall adopt a separate ordinance at the time of each phase of annexation. Upon the date fixed in the ordinance of annexation the area annexed shall become part of the city. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of such requirements. Upon passage of the annexation ordinance a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located.

Passed by the Senate February 14, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 143

[Senate Bill 5811]

MOTOR VEHICLE EMISSIONS STANDARDS--ZERO EMISSION VEHICLES

AN ACT Relating to reducing emissions by making changes to the clean car standards and clean car program; amending RCW 70.120A.010 and 70.120A.050; and repealing RCW 70.120A.020.

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

Sec. 1. RCW 70.120A.010 and 2010 c 76 s 1 are each amended to read as follows:

(1) Pursuant to the federal clean air act, the legislature adopts the California motor vehicle emission standards in Title 13 of the California Code of Regulations (~~(, effective January 1, 2005, except as provided in this chapter)~~). The department of ecology shall adopt rules to implement the motor vehicle emission standards of the state of California ((for passenger cars, light duty trucks, and medium duty passenger vehicles)), including the zero emission vehicle program, and shall amend the rules from time to time, to maintain consistency with the California motor vehicle emission standards and 42 U.S.C. Sec. 7507 (section 177 of the federal clean air act). ~~((Notwithstanding other provisions of this chapter, the department of ecology shall not adopt the zero emission vehicle program regulations contained in Title 13 section 1962 of the California Code of Regulations effective January 1, 2005. During rule development, the department of ecology shall convene an advisory group composed of industry and consumer group representatives. Any proposed rules or changes to rules shall be subject to review and comment by the advisory group, prior to rule adoption. The order of adoption for the rules required in this section shall include the signature of the governor. The rules shall be effective only for those model years for which the state of Oregon has adopted the California motor vehicle emission standards. This section does not limit the department of ecology's authority to regulate motor vehicle emissions for any other class of vehicle.~~

(2) Motor vehicles with a model year equal to or later than the first model year for which new vehicles sold to Washington state residents are required to comply with California motor vehicle emission standards are exempt from emission inspections under chapter 70.120 RCW.

~~(3))~~ (2) The provisions of this chapter do not apply with respect to the use by a resident of this state of a motor vehicle acquired and used while the resident is a member of the armed services and is stationed outside this state pursuant to military orders.

Sec. 2. RCW 70.120A.050 and 2014 c 76 s 8 are each amended to read as follows:

(1) No model year 2010 or subsequent model year new passenger car, light duty truck, or medium duty (~~(passenger)~~) vehicle may be sold in Washington unless there is securely and conspicuously affixed in a clearly visible location a label on which the manufacturer clearly discloses comparative greenhouse gas emissions for that new vehicle.

(2) The label required by this section should include a greenhouse gas index or rating system that contains quantitative and graphical information presented in a continuous, easy-to-read scale that compares the greenhouse gas emissions from the vehicle with the average projected greenhouse gas emissions from all passenger cars, light duty trucks, and medium duty (~~(passenger)~~) vehicles of the same model year. For reference purposes, the index or rating system should also identify the greenhouse gas emissions from the vehicle model of that same model year that has the lowest greenhouse gas emissions.

(3) The index or rating system included in the label under subsection (2) of this section shall be updated as necessary to ensure that the differences in greenhouse gas emissions among vehicles are readily apparent to the consumer.

(4) An automobile manufacturer may apply to the department of ecology for approval of an alternative to the disclosure labeling requirement that is at least as effective in providing notification and disclosure of the vehicle's greenhouse gas emissions as is the labeling required by this section.

(5) A label that complies with the requirements of the California greenhouse gas vehicle labeling program shall be deemed to meet the requirements of this section and any rules adopted under this section.

(6) The department of ecology may adopt such rules as are necessary to implement this section.

NEW SECTION. Sec. 3. RCW 70.120A.020 (Early credits and banking—Alternative means of compliance) and 2005 c 295 s 3 are each repealed.

Passed by the Senate March 9, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 144

[Engrossed Substitute Senate Bill 5829]

VOLUNTEER FIREFIGHTERS' AND RESERVE OFFICERS' RELIEF AND PENSION SYSTEM--BENEFITS AND CONTRIBUTIONS

AN ACT Relating to pension benefits and contributions in the volunteer firefighters' and reserve officers' relief and pension system; amending RCW 41.24.030 and 41.24.170; and providing a contingent effective date.

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

Sec. 1. RCW 41.24.030 and 2005 c 37 s 2 are each amended to read as follows:

(1) The volunteer firefighters' and reserve officers' relief and pension principal fund is created in the state treasury as a trust fund for the benefit of the participants covered by this chapter consisting of:

(a) All bequests, fees, gifts, emoluments, or donations given or paid to the fund.

(b) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording relief provided in this chapter for firefighters as follows:

(i) (~~(Thirty)~~) Fifty dollars for each volunteer or part-paid member of its fire department;

(ii) A sum equal to one and one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department, prorated for 1970 on the basis of services prior to March 1, 1970.

(c) An annual fee for each emergency worker of an emergency medical service district paid by the district that is sufficient to pay the full costs of covering the emergency worker under the relief provisions of this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system.

(d) Where a municipal corporation has elected to make relief provisions of this chapter available to its reserve officers, an annual fee for each reserve officer paid by the municipal corporation that is sufficient to pay the full costs of covering the reserve officer under the relief provisions of this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system.

(e) Where a municipal corporation has elected to make the retirement pension provisions of this chapter available to members of its fire department, an annual fee of (~~(sixty)~~) ninety dollars for each of its firefighters electing to enroll, (~~(thirty)~~) forty-five dollars of which shall be paid by the municipality and (~~(thirty)~~) forty-five dollars of which shall be paid by the firefighter. However, nothing in this section prohibits any municipality from voluntarily paying the firefighters' fee for this retirement pension coverage.

(f) Where an emergency medical service district has elected to make the retirement pension provisions of this chapter available to its emergency workers, for each emergency worker electing to enroll: (i) An annual fee of (~~(thirty)~~) forty-five dollars shall be paid by the emergency worker; and (ii) an annual fee paid by the emergency medical service district that, together with the (~~(thirty)~~) forty-five dollar fee per emergency worker, is sufficient to pay the full costs of covering the emergency worker under the retirement pension benefits provided under this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system. However, nothing in this section prohibits any emergency medical service district from voluntarily paying the emergency workers' fees for this retirement pension coverage.

(g) Where a municipal corporation has elected to make the retirement pension provisions of this chapter available to its reserve officers, for each reserve officer electing to enroll: (i) An annual fee of (~~(thirty)~~) forty-five dollars shall be paid by the reserve officer; and (ii) an annual fee paid by the municipal

corporation that, together with the (~~thirty~~) forty-five dollar fee per reserve officer, is sufficient to pay the full costs of covering the reserve officer under the retirement pension benefits provided under this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system. However, nothing in this section prohibits any municipal corporation from voluntarily paying the reserve officers' fees for this retirement pension coverage.

(h) Moneys transferred from the administrative fund, as provided under subsection (4) of this section, which may only be used to pay relief and retirement pensions for firefighters.

(i) Earnings from the investment of moneys in the principal fund.

(2) The state investment board, upon request of the state treasurer shall have full power to invest, reinvest, manage, contract, sell, or exchange investments acquired from that portion of the amounts credited to the principal fund as is not, in the judgment of the state board, required to meet current withdrawals. Investments shall be made in the manner prescribed by RCW 43.84.150 and not otherwise.

All bonds, investments, or other obligations purchased by the state investment board shall be placed in the custody of the state treasurer, and he or she shall collect the principal thereof and interest thereon when due.

The state investment board may sell any of the bonds, investments, or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.

(3) The interest, earnings, and proceeds from the sale and redemption of any investments held by the principal fund and invested by the state investment board shall be credited to and form a part of the principal fund, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160.

Subject to restrictions contained in this chapter, all amounts credited to the principal fund shall be available for making the benefit payments required by this chapter.

The state treasurer shall make an annual report showing the condition of the fund.

(4) The volunteer firefighters' and reserve officers' administrative fund is created in the state treasury. Moneys in the fund, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation, and may be used only for operating expenses of the volunteer firefighters' and reserve officers' relief and pension principal fund, the operating expenses of the volunteer firefighters' and reserve officers' administrative fund, or for transfer from the administrative fund to the principal fund.

(a) Forty percent of all moneys received by the state from taxes on fire insurance premiums shall be paid into the state treasury and credited to the administrative fund.

(b) The state board shall compute a percentage of the amounts credited to the administrative fund to be paid into the principal fund.

(c) For the purpose of providing amounts to be used to defray the cost of administration of the principal and administrative funds, the state board shall ascertain at the beginning of each biennium and request from the legislature an

appropriation from the administrative fund sufficient to cover estimated expenses for the biennium.

Sec. 2. RCW 41.24.170 and 2003 c 62 s 1 are each amended to read as follows:

(1) Except as provided in RCW 41.24.410, whenever any participant has been a member and served honorably for a period of ten years or more as an active member in any capacity, of any regularly organized fire department or law enforcement agency of any municipality in this state, and which municipality has adopted appropriate legislation allowing its firefighters or reserve officers to enroll in the retirement pension provisions of this chapter, and the participant has enrolled under the retirement pension provisions and has reached the age of sixty-five years, the board of trustees shall order and direct that he or she be retired and be paid a monthly pension from the principal fund as provided in this section.

(2)(a) Whenever a participant has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department or law enforcement agency of any municipality in this state, and he or she has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of twenty-five years, the board of trustees shall order and direct that he or she be retired and such participant be paid a monthly pension of three hundred fifty dollars from the fund for the balance of that participant's life.

(b) Beginning the date that the state board receives a determination from the federal internal revenue service that this subsection (2)(b) does not exceed limits on deferred compensation from volunteer plans, but no sooner than July 1, 2022, whenever a participant is eligible for a benefit under (a) of this subsection, the board of trustees shall order and direct that he or she be retired and such participant be paid the monthly pension under (a) of this subsection plus ten dollars per month for each year that the retirement fee was paid beyond twenty-five years, from the fund for the balance of that participant's life.

(3) Whenever any participant has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department or law enforcement agency of any municipality in this state, and the participant has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of less than twenty-five years, the board of trustees shall order and direct that he or she be retired and that such participant shall receive a minimum monthly pension of ~~((fifty))~~ one hundred dollars increased by the sum of ten dollars each month for each year the annual fee has been paid, but not to exceed ~~((the maximum monthly pension provided in this section))~~ three hundred fifty dollars, for the balance of the participant's life.

(4) No pension provided in this section may become payable before the sixty-fifth birthday of the participant, nor for any service less than twenty-five years: PROVIDED, HOWEVER, That:

~~((+))~~ (a) Any participant, who is older than fifty-nine years of age, less than sixty-five years of age, and has completed twenty-five years or more of service may irrevocably elect a reduced monthly pension in lieu of the pension that participant would be entitled to under this section at age sixty-five. The participant who elects this option shall receive the reduced pension for the

balance of his or her life. The reduced monthly pension is calculated as a percentage of the pension the participant would be entitled to at age sixty-five. The percentage used in the calculation is based upon the age of the participant at the time of retirement as follows:

Age 60	Sixty percent
Age 61	Sixty-eight percent
Age 62	Seventy-six percent
Age 63	Eighty-four percent
Age 64	Ninety-two percent

~~((2))~~ (b) If a participant is age sixty-five or older (but has less than twenty-five years of service, the participant is entitled to a reduced benefit. The reduced benefit shall be computed as follows:

~~((a))~~ (i) Upon completion of ten years, but less than fifteen years of service, a monthly pension equal to twenty percent of such pension as the participant would have been entitled to receive at age sixty-five after twenty-five years of service;

~~((b))~~ (ii) Upon completion of fifteen years, but less than twenty years of service, a monthly pension equal to thirty-five percent of such pension as the participant would have been entitled to receive at age sixty-five after twenty-five years of service; and

~~((c))~~ (iii) Upon completion of twenty years, but less than twenty-five years of service, a monthly pension equal to seventy-five percent of such pension as the participant would have been entitled to receive at age sixty-five after twenty-five years of service.

~~((3))~~ (c) If a participant with less than twenty-five years of service elects to retire after turning age sixty but before turning age sixty-five, the participant's retirement allowance is subject:

~~((a))~~ (i) First to the reduction under (b) of this subsection ~~((2) of this section))~~ based upon the participant's years of service; and

~~((b))~~ (ii) Second to the reduction under (a) of this subsection ~~((1) of this section))~~ based upon the participant's age.

NEW SECTION. Sec. 3. This act takes effect the later of January 1, 2021, or the date that the board for volunteer firefighters and reserve officers receives notice from the federal internal revenue service that the volunteer firefighters and reserve officers relief and pension system is a qualified employee benefit plan under the federal law. The board must provide written notice of the effective date of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the board.

Passed by the Senate March 10, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 145

[Senate Bill 6034]

PREGNANCY DISCRIMINATION--COMPLAINT FILING DEADLINE

AN ACT Relating to extending the time allowed to file a complaint with the human rights commission for a claim related to pregnancy discrimination; and amending RCW 49.60.230.

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

Sec. 1. RCW 49.60.230 and 2008 c 266 s 7 are each amended to read as follows:

(1) Who may file a complaint:

(a) Any person claiming to be aggrieved by an alleged unfair practice may, personally or by his or her attorney, make, sign, and file with the commission a complaint in writing under oath or by declaration. The complaint shall state the name of the person alleged to have committed the unfair practice and the particulars thereof, and contain such other information as may be required by the commission.

(b) Whenever it has reason to believe that any person has been engaged or is engaging in an unfair practice, the commission may issue a complaint.

(c) Any employer or principal whose employees, or agents, or any of them, refuse or threaten to refuse to comply with the provisions of this chapter may file with the commission a written complaint under oath or by declaration asking for assistance by conciliation or other remedial action.

(2) Any complaint filed pursuant to this section must be ~~((sø))~~ filed within six months after the alleged act of discrimination, except that complaints alleging an unfair practice ~~((#))~~ related to:

(a) A real estate transaction pursuant to RCW 49.60.222 through 49.60.225 must be ~~((sø))~~ filed within one year after the alleged unfair practice in a real estate transaction has occurred or terminated;

(b) Pregnancy discrimination pursuant to RCW 49.60.180 must be filed within one year after the alleged unfair practice; and

(c) A complaint alleging whistleblower retaliation must be filed within two years.

Passed by the Senate February 13, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 146

[Senate Bill 6045]

VULNERABLE USER OF A PUBLIC WAY--DEFINITION

AN ACT Relating to vulnerable users of a public way; amending RCW 46.61.526; and prescribing penalties.

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

Sec. 1. RCW 46.61.526 and 2011 c 372 s 1 are each amended to read as follows:

(1) A person commits negligent driving in the second degree with a vulnerable user victim if, under circumstances not constituting negligent driving

in the first degree, he or she operates a vehicle, as defined in RCW 46.04.670, in a manner that is both negligent and endangers or is likely to endanger any person or property, and he or she proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of a public way.

(2) The law enforcement officer or prosecuting authority issuing the notice of infraction for an offense under this section shall state on the notice of infraction that the offense was a proximate cause of death, great bodily harm, or substantial bodily harm, as defined in RCW 9A.04.110, of a vulnerable user of a public way.

(3) Persons under the age of sixteen who commit an infraction under this section are subject to the provisions of RCW 13.40.250.

(4) A person found to have committed negligent driving in the second degree with a vulnerable user victim shall be required to:

(a) Pay a monetary penalty of five thousand dollars, which may not be reduced to an amount less than one thousand dollars; and

(b) Have his or her driving privileges suspended for ninety days.

(5) In lieu of the penalties imposed under subsection (4) of this section, a person found to have committed negligent driving in the second degree with a vulnerable user victim who requests and personally appears for a hearing pursuant to RCW 46.63.070 (1) or (2) may elect to:

(a) Pay a penalty of two hundred fifty dollars;

(b) Attend traffic school for a number of days to be determined by the court pursuant to chapter 46.83 RCW;

(c) Perform community service for a number of hours to be determined by the court, which may not exceed one hundred hours, and which must include activities related to driver improvement and providing public education on traffic safety; and

(d) Submit certification to the court establishing that the requirements of this subsection have been met within one year of the hearing.

(6) If a person found to have committed a violation of this section elects the penalties imposed under subsection (5) of this section, the court may impose the penalties under subsection (5) of this section and the court may assess costs as the court deems appropriate for administrative processing.

(7) Except as provided in (b) of this subsection, if a person found to have committed a violation of this section elects the penalties under subsection (5) of this section but does not complete all requirements of subsection (5) of this section within one year of the hearing:

(a)(i) The court shall impose a monetary penalty in the amount of five thousand dollars, which may not be reduced to an amount less than one thousand dollars; and

(ii) The person's driving privileges shall be suspended for ninety days.

(b) For good cause shown, the court may extend the period of time in which the person must complete the requirements of subsection (5) of this section before any of the penalties provided in this subsection are imposed.

(8) An offense under this section is a traffic infraction. To the extent not inconsistent with this section, the provisions of chapter 46.63 RCW shall apply to infractions under this section. Procedures for the conduct of all hearings provided for in this section may be established by rule of the supreme court.

(9) If a person is penalized under subsection (4) of this section, then the court shall notify the department, and the department shall suspend the person's driving privileges. If a person fails to meet the requirements of subsection (5) of this section, the court shall notify the department that the person has failed to meet the requirements of subsection (5) of this section and the department shall suspend the person's driving privileges. Notice provided by the court under this subsection must be in a form specified by the department.

(10) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

(11) For the purposes of this section:

(a) "Great bodily harm" and "substantial bodily harm" have the same meaning as provided in RCW 9A.04.110.

(b) "Negligent" has the same meaning as provided in RCW 46.61.525(2).

(c) "Vulnerable user of a public way" means:

(i) A pedestrian;

(ii) A person riding an animal; or

(iii) A person operating or riding any of the following on a public way:

(A) A farm tractor or implement of husbandry, without an enclosed shell;

(B) A bicycle;

(C) An electric-assisted bicycle;

(D) An electric personal assistive mobility device;

(E) A moped;

(F) A motor-driven cycle;

(G) A motorized foot scooter; or

(H) A motorcycle.

Passed by the Senate February 12, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 147

[Substitute Senate Bill 6061]

TELEMEDICINE--TRAINING STANDARDS

AN ACT Relating to requiring training standards in providing telemedicine services; and amending RCW 43.70.495.

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

Sec. 1. RCW 43.70.495 and 2019 c 48 s 1 are each amended to read as follows:

(1) The legislature finds that a large segment of Washington residents do not have access to critical health care services. Telemedicine is a way to increase access to health care services to those who would otherwise not have reasonable access. The legislature therefore intends to ensure that health care professionals who provide services through telemedicine, as defined in RCW 70.41.020, in cities and rural areas alike, have current information available, making it possible for them to provide telemedicine services to the entire state of Washington.

(2) (~~Beginning~~) Except as permitted under subsection (3) of this section, beginning January 1, ((2020)) 2021, a health care professional who provides clinical services through telemedicine ((may)), other than a physician licensed under chapter 18.71 RCW or an osteopathic physician licensed under chapter 18.57 RCW, shall complete a telemedicine training. By January 1, 2020, the telemedicine collaborative shall make a telemedicine training available on its web site for use by health care professionals who use telemedicine technology. If a health care professional completes the training, the health care professional shall sign and retain an attestation. The training:

(a) Must include information on current state and federal law, liability, informed consent, and other criteria established by the collaborative for the advancement of telemedicine, in collaboration with the department and the Washington state medical quality assurance commission;

(b) Must include a question and answer methodology to demonstrate accrual of knowledge; and

(c) May be made available in electronic format and completed over the internet.

(3) (~~The training may be incorporated into existing telemedicine training programs, provided that the training meets the requirements in subsection (2) of this section.~~) A health care professional is deemed to have met the requirements of subsection (2) of this section if the health care professional:

(a) Completes an alternative telemedicine training; and

(b) Signs and retains an attestation that he or she completed the alternative telemedicine training.

(4) (~~For purposes of this section, a "health")~~ The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alternative telemedicine training" means training that includes components that are substantively similar to the telemedicine training developed by the telemedicine collaborative under subsection (2) of this section. "Alternative telemedicine training" may include, but is not limited to:

(i) Training offered by hospitals and other health care facilities to employees of the facility;

(ii) Continuing education courses; and

(iii) Trainings developed by a health care professional board or commission.

(b) "Health care professional" means a person licensed, registered, or certified to provide health services.

Passed by the Senate February 17, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 148

[Substitute Senate Bill 6072]

STATE WILDLIFE ACCOUNT--DIVIDING

AN ACT Relating to dividing the state wildlife account into the fish, wildlife, and conservation account and the limited fish and wildlife account; amending RCW 46.68.435, 77.12.170, 77.12.177, 77.12.184, 77.12.190, 77.12.210, 77.12.230, 77.12.240, 77.12.323, 77.12.380,

77.12.390, 77.12.670, 77.12.690, 77.32.050, 77.32.430, 77.32.460, 77.32.470, 77.32.530, 77.32.560, 77.36.070, 77.36.170, 77.44.050, 79A.55.090, 79A.80.090, and 82.27.070; reenacting and amending RCW 9.41.070 and 43.84.092; creating new sections; and providing an effective date.

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

NEW SECTION. Sec. 1. In 2017, the legislature directed the department of fish and wildlife to conduct a budget and performance assessment.

That assessment identified a structural deficit in the current state wildlife account, which does not differentiate between restricted use revenues and nonrestricted revenues.

The legislature intends to increase transparency and accountability to the public by clearly dividing restricted and nonrestricted revenues into two separate accounts.

This act does not alter any current legal restrictions on revenue uses or alter the amounts of revenue collected.

Sec. 2. RCW 9.41.070 and 2019 c 249 s 1, 2019 c 135 s 1, and 2019 c 46 s 5004 are each reenacted and amended to read as follows:

(1) The chief of police of a municipality or the sheriff of a county shall within thirty days after the filing of an application of any person, issue a license to such person to carry a pistol concealed on his or her person within this state for five years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. The issuing authority shall not refuse to accept completed applications for concealed pistol licenses during regular business hours.

The applicant's constitutional right to bear arms shall not be denied, unless:

(a) He or she is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045, or is prohibited from possessing a firearm under federal law;

(b) The applicant's concealed pistol license is in a revoked status;

(c) He or she is under twenty-one years of age;

(d) He or she is subject to a court order or injunction regarding firearms pursuant to chapter 7.90, 7.92, or 7.94 RCW, or RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26B.020, 26.50.060, 26.50.070, or 26.26A.470;

(e) He or she is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense;

(f) He or she has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or

(g) He or she has been ordered to forfeit a firearm under RCW 9.41.098(1)(e) within one year before filing an application to carry a pistol concealed on his or her person.

No person convicted of a felony may have his or her right to possess firearms restored or his or her privilege to carry a concealed pistol restored, unless the person has been granted relief from disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or RCW 9.41.040 (3) or (4) applies.

(2)(a) The issuing authority shall conduct a check through the national instant criminal background check system, the Washington state patrol electronic database, the health care authority electronic database, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm, or is prohibited from possessing a firearm under federal law, and therefore ineligible for a concealed pistol license.

(b) The issuing authority shall deny a permit to anyone who is found to be prohibited from possessing a firearm under federal or state law.

(c) (a) and (b) of this subsection apply whether the applicant is applying for a new concealed pistol license or to renew a concealed pistol license.

(d) A background check for an original license must be conducted through the Washington state patrol criminal identification section and shall include a national check from the federal bureau of investigation through the submission of fingerprints. The results will be returned to the issuing authority. The applicant may request and receive a copy of the results of the background check from the issuing authority. If the applicant seeks to amend or correct their record, the applicant must contact the Washington state patrol for a Washington state record or the federal bureau of investigation for records from other jurisdictions.

(3) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the attorney general under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec. 921(a)(20)(A) shall have his or her right to acquire, receive, transfer, ship, transport, carry, and possess firearms in accordance with Washington state law restored except as otherwise prohibited by this chapter.

(4) The license application shall bear the full name, residential address, telephone number at the option of the applicant, email address at the option of the applicant, date and place of birth, race, gender, description, a complete set of fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. A signed application for a concealed pistol license shall constitute a waiver of confidentiality and written request that the health care authority, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for a concealed pistol license to an inquiring court or law enforcement agency.

The application for an original license shall include a complete set of fingerprints to be forwarded to the Washington state patrol.

The license and application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The application shall contain questions about the applicant's eligibility under RCW 9.41.040 and federal law to possess a pistol, the applicant's place of

birth, and whether the applicant is a United States citizen. If the applicant is not a United States citizen, the applicant must provide the applicant's country of citizenship, United States issued alien number or admission number, and the basis on which the applicant claims to be exempt from federal prohibitions on firearm possession by aliens. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. A person who is not a citizen of the United States shall, if applicable, meet the additional requirements of RCW 9.41.173 and produce proof of compliance with RCW 9.41.173 upon application. The license may be in triplicate or in a form to be prescribed by the department of licensing.

A photograph of the applicant may be required as part of the application and printed on the face of the license.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an online format, all information received under this subsection.

(5) The nonrefundable fee, paid upon application, for the original five-year license shall be thirty-six dollars plus additional charges imposed by the federal bureau of investigation that are passed on to the applicant. No other state or local branch or unit of government may impose any additional charges on the applicant for the issuance of the license.

The fee shall be distributed as follows:

- (a) Fifteen dollars shall be paid to the state general fund;
- (b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;
- (c) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter;
- (d) Two dollars and sixteen cents to the firearms range account in the general fund; and
- (e) Eighty-four cents to the concealed pistol license renewal notification account created in RCW 43.79.540.

(6) The nonrefundable fee for the renewal of such license shall be thirty-two dollars. No other branch or unit of government may impose any additional charges on the applicant for the renewal of the license.

The renewal fee shall be distributed as follows:

- (a) Fifteen dollars shall be paid to the state general fund;
- (b) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter;
- (c) Two dollars and sixteen cents to the firearms range account in the general fund; and
- (d) Eighty-four cents to the concealed pistol license renewal notification account created in RCW 43.79.540.

(7) The nonrefundable fee for replacement of lost or damaged licenses is ten dollars to be paid to the issuing authority.

(8) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

(9)(a) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (6) of this section. The fee shall be distributed as follows:

(i) Three dollars shall be deposited in the ((state)) limited fish and wildlife account and used exclusively first for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law, and subsequently the support of volunteer instructors in the basic firearms safety training program conducted by the department of fish and wildlife. The pamphlet shall be given to each applicant for a license; and

(ii) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(b) Beginning with concealed pistol licenses that expire on or after August 1, 2018, the department of licensing shall mail a renewal notice approximately ninety days before the license expiration date to the licensee at the address listed on the concealed pistol license application, or to the licensee's new address if the licensee has notified the department of licensing of a change of address. Alternatively, if the licensee provides an email address at the time of license application, the department of licensing may send the renewal notice to the licensee's email address. The notice must contain the date the concealed pistol license will expire, the amount of renewal fee, the penalty for late renewal, and instructions on how to renew the license.

(10) Notwithstanding the requirements of subsections (1) through (9) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section. However, a temporary emergency license issued under this subsection shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(11) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A person who knowingly makes a false statement regarding citizenship or identity on an application for a concealed pistol license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided for by law, the concealed pistol license of a person who knowingly makes a false statement shall be revoked, and the person shall be permanently ineligible for a concealed pistol license.

(13) A person may apply for a concealed pistol license:

(a) To the municipality or to the county in which the applicant resides if the applicant resides in a municipality;

(b) To the county in which the applicant resides if the applicant resides in an unincorporated area; or

(c) Anywhere in the state if the applicant is a nonresident.

(14) Any person who, as a member of the armed forces, including the national guard and armed forces reserves, is unable to renew his or her license under subsections (6) and (9) of this section because of the person's assignment,

reassignment, or deployment for out-of-state military service may renew his or her license within ninety days after the person returns to this state from out-of-state military service, if the person provides the following to the issuing authority no later than ninety days after the person's date of discharge or assignment, reassignment, or deployment back to this state: (a) A copy of the person's original order designating the specific period of assignment, reassignment, or deployment for out-of-state military service, and (b) if appropriate, a copy of the person's discharge or amended or subsequent assignment, reassignment, or deployment order back to this state. A license so renewed under this subsection (14) shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license under this subsection (14) shall pay only the renewal fee specified in subsection (6) of this section and shall not be required to pay a late renewal penalty in addition to the renewal fee.

(15)(a) By October 1, 2019, law enforcement agencies that issue concealed pistol licenses shall develop and implement a procedure for the renewal of concealed pistol licenses through a mail application process, and may develop an online renewal application process, for any person who, as a member of the armed forces, including the national guard and armed forces reserves, is unable to renew his or her license under subsections (6) and (9) of this section because of the person's assignment, reassignment, or deployment for out-of-state military service.

(b) A person applying for a license renewal under this subsection shall:

(i) Provide a copy of the person's original order designating the specific period of assignment, reassignment, or deployment for out-of-state military service;

(ii) Apply for renewal within ninety days before or after the expiration date of the license; and

(iii) Pay the renewal licensing fee under subsection (6) of this section, and, if applicable, the late renewal penalty under subsection (9) of this section.

(c) A license renewed under this subsection takes effect on the expiration date of the prior license and is valid for a period of one year.

Sec. 3. RCW 43.84.092 and 2019 c 421 s 15, 2019 c 403 s 14, 2019 c 365 s 19, 2019 c 287 s 19, and 2019 c 95 s 6 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 abandoned recreational vehicle disposal account, the aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement 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 Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of licensing tuition recovery trust fund, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle 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 fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the industrial insurance premium refund account, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local

sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability 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 mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, 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 state wildlife account,))~~ the statewide broadband account, the statewide tourism marketing account, the student achievement council tuition recovery trust fund, 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 toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, 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 voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education 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 administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond 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, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(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.

Sec. 4. RCW 46.68.435 and 2010 c 161 s 821 are each amended to read as follows:

(1) All revenue derived from personalized license plate fees provided for in RCW 46.17.210 must be forwarded to the state treasurer and deposited as follows:

(a) Ten dollars to the ((state)) limited fish and 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)) limited fish and 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)) limited fish and 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)) limited fish and wildlife account.

Sec. 5. RCW 77.12.170 and 2017 3rd sp.s. c 8 s 3 are each amended to read as follows:

(1) There is established in the state treasury the ((state)) limited fish and wildlife account which consists of moneys received from:

(a) ~~((Rentals or concessions of the department;~~

~~(b) The sale of real or personal property held for department purposes, unless the property is seized or recovered through a fish, shellfish, or wildlife enforcement action;~~

- ~~(e) The assessment of administrative penalties;~~
- ~~(d) The sale of licenses, permits, tags, and stamps required by chapters 77.32, 77.65, and 77.70 RCW and application fees;~~
- ~~(e) Fees for informational materials published by the department;~~
- ~~(f)) Fees for personalized vehicle, Wild on Washington, and Endangered Wildlife license plates, Washington's Wildlife license plate collection, and Washington's fish license plate collection as provided in chapter 46.17 RCW;~~
- ~~((g) Articles or wildlife sold by the director under this title;~~
- ~~(h) Compensation for damage to department property or wildlife losses or contributions, gifts, or grants received under RCW 77.12.320. However, this excludes fish and shellfish overages, and court ordered restitution or donations associated with any fish, shellfish, or wildlife enforcement action, as such moneys must be deposited pursuant to RCW 77.15.425;~~
- ~~(i) Excise tax on anadromous game fish collected under chapter 82.27 RCW;~~
- ~~(j)) (b) The department's share of revenues from auctions and raffles authorized by the commission;~~
- ~~((k)) (c) The sale of watchable wildlife decals under RCW 77.32.560;~~
- ~~((H)) (d) Moneys received from the recreation access pass account created in RCW 79A.80.090 must be dedicated to stewardship, operations, and maintenance of department lands used for public recreation purposes; ((and~~
- ~~(m) Donations received by the director under RCW 77.12.039)) (e) Fees for informational materials published by the department;~~
- (f) Those portions of the sale of licenses, permits, tags, stamps, endorsements, and application fees that are specified for a limited purpose within chapters 77.32, 77.65, and 77.70 RCW; and
- (g) Income directed to the limited fish and wildlife account by any other statute not listed in this subsection.
- (2) State and county officers receiving any moneys listed in subsection (1) of this section shall deposit them in the state treasury to be credited to the ~~((state))~~ limited fish and wildlife account.
- (3) There is established in the state treasury the fish, wildlife, and conservation account that consists of moneys received from:
- (a) Rentals or concessions of the department;
- (b) The sale of real or personal property held for department purposes, unless the property is seized or recovered through a fish, shellfish, or wildlife enforcement action;
- (c) The assessment of administrative penalties;
- (d) Those portions of the sale of licenses, permits, tags, stamps, endorsements, and application fees that are not specified for a limited purpose within chapters 77.32, 77.65, and 77.70 RCW;
- (e) Articles or wildlife sold by the director under RCW 77.12.140;
- (f) Excise tax on anadromous game fish collected under chapter 82.27 RCW;
- (g) Donations received by the director under RCW 77.12.039;
- (h) Income directed to the fish, wildlife, and conservation account by any other statute not listed in this subsection.

(4) State and county officers receiving any moneys listed in subsection (3) of this section shall deposit them in the state treasury to be credited to the fish, wildlife, and conservation account.

(5) Compensation for damage to department property or wildlife losses or contributions, gifts, or grants received under RCW 77.12.320 must be deposited into the special wildlife account created in RCW 77.12.323. However, this excludes fish and shellfish overages and court-ordered restitution or donations associated with any fish, shellfish, or wildlife enforcement action, as such moneys must be deposited in the enforcement reward account pursuant to RCW 77.15.425.

Sec. 6. RCW 77.12.177 and 2017 3rd sp.s. c 8 s 4 are each amended to read as follows:

(1) Except as provided in this title, state and county officers receiving the following moneys shall deposit them in the ((~~state wildlife~~)) fish, wildlife, and conservation account:

- (a) The sale of commercial licenses required under this title; and
- (b) Moneys received for damages to fish, shellfish, or wildlife.

(2) Beginning with fiscal year 2018, and each fiscal year thereafter, the director must determine both the total amount of fees deposited in the ((~~state wildlife~~)) fish, wildlife, and conservation account for the sale of commercial licenses required under this title, and the portion of those fees that is attributable to the fee increases enacted in chapter 8, Laws of 2017 3rd sp. sess. The director must certify these amounts to the state treasurer, who must transfer the difference between these two amounts to the state general fund within one month of the close of the fiscal year. The portion of those fees that is attributable to the fee increases enacted in chapter 8, Laws of 2017 3rd sp. sess. is retained in the ((~~state wildlife~~)) fish, wildlife, and conservation account.

(3) All fines and forfeitures collected or assessed by a district court for a violation of this title or rule of the department shall be remitted as provided in chapter 3.62 RCW.

(4) Proceeds from the sale of fish or shellfish taken in test fishing conducted by the department, to the extent that these proceeds exceed the estimates in the budget approved by the legislature, may be allocated as unanticipated receipts under RCW 43.79.270 to reimburse the department for unanticipated costs for test fishing operations in excess of the allowance in the budget approved by the legislature.

(5) Proceeds from the sale of salmon carcasses and salmon eggs from state general funded hatcheries by the department shall be deposited in the regional fisheries enhancement group account established in RCW 77.95.090.

(6) Proceeds from the sale of herring spawn on kelp fishery licenses by the department, to the extent those proceeds exceed estimates in the budget approved by the legislature, may be allocated as unanticipated receipts under RCW 43.79.270. Allocations under this subsection shall be made only for herring management, enhancement, and enforcement.

Sec. 7. RCW 77.12.184 and 2009 c 333 s 31 are each amended to read as follows:

(1) The department shall deposit all moneys received from the following activities into the ~~((state wildlife))~~ fish, wildlife, and conservation account created in RCW 77.12.170(3):

(a) The sale of interpretive, recreational, historical, educational, and informational literature and materials;

(b) The sale of advertisements in regulation pamphlets and other appropriate mediums; and

(c) Enrollment fees in department-sponsored educational training events.

(2) Moneys collected under subsection (1) of this section shall be spent primarily for producing regulation booklets for users and for the development, production, reprinting, and distribution of informational and educational materials. The department may also spend these moneys for necessary expenses associated with training activities, and other activities as determined by the director.

(3) Regulation pamphlets may be subsidized through appropriate advertising, but must be made available free of charge to the users.

(4) The director may enter into joint ventures with other agencies and organizations to generate revenue for providing public information and education on wildlife and hunting and fishing rules.

Sec. 8. RCW 77.12.190 and 2009 c 333 s 32 are each amended to read as follows:

Moneys in the ~~((state))~~ limited fish and wildlife account and fish, wildlife, and conservation account created in RCW 77.12.170 may be used only for the purposes of this title, including the payment of principal and interest on bonds issued for capital projects.

Sec. 9. RCW 77.12.210 and 2009 c 333 s 33 are each amended to read as follows:

The director shall maintain and manage real or personal property owned, leased, or held by the department and shall control the construction of buildings, structures, and improvements in or on the property. The director may adopt rules for the operation and maintenance of the property.

The commission may authorize the director to sell, lease, convey, or grant concessions upon real or personal property under the control of the department. This includes the authority to sell timber, gravel, sand, and other materials or products from real property held by the department, and to sell or lease the department's real or personal property or grant concessions or rights-of-way for roads or utilities in the property. Oil and gas resources owned by the state which lie below lands owned, leased, or held by the department shall be offered for lease by the commissioner of public lands pursuant to chapter 79.14 RCW with the proceeds being deposited in the ~~((state wildlife))~~ fish, wildlife, and conservation account created in RCW 77.12.170(3): PROVIDED, That the commissioner of public lands shall condition such leases at the request of the department to protect wildlife and its habitat.

If the commission determines that real or personal property held by the department cannot be used advantageously by the department, the director may dispose of that property if it is in the public interest.

If the state acquired real property with use limited to specific purposes, the director may negotiate terms for the return of the property to the donor or

grantor. Other real property shall be sold to the highest bidder at public auction. After appraisal, notice of the auction shall be published at least once a week for two successive weeks in a newspaper of general circulation within the county where the property is located at least twenty days prior to sale.

Proceeds from the sales shall be deposited in the ~~((state wildlife))~~ fish, wildlife, and conservation account created in RCW 77.12.170(3).

Sec. 10. RCW 77.12.230 and 2009 c 333 s 34 are each amended to read as follows:

The director may pay lawful local improvement district assessments for projects that may benefit wildlife or wildlife-oriented recreation made against lands held by the state for department purposes. The payments may be made from money appropriated from the ~~((state wildlife))~~ fish, wildlife, and conservation account created in RCW 77.12.170(3) to the department.

Sec. 11. RCW 77.12.240 and 2009 c 333 s 63 are each amended to read as follows:

(1) The department may authorize the removal or killing of wildlife that is destroying or injuring property, or when it is necessary for wildlife management or research.

(2) The department shall dispose of wildlife taken or possessed by them under this title in the manner determined by the director to be in the best interest of the state. Proceeds from sales shall be deposited in the state treasury to be credited to the ~~((state wildlife))~~ fish, wildlife, and conservation account created in RCW 77.12.170(3).

Sec. 12. RCW 77.12.323 and 2012 c 187 s 7 are each amended to read as follows:

(1) There is established in the state ~~((wildlife account created in RCW 77.12.170))~~ treasury a special wildlife account. Moneys received under RCW 77.12.320 as now or hereafter amended as compensation for wildlife losses shall be deposited in the state treasury to be credited to the special wildlife account.

(2) The state treasurer may invest and reinvest the surplus as provided by RCW 43.84.080.

Sec. 13. RCW 77.12.380 and 2009 c 333 s 36 are each amended to read as follows:

Upon receipt of a request under RCW 77.12.360, the commissioner of public lands shall determine if the withdrawal would benefit the people of the state. If the withdrawal would be beneficial, the commissioner shall have the lands appraised for their lease value. Before withdrawal, the department shall transmit to the commissioner a voucher authorizing payment from the ~~((state wildlife))~~ fish, wildlife, and conservation account created in RCW 77.12.170(3) in favor of the fund for which the lands are held. The payment shall equal the amount of the lease value for the duration of the withdrawal.

Sec. 14. RCW 77.12.390 and 2009 c 333 s 37 are each amended to read as follows:

Upon receipt of a voucher under RCW 77.12.380, the commissioner of public lands shall withdraw the lands from lease. The commissioner shall forward the voucher to the state treasurer, who shall draw a warrant against the ~~((state wildlife))~~ fish, wildlife, and conservation account created in RCW 77.12.170(3) in favor of the fund for which the withdrawn lands are held.

Sec. 15. RCW 77.12.670 and 2011 1st sp.s. c 21 s 15 are each amended to read as follows:

(1) Beginning July 1, 2011, the department, after soliciting recommendations from the public, shall select the design for the migratory bird stamp.

(2) All revenue derived from the sale of migratory bird license validations or stamps by the department to any person hunting waterfowl or to any stamp collector shall be deposited in the ((state)) limited fish and wildlife account and shall be used only for that portion of the cost of printing and production of the stamps for migratory waterfowl hunters as determined by subsection (4) of this section, and for those migratory waterfowl projects specified by the director of the department for the acquisition and development of migratory waterfowl habitat in the state and for the enhancement, protection, and propagation of migratory waterfowl in the state. Migratory bird license validation and stamp funds may not be used on lands controlled by private hunting clubs or on private lands that charge a fee for public access. Migratory bird license validation and stamp funds may be used for migratory waterfowl projects on private land where public hunting is provided by written permission or on areas established by the department as waterfowl hunting closures.

(3) All revenue derived from the sale of the license validation and stamp by the department to persons hunting solely nonwaterfowl migratory birds shall be deposited in the ((state)) limited fish and wildlife account and shall be used only for that portion of the cost of printing and production of the stamps for nonwaterfowl migratory bird hunters as determined by subsection (4) of this section, and for those nonwaterfowl migratory bird projects specified by the director for the acquisition and development of nonwaterfowl migratory bird habitat in the state and for the enhancement, protection, and propagation of nonwaterfowl migratory birds in the state.

(4) With regard to the revenue from license validation and stamp sales that is not the result of sales to stamp collectors, the department shall determine the proportion of migratory waterfowl hunters and solely nonwaterfowl migratory bird hunters by using the yearly migratory bird hunter harvest information program survey results or, in the event that these results are not available, other similar survey results. A two-year average of the most recent survey results shall be used to determine the proportion of the revenue attributed to migratory waterfowl hunters and the proportion attributed to solely nonwaterfowl migratory bird hunters for each fiscal year. For fiscal year 1998-99 and for fiscal year 1999-2000, ninety-six percent of the stamp revenue shall be attributed to migratory waterfowl hunters and four percent of the stamp revenue shall be attributed to solely nonwaterfowl migratory game hunters.

(5) Acquisition shall include but not be limited to the acceptance of gifts of real estate or any interest therein or the rental, lease, or purchase of real estate or any interest therein. If the department acquires any fee interest, leasehold, or rental interest in real property under this section, it shall allow the general public reasonable access to that property and shall, if appropriate, ensure that the deed or other instrument creating the interest allows such access to the general public. If the department obtains a covenant in real property in its favor or an easement or any other interest in real property under this section, it shall exercise its best efforts to ensure that the deed or other instrument creating the interest grants to

the general public in the form of a covenant running with the land reasonable access to the property. The private landowner from whom the department obtains such a covenant or easement shall retain the right of granting access to the lands by written permission, but may not charge a fee for access.

(6) The department may produce migratory bird stamps in any given year in excess of those necessary for sale in that year. The excess stamps may be sold to the public.

Sec. 16. RCW 77.12.690 and 2011 1st sp.s. c 21 s 16 are each amended to read as follows:

(1) The director is responsible for the selection of the annual migratory bird stamp design. The department shall create collector art prints and related artwork, utilizing the same design. The administration, sale, distribution, and other matters relating to the prints and sales of stamps with prints and related artwork shall be the responsibility of the department.

(2) The total amount brought in from the sale of prints and related artwork shall be deposited in the ((state)) limited fish and wildlife account created in RCW 77.12.170(1). The costs of producing and marketing of prints and related artwork shall be paid out of the total amount brought in from sales of those same items. Net funds derived from the sale of prints and related artwork shall be used by the director to contract with one or more appropriate individuals or nonprofit organizations for the development of waterfowl propagation projects within Washington which specifically provide waterfowl for the Pacific flyway. The department shall not contract with any individual or organization that obtains compensation for allowing waterfowl hunting except if the individual or organization does not permit hunting for compensation on the subject property.

Sec. 17. RCW 77.32.050 and 2011 c 339 s 5 are each amended to read as follows:

(1) All recreational and commercial licenses, permits, tags, stamps, and raffle tickets shall be issued under the authority of the commission. The commission shall adopt rules for the issuance of licenses, permits, tags, stamps, and raffle tickets, and for the collection, payment, and handling of license fees, including terms and conditions to govern dealers, and dealer fees. A transaction fee on commercial and recreational documents issued through an automated licensing system may be set by the commission and collected from licensees. The department may authorize all or part of such fee to be paid directly to a contractor providing automated licensing system services. The department and dealers shall collect and retain dealer fees of at least two dollars for purchase of a standard hunting or fishing recreational license document or commercial license document, except that the commission may set a lower dealer fee for issuance of tags or when a licensee buys a license that involves a stamp or display card format rather than a standard department licensing document form. Dealer fees must be uniform throughout the state.

(2) ~~((Until September 1, 2011, the department shall charge an additional transaction fee of ten percent on all recreational licenses, permits, tags, stamps, or raffle tickets. These transaction fees must be deposited into the state wildlife account, created in RCW 77.12.170, for funding fishing and hunting opportunities for recreational license holders.~~

(3)) The application fee is waived for all commercial license documents that are issued through the automated licensing system.

Sec. 18. RCW 77.32.430 and 2018 c 190 s 1 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. Except as provided in this section, there is no charge for an initial catch record card. Each subsequent or duplicate catch record card costs eleven 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 seven dollars and fifty cents when purchased for a personal use saltwater, combination, or shellfish and seaweed license. The endorsement shall cost no more than three dollars 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 neither 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) A catch record card for halibut may not cost more than five dollars when purchased with an annual saltwater or combination fishing license and must be provided at no cost for those who purchase a one-day temporary saltwater fishing license or one-day temporary charter stamp.

(5) The department shall include provisions for recording marked and unmarked salmon in catch record cards issued after March 31, 2004.

(6)(a) The funds received from the sale of catch record cards, catch card penalty fees, and the Dungeness crab endorsement must be deposited into the ~~((state))~~ limited fish and wildlife account created in RCW 77.12.170(1).

(i)(A) One dollar of the funds received from the sale of each Dungeness crab endorsement must be used for the removal and disposal of derelict shellfish gear either directly by the department or under contract with a third party. The department is required to maintain a separate accounting of these funds and provide an annual report to the commission and the legislature by January 1st of every year.

(B) The remaining portion of the funds received from the sale of each Dungeness crab endorsement must be used for education, sampling, monitoring, and management of catch associated with the Dungeness crab recreational fisheries.

(ii) Funds received from the sale of halibut catch record cards must be used for monitoring and management of recreational halibut fisheries, including expanding opportunities for recreational anglers.

(b) Moneys allocated under this section shall supplement and not supplant other federal, state, and local funds used for Dungeness crab recreational fisheries management.

Sec. 19. RCW 77.32.460 and 2011 c 339 s 11 are each amended to read as follows:

(1) A small game hunting license is required to hunt for all classified wild animals and wild birds, except big game. A small game license also allows the holder to hunt for unclassified wildlife.

(a) The fee for this license is thirty-five dollars for residents, one hundred sixty-five dollars for nonresidents, and fifteen dollars for youth.

(b) The fee for this license if purchased at the same time as a big game combination license package is twenty dollars for residents, eighty-eight dollars for nonresidents, and eight dollars for youth.

(c) The fee for a three-consecutive-day small game license is sixty dollars for nonresidents.

(2) In addition to a small game license, a turkey tag is required to hunt for turkey.

(a) The fee for a primary turkey tag is fourteen dollars for residents and forty dollars for nonresidents. A primary turkey tag will, on request, be issued to the purchaser of a youth small game license at no charge.

(b) The fee for each additional turkey tag is fourteen dollars for residents, sixty dollars for nonresidents, and ten dollars for youth.

(c) (~~All moneys received from turkey tags must be deposited in the state wildlife account.~~) One-third of the moneys received from turkey tags must be appropriated solely for the purposes of turkey management within the limited fish and wildlife account. An additional one-third of the moneys received from turkey tags must be appropriated solely for upland game bird management within the limited fish and wildlife account created in RCW 77.12.170(1). The remainder of the moneys received from turkey tags must be appropriated to the fish, wildlife, and conservation account created in RCW 77.12.170(3). Moneys received from turkey tags may not supplant existing funds provided for these purposes.

Sec. 20. RCW 77.32.470 and 2011 c 339 s 12 are each amended to read as follows:

(1) A personal use saltwater, freshwater, combination, temporary, or family fishing weekend license is required for all persons fifteen years of age or older to fish for or possess fish taken for personal use from state waters or offshore waters.

(2) The fees for annual personal use saltwater, freshwater, or combination licenses are as follows:

(a) A combination license allows the holder to fish for or possess fish, shellfish, and seaweed from state waters or offshore waters. The fee for this license is forty-five dollars for residents, one hundred eight dollars for nonresidents, and five dollars for youth. There is an additional fifty-cent surcharge for this license, to be deposited in the rockfish research account created in RCW 77.12.702.

(b) A saltwater license allows the holder to fish for or possess fish taken from saltwater areas. The fee for this license is twenty-five dollars for residents, fifty-two dollars for nonresidents, and five dollars for resident seniors. There is an additional fifty-cent surcharge for this license, to be deposited in the rockfish research account created in RCW 77.12.702.

(c) A freshwater license allows the holder to fish for, take, or possess food fish or game fish species in all freshwater areas. The fee for this license is twenty-five dollars for residents, seventy-five dollars for nonresidents, and five dollars for resident seniors.

(3)(a) A temporary combination fishing license is valid for one to three consecutive days and allows the holder to fish for or possess fish, shellfish, and seaweed taken from state waters or offshore waters. The fee for this temporary fishing license is:

(i) One day - Eight dollars for residents and sixteen dollars for nonresidents;

(ii) Two days - Twelve dollars for residents and twenty-four dollars for nonresidents; and

(iii) Three days - Fifteen dollars for residents and thirty dollars for nonresidents.

(b) The fee for a charter stamp is eight dollars for a one-day temporary combination fishing license for residents and nonresidents for use on a charter boat as defined in RCW 77.65.150.

(c) Except for active duty military personnel serving in any branch of the United States armed forces, the temporary combination fishing license is not valid on game fish species for an eight-consecutive-day period beginning on the opening day of the lowland lake fishing season as defined by rule of the commission.

(d) The temporary combination fishing license fee for active duty military personnel serving in any branch of the United States armed forces is the resident rate as set forth in (a) of this subsection. Active duty military personnel must provide a valid military identification card at the time of purchase of the temporary license to qualify for the resident rate.

(e) There is an additional fifty-cent surcharge on the temporary combination fishing license and the associated charter stamp, to be deposited in the rockfish research account created in RCW 77.12.702.

(4) A family fishing weekend license allows for a maximum of six anglers: One resident and five youth; two residents and four youth; or one resident, one nonresident, and four youth. This license allows the holders to fish for or possess fish taken from state waters or offshore waters. The fee for this license is twenty dollars. This license is only valid during periods as specified by rule of the department.

(5) The commission may adopt rules to create and sell combination licenses for all hunting and fishing activities at or below a fee equal to the total cost of the individual license contained within any combination.

(6) The commission may adopt rules to allow the use of two fishing poles per fishing license holder for use on selected state waters. If authorized by the commission, license holders must purchase a two-pole stamp to use a second pole. The proceeds from the sale of the two-pole stamp must be deposited into the ((state)) limited fish and wildlife account created in RCW 77.12.170(1) and used for the operation and maintenance of state-owned fish hatcheries. The fee for a two-pole stamp is thirteen dollars for residents and nonresidents, and five dollars for seniors.

Sec. 21. RCW 77.32.530 and 2009 c 333 s 41 are each amended to read as follows:

(1) The commission in consultation with the director may authorize hunting of big game animals and wild turkeys through auction. The department may conduct the auction for the hunt or contract with a nonprofit wildlife conservation organization to conduct the auction for the hunt.

(2) The commission in consultation with the director may authorize hunting of up to a total of thirty big game animals and wild turkeys per year through raffle. The department may conduct raffles or contract with a nonprofit wildlife conservation organization to conduct raffles for hunting these animals. In consultation with the gambling commission, the director may adopt rules for the implementation of raffles involving hunting.

(3) The director shall establish the procedures for the hunts, which shall require any participants to obtain any required license, permit, or tag. Representatives of the department may participate in the hunt upon the request of the commission to ensure that the animals to be killed are properly identified.

(4) After deducting the expenses of conducting an auction or raffle, any revenues retained by a nonprofit organization, as specified under contract with the department, shall be devoted solely for wildlife conservation, consistent with its qualification as a bona fide nonprofit organization for wildlife conservation.

(5) The department's share of revenues from auctions and raffles shall be deposited in the ((state)) limited fish and wildlife account created in RCW 77.12.170(1). The revenues shall be used to improve game management and shall supplement, rather than replace, other funds budgeted for management of game species. The commission may solicit input from groups or individuals with special interest in and expertise on a species in determining how to use these revenues.

(6) A nonprofit wildlife conservation organization may petition the commission to authorize an auction or raffle for a special hunt for big game animals and wild turkeys.

Sec. 22. RCW 77.32.560 and 2011 c 320 s 18 are each amended to read as follows:

(1) The department may sell watchable wildlife decals. Proceeds from the sale of the decal must be deposited into the ((state)) limited fish and wildlife account created in RCW 77.12.170(1) and must be dedicated to the support of the department's watchable wildlife activities. The department may also use proceeds from the sale of the decal for marketing the decal and for marketing watchable wildlife activities in the state.

(2) The term "watchable wildlife activities" includes but is not limited to: Initiating partnerships with communities to jointly develop watchable wildlife projects, building infrastructure to serve wildlife viewers, assisting and training communities in conducting wildlife watching events, developing destination wildlife viewing corridors and trails, tours, maps, brochures, and travel aides, and offering grants to assist rural communities in identifying key wildlife attractions and ways to protect and promote them.

(3) The commission must adopt by rule the cost of the watchable wildlife decal. A person may, at their discretion, contribute more than the cost as set by the commission by rule for the watchable wildlife decal in order to support watchable wildlife activities.

Sec. 23. RCW 77.36.070 and 2009 c 333 s 59 are each amended to read as follows:

The department may pay no more than one hundred twenty thousand dollars per fiscal year from the ~~((state wildlife))~~ fish, wildlife, and conservation account created in RCW 77.12.170(3) for claims and assessment costs for damage to commercial crops caused by wild deer or elk submitted under RCW 77.36.100.

Sec. 24. RCW 77.36.170 and 2014 c 221 s 922 are each amended to read as follows:

(1) The department may pay no more than fifty thousand dollars per fiscal year from the ~~((state wildlife))~~ fish, wildlife, and conservation account created in RCW 77.12.170(3) for claims and assessment costs for injury or loss of livestock caused by wolves submitted under RCW 77.36.100.

(2) Notwithstanding other provisions of this chapter, the department may also accept and expend money from other sources to address injury or loss of livestock or other property caused by wolves consistent with the requirements on that source of funding.

(3) If any wildlife account expenditures authorized under subsection~~((s))~~ ((~~and (4)~~)) of this section are unspent as of June 30th of a fiscal year, the state treasurer shall transfer the unspent amount to the wolf-livestock conflict account created in RCW 77.36.180.

~~(((4) During the 2014 fiscal year, the department may pay no more than two hundred and fifty thousand dollars from the state wildlife account created in RCW 77.12.170 for claims and assessment costs for injury or loss of livestock caused by wolves submitted under RCW 77.36.100.))~~

Sec. 25. RCW 77.44.050 and 2009 c 333 s 43 are each amended to read as follows:

The warm water game fish account is ~~((hereby))~~ created in the state ~~((wildlife account created in RCW 77.12.170))~~ treasury. Moneys in the account are subject to legislative appropriation and shall be used for the purpose of funding the warm water game fish enhancement program, including the development of warm water pond and lake habitat, culture of warm water game fish, improvement of warm water fish habitat, management of warm water fish populations, and other practical activities that will improve the fishing for warm water fish. Funds for warm water game fish as provided in RCW 77.32.440 shall not serve as replacement funding for department-operated warm water fish projects existing on December 31, 1994.

Sec. 26. RCW 79A.55.090 and 1988 c 36 s 59 are each amended to read as follows:

No funds shall be expended from the ~~((wildlife fund))~~ limited fish and wildlife account created in RCW 77.12.170(1) or the fish, wildlife, and conservation account created in RCW 77.12.170(3) to carry out the provisions of this chapter.

Sec. 27. RCW 79A.80.090 and 2017 3rd sp.s. c 1 s 988 are each amended to read as follows:

(1) The recreation access pass account is created in the state treasury. All moneys received from the sale of discover passes and day-use permits must be deposited into the account.

(2) Each fiscal biennium, the first seventy-one million dollars in revenue must be distributed to the agencies in the following manner:

(a) Eight percent to the department of fish and wildlife and deposited into the ((state)) limited fish and wildlife account created in RCW 77.12.170(1);

(b) Eight percent to the department of natural resources and deposited into the parkland trust revolving fund created in RCW 43.30.385;

(c) Eighty-four percent to the state parks and recreation commission and deposited into the state parks renewal and stewardship account created in RCW 79A.05.215;

(d) During the 2015-2017 fiscal biennium, expenditures from the recreation access pass account may be used for Skamania county court costs. During the 2015-2017 and 2017-2019 fiscal biennia, expenditures from the recreation access pass account may be used for the state parks and recreation commission, in partnership with the departments of fish and wildlife and natural resources, to develop options and recommendations to improve recreational access fee systems.

(3) Each fiscal biennium, revenues in excess of seventy-one million dollars must be distributed equally among the agencies to the accounts identified in subsection (2) of this section.

Sec. 28. RCW 82.27.070 and 2017 3rd sp.s. c 8 s 54 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 following:

(1) The excise tax on anadromous game fish is deposited in the ((state wildlife)) fish, wildlife, and conservation account created in RCW 77.12.170(3).

(2) The excise tax on ocean waters, Columbia river, Willapa Bay, and Grays Harbor chinook, coho, and chum salmon is deposited as follows:

(a) The equivalent of five and twenty-five one-hundredths percent shall be deposited in the state general fund.

(b) The equivalent of one percent shall be deposited in the ((state wildlife)) fish, wildlife, and conservation account created in RCW 77.12.170(3).

NEW SECTION. Sec. 29. The department of fish and wildlife must calculate the amount of money contained in the state wildlife account on July 1, 2021, that is derived from the revenue sources described in RCW 77.12.170(3) and provide this information to the office of financial management. If the office of financial management certifies the amount to be correct, the state treasurer must transfer the amount certified from the state wildlife account to the fish, wildlife, and conservation account created in RCW 77.12.170.

NEW SECTION. Sec. 30. This act takes effect July 1, 2021.

Passed by the Senate February 12, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 149

[Senate Bill 6090]

FIRE PROTECTION SERVICE AGENCIES--DETECTION DEVICE INSTALLATION--LIABILITY

AN ACT Relating to limiting fire protection service agency liability for the installation of detection devices; and adding a new section to chapter 4.24 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 4.24 RCW to read as follows:

(1) Any fire protection service agency, as defined in RCW 52.12.160, as well as the firefighters therein, whether volunteer or paid, that delivers to, or installs at, residential premises a device or batteries for such a device is not liable for civil damages resulting from any act or omission in the delivery or installation of a device or batteries for such a device, provided:

(a) Such installation was done in conformance with the manufacturer's instructions;

(b) Such installation or delivery was in the fire protection service agency's official capacity; and

(c) The act or omission did not constitute gross negligence or willful or wanton misconduct.

(2) Any device delivered or installed pursuant to subsection (1) of this section must be new and meet all applicable current safety and manufacturing standards.

(3) Smoke alarm installation program records considered a public record by chapter 40.14 RCW shall be retained in accordance with the schedule provided within that law.

(4) Nothing in this section shall be construed to limit or otherwise affect the obligations and duties of the owner or occupier of the residential premises receiving such delivery or installation services.

(5) For purposes of this section, "device" includes any battery-operated or plug-in smoke detector, carbon monoxide detector, or combination smoke and carbon monoxide detector.

Passed by the Senate March 9, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 150

[Senate Bill 6120]

GAMBLING ACTIVITIES--NONPROFIT ORGANIZATIONS--ELIGIBILITY

AN ACT Relating to amending types of nonprofit organizations qualified to engage in gambling activities; and amending RCW 9.46.0209.

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

Sec. 1. RCW 9.46.0209 and 2017 c 133 s 1 are each amended to read as follows:

(1)(a) "Bona fide charitable or nonprofit organization," as used in this chapter, means:

(i) Any organization duly existing under the provisions of chapter 24.12, 24.20, or 24.28 RCW, any agricultural fair authorized under the provisions of chapters 15.76 or 36.37 RCW, or any nonprofit corporation duly existing under the provisions of chapter 19.09 or 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, religious, scientific, social, fraternal, athletic, or agricultural purposes only, or any nonprofit organization, whether incorporated or otherwise, when found by the commission to be organized and operating for one or more of the aforesaid purposes only, all of which in the opinion of the commission have been organized and are operated primarily for purposes other than the operation of gambling activities authorized under this chapter; or

(ii) Any corporation which has been incorporated under Title 36 U.S.C. and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same.

(b) An organization defined under (a) of this subsection must:

(i) Have been organized and continuously operating for at least twelve calendar months immediately preceding making application for any license to operate a gambling activity, or the operation of any gambling activity authorized by this chapter for which no license is required; and

(ii) Demonstrate to the commission that it has made significant progress toward the accomplishment of the purposes of the organization during the twelve consecutive month period preceding the date of application for a license or license renewal. The fact that contributions to an organization do not qualify for charitable contribution deduction purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the internal revenue code of 1954, as amended, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section.

(c) Any person, association or organization which pays its employees, including members, compensation other than is reasonable therefor under the local prevailing wage scale shall be deemed paying compensation based in part or whole upon receipts relating to gambling activities authorized under this chapter and shall not be a bona fide charitable or nonprofit organization for the purposes of this chapter.

(2) For the purposes of RCW 9.46.0315 and 9.46.110, a bona fide nonprofit organization (~~also~~) can be licensed by the commission and includes:

(a) A credit union organized and operating under state or federal law. All revenue less prizes and expenses received from raffles conducted by credit unions must be devoted to purposes authorized under this section for charitable and nonprofit organizations; and

(b) A group of executive branch state employees that:

(i) Has requested and received revocable approval from the agency's chief executive official, or such official's designee, to conduct one or more raffles in compliance with this section;

(ii) Conducts a raffle solely to raise funds for either the state combined fund drive, created under RCW 41.04.033; an entity approved to receive funds from the state combined fund drive; or a charitable or benevolent entity, including but not limited to a person or family in need, as determined by a majority vote of the approved group of employees. No person or other entity may receive compensation in any form from the group for services rendered in support of this purpose;

(iii) Promptly provides such information about the group's receipts, expenditures, and other activities as the agency's chief executive official or designee may periodically require, and otherwise complies with this section and RCW 9.46.0315; and

(iv) Limits the participation in the raffle such that raffle tickets are sold only to, and winners are determined only from, the employees of the agency.

(3) For the purposes of RCW 9.46.0277, a bona fide nonprofit organization also includes a county, city, or town, provided that all revenue less prizes and expenses from raffles conducted by the county, city, or town must be used for community activities or tourism promotion activities.

Passed by the Senate February 12, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 151

[Senate Bill 6131]

SECURITIES ACT--DEBENTURE COMPANY LAWS--REPEAL

AN ACT Relating to repealing the debenture company laws from the securities act of Washington; amending RCW 21.20.810; and repealing RCW 21.20.705, 21.20.710, 21.20.715, 21.20.717, 21.20.720, 21.20.725, 21.20.727, 21.20.730, 21.20.732, 21.20.734, 21.20.740, 21.20.745, 21.20.750, 21.20.805, 21.20.815, 21.20.820, 21.20.825, 21.20.830, 21.20.835, 21.20.840, 21.20.845, and 21.20.850.

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

Sec. 1. RCW 21.20.810 and 1988 c 244 s 7 are each amended to read as follows:

Nothing in RCW 21.20.700 (~~through 21.20.750 and 21.20.815 through~~), 21.20.702, or 21.20.855 limits the application of other provisions of this chapter.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

(1) RCW 21.20.705 (Debenture companies—Definitions) and 1988 c 244 s 2, 1987 c 421 s 1, 1979 c 140 s 1, & 1973 1st ex.s. c 171 s 6;

(2) RCW 21.20.710 (Debenture companies—Capital requirements) and 2016 c 61 s 14, 1988 c 244 s 3, & 1973 1st ex.s. c 171 s 7;

(3) RCW 21.20.715 (Debenture companies—Maturity date requirements) and 1987 c 421 s 2 & 1973 1st ex.s. c 171 s 8;

(4) RCW 21.20.717 (Debenture companies—Controlling person—Exceptions) and 1987 c 421 s 3;

(5) RCW 21.20.720 (Debenture companies—Prohibited activities by directors, officers, or controlling persons) and 1993 c 472 s 16, 1987 c 421 s 4, 1979 ex.s. c 68 s 41, 1979 c 158 s 87, & 1973 1st ex.s. c 171 s 9;

(6) RCW 21.20.725 (Debenture companies—Debentures payable on demand—Interest—Certificates of debenture) and 1988 c 244 s 4 & 1973 1st ex.s. c 171 s 10;

(7) RCW 21.20.727 (Debenture companies—Acquisition of control—Requirements—Violation—Penalty) and 2016 c 61 s 15 & 1987 c 421 s 5;

(8) RCW 21.20.730 (Debenture companies—Acquisition of control—Grounds for disapproval) and 1987 c 421 s 6;

(9) RCW 21.20.732 (Debenture companies—Notice of charges—Hearing—Cease and desist orders) and 1988 c 244 s 5 & 1987 c 421 s 7;

(10) RCW 21.20.734 (Debenture companies—Temporary cease and desist orders) and 1988 c 244 s 6 & 1987 c 421 s 8;

(11) RCW 21.20.740 (Reports—Requirements) and 1997 c 101 s 1, 1979 ex.s. c 68 s 42, & 1973 1st ex.s. c 171 s 11;

(12) RCW 21.20.745 (Reports—Violations of reporting requirements—Penalties—Contribution) and 1979 ex.s. c 68 s 43 & 1973 1st ex.s. c 171 s 12;

(13) RCW 21.20.750 (Reports—Suspension of sale of securities until reporting requirements complied with) and 1973 1st ex.s. c 171 s 13;

(14) RCW 21.20.805 (Effective date—Construction—1973 1st ex.s. c 171) and 1973 1st ex.s. c 171 s 14;

(15) RCW 21.20.815 (Debenture companies—Equity investments) and 1988 c 244 s 8;

(16) RCW 21.20.820 (Debenture companies—Loans to any one borrower—Limitations) and 1988 c 244 s 9;

(17) RCW 21.20.825 (Debenture companies—Bad debts) and 1988 c 244 s 10;

(18) RCW 21.20.830 (Debenture companies—Investments in unsecured loans) and 1988 c 244 s 11;

(19) RCW 21.20.835 (Debenture companies—Debenture holders—Notice of maturity date of debenture) and 1988 c 244 s 12;

(20) RCW 21.20.840 (Debenture companies—Annual financial statement) and 1988 c 244 s 13;

(21) RCW 21.20.845 (Debenture companies—Rules) and 1988 c 244 s 14; and

(22) RCW 21.20.850 (Debenture companies—Record maintenance and preservation—Examination) and 1988 c 244 s 15.

Passed by the Senate February 5, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 152

[Substitute Senate Bill 6152]

ELECTIONS--PARTICIPATION BY ENTITIES WITH FOREIGN NATIONAL OWNERSHIP OR CONTROL

AN ACT Relating to certification concerning the level of foreign national ownership and control of entities that participate in Washington state elections; amending RCW 42.17A.005, 42.17A.240, 42.17A.250, 42.17A.255, 42.17A.260, 42.17A.265, and 42.17A.305; adding new sections to chapter 42.17A 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 First Amendment rights of freedom of speech and free association, as they relate to participating in elections, are core values in the United States. The United States supreme court has repeatedly held that these rights include the right to make campaign contributions in support of candidates and ballot measures at the federal, state, and local levels.

The legislature also finds, in accordance with federal law, that these rights are reserved solely for citizens of the United States and permanent legal residents, whether they act as individuals or in association. The First Amendment protection for political speech does not apply to foreign nationals, who are forbidden under 52 U.S.C. Sec. 30121 from directly or indirectly making political contributions or financing independent expenditures and electioneering communications, either individually or collectively through a corporation or other association. Furthermore, federal law prohibits any person from knowingly soliciting or receiving contributions from a foreign national. Therefore, it falls to individual states to help protect the prohibition on foreign influence in our state and local elections by requiring certification that contributions, expenditures, political advertising, and electioneering communications are not financed in any part by foreign nationals and that foreign nationals are not involved in making decisions regarding such election activity in any way.

Sec. 2. RCW 42.17A.005 and 2019 c 428 s 3 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 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 been recognized as a minor political party by the secretary of state;

(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) "Books of account" means:

(a) In the case of a campaign or political committee, a ledger or similar listing of contributions, expenditures, and debts, such as a campaign or committee is required to file regularly with the commission, current as of the most recent business day; or

(b) In the case of a commercial advertiser, details of political advertising or electioneering communications provided by the advertiser, including the names and addresses of persons from whom it accepted political advertising or electioneering communications, the exact nature and extent of the services rendered and the total cost and the manner of payment for the services.

(8) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when the individual first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote the individual's candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote the individual's candidacy; or

(d) Gives consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(9) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

(10) "Commercial advertiser" means any person that sells the service of communicating messages or producing material for broadcast or distribution to the general public or segments of the general public whether through brochures, fliers, newspapers, magazines, television, radio, billboards, direct mail advertising, printing, paid internet or digital communications, or any other means of mass communications used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

(11) "Commission" means the agency established under RCW 42.17A.100.

(12) "Committee" unless the context indicates otherwise, includes a political committee such as a candidate, ballot proposition, recall, political, or continuing political committee.

(13) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind. For the purpose of compliance with RCW 42.17A.710, "compensation" 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 limited to participation in any particular election campaign or election cycle.

(15)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds, 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 or incidental 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, digital, or other form of political advertising or electioneering communication prepared by a candidate, a political or incidental 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) Accrued interest on money deposited in a political or incidental committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political or incidental committee that is returned to the contributor within ten business days of the date on which it is received by the candidate or political or incidental committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of interest to the 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 or incidental committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political or incidental 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 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 toward 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 or incidental committees either as volunteer services defined in (b)(vi) of this subsection or for payment by the candidate or political or incidental 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 or incidental 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 42.17A.205; 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 the person 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) "Depository" means a bank, mutual savings bank, savings and loan association, or credit union doing business in this state.

(17) "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.

(18) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters. 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.

(19) "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.

(20) "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.

(21)(a) "Electioneering communication" means any broadcast, cable, or satellite television, radio transmission, digital communication, United States postal service mailing, billboard, newspaper, or periodical that:

(i) 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;

(ii) Is broadcast, transmitted electronically or by other means, 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

(iii) 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 or cost of one thousand dollars or more.

(b) "Electioneering communication" does not include:

(i) 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 the candidate becoming a candidate;

(ii) 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;

(iii) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(A) Of interest to the public;

(B) In a news medium controlled by a person whose business is that news medium; and

(C) Not a medium controlled by a candidate or a political or incidental committee;

(iv) Slate cards and sample ballots;

(v) Advertising for books, films, dissertations, or similar works (A) 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 (B) written about a candidate;

(vi) Public service announcements;

(vii) An internal political communication primarily limited to the members of or contributors to a political party organization or political or incidental 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;

(viii) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

(ix) 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. "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. "Expenditure" shall not include the partial or complete repayment by a candidate or political or incidental 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 42.17A.235(1)(a).

(24) "Foreign national" means:

(a) An individual who is not a citizen of the United States and is not lawfully admitted for permanent residence;

(b) A government, or subdivision, of a foreign country;

(c) A foreign political party; and

(d) Any entity, such as a partnership, association, corporation, organization, or other combination of persons, that is organized under the laws of or has its principal place of business in a foreign country.

(25) "General election" for the purposes of RCW 42.17A.405 means the election that results in the election of a person to a state or local office. It does not include a primary.

~~((25))~~ (26) "Gift" has the definition in RCW 42.52.010.

~~((26))~~ (27) "Immediate family" includes the spouse or domestic partner, dependent children, and other dependent relatives, if living in the household. For the purposes of 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))~~ (28) "Incidental committee" means any nonprofit organization not otherwise defined as a political committee but that may incidentally make a contribution or an expenditure in excess of the reporting thresholds in RCW 42.17A.235, directly or through a political committee. Any nonprofit organization is not an incidental committee if it is only remitting payments through the nonprofit organization in an aggregated form and the nonprofit organization is not required to report those payments in accordance with this chapter.

~~((28))~~ (29) "Incumbent" means a person who is in present possession of an elected office.

~~((29))~~ (30)(a) "Independent expenditure" means an expenditure that has each of the following elements:

(i) It is made in support of or in opposition to a candidate for office by a person who is not:

(A) A candidate for that office;

(B) An authorized committee of that candidate for that office; and

(C) 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;

(ii) It is made in support of or in opposition to a candidate for office by a person with whom the candidate has not 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;

(iii) 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

(iv) 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 one thousand dollars or more. A series of expenditures, each of which is under one thousand dollars, constitutes one independent expenditure if their cumulative value is one thousand dollars or more.

(b) "Independent expenditure" does not include: Ordinary home hospitality; communications with journalists or editorial staff designed to elicit a news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, controlled by a person whose business is that news medium, and not controlled by a candidate or a political committee; participation in the creation of a publicly funded voters pamphlet statement in written or video form; an internal political communication primarily limited to contributors to a political party organization or political action committee, 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 two hundred fifty dollars personally paid for by the worker.

~~((30))~~ (31)(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, 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.

~~((31))~~ (32) "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.

~~((32))~~ (33) "Legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

~~((33))~~ (34) "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.

~~((34))~~ (35) "Lobbyist" includes any person who lobbies either on the person's own or another's behalf.

~~((35))~~ (36) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom the lobbyist is compensated for acting as a lobbyist.

~~((36))~~ (37) "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.

~~((37))~~ (38) "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 before contributions 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 before a contribution 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.

~~((38))~~ (39) "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.

~~((39))~~ (40) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, digital communication, 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.

~~((40))~~ (41) "Political committee" means any person (except a candidate or an individual dealing with the candidate's or individual's 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.

~~((41))~~ (42) "Primary" for the purposes of RCW 42.17A.405 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.

~~((42))~~ (43) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

~~((43))~~ (44) "Public record" has the definition in RCW 42.56.010.

~~((44))~~ (45) "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.

~~((45))~~ (46) "Remediable violation" means any violation of this chapter that:

(a) Involved expenditures or contributions totaling no more than the contribution limits set out under RCW 42.17A.405(2) per election, or one thousand dollars if there is no statutory limit;

(b) Occurred:

(i) More than thirty days before an election, where the commission entered into an agreement to resolve the matter; or

(ii) At any time where the violation did not constitute a material violation because it was inadvertent and minor or otherwise has been cured and, after consideration of all the circumstances, further proceedings would not serve the purposes of this chapter;

(c) Does not materially harm the public interest, beyond the harm to the policy of this chapter inherent in any violation; and

(d) Involved:

(i) A person who:

(A) Took corrective action within five business days after the commission first notified the person of noncompliance, or where the commission did not provide notice and filed a required report within twenty-one days after the report was due to be filed; and

(B) Substantially met the filing deadline for all other required reports within the immediately preceding twelve-month period; or

(ii) A candidate who:

(A) Lost the election in question; and

(B) Did not receive contributions over one hundred times the contribution limit in aggregate per election during the campaign in question.

~~((46))~~ (47)(a) "Sponsor" for purposes 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.

(b) "Sponsor," for purposes of a political or incidental committee, means any person, except an authorized committee, to whom any of the following applies:

(i) The committee receives eighty percent or more of its contributions either from the person or from the person's members, officers, employees, or shareholders;

(ii) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

~~((47))~~ (48) "Sponsored committee" means a committee, other than an authorized committee, that has one or more sponsors.

~~((48))~~ (49) "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.

~~((49))~~ (50) "State official" means a person who holds a state office.

~~((50))~~ (51) "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 or expenses incurred by the committee or candidate 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 or expenses when it makes its final report under RCW 42.17A.255.

~~((51))~~ (52) "Technical correction" means the correction of a minor or ministerial error in a required report that does not materially harm the public interest and needs to be corrected for the report to be in full compliance with the requirements of this chapter.

~~((52))~~ (53) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political or incidental committee, pursuant to RCW 42.17A.210, to perform the duties specified in that section.

~~((53))~~ (54) "Violation" means a violation of this chapter that is not a remediable violation, minor violation, or an error classified by the commission as appropriate to address by a technical correction.

Sec. 3. RCW 42.17A.240 and 2019 c 428 s 21 are each amended to read as follows:

Each report required under RCW 42.17A.235 (1) through (4) must be certified as correct by the treasurer and the candidate and shall disclose the following, except an incidental committee only must disclose and certify as correct the information required under subsections (2)(d) and ~~((6))~~ (7) of this section:

(1) The funds on hand at the beginning of the period;

(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 each contribution and the aggregate value of all contributions received from each person during the campaign, or in the case of a continuing political committee, the current calendar year, with the following exceptions:

(a) Pledges in the aggregate of less than one hundred dollars from any one person need not be reported;

(b) Income that results from a fund-raising activity conducted in accordance with RCW 42.17A.230 may be reported as one lump sum, with the exception of

that portion received from persons whose names and addresses are required to be included in the report required by RCW 42.17A.230;

(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 if the treasurer maintains a separate and private list of the name, address, and amount of each such contributor;

(d) Payments received by an incidental committee from any one person need not be reported unless the person is one of the committee's ten largest sources of payments received, including any persons tied as the tenth largest source of payments received, during the current calendar year, and the value of the cumulative payments received from that person during the current calendar year is ten thousand dollars or greater. For payments to incidental committees from multiple persons received in aggregated form, any payment of more than ten thousand dollars from any single person must be reported, but the aggregated payment itself may not be reported. The commission may suspend or modify reporting requirements for payments received by an incidental committee in cases of manifestly unreasonable hardship under this chapter;

(e) Payments from private foundations organized under section 501(c)(3) of the internal revenue code to an incidental committee do not have to be reported if:

(i) The private foundation is contracting with the incidental committee for a specific purpose other than election campaign purposes;

(ii) Use of the funds for election campaign purposes is explicitly prohibited by contract; and

(iii) Funding from the private foundation represents less than twenty-five percent of the incidental committee's total budget;

(f) Commentary or analysis on a ballot proposition by an incidental committee is not considered a contribution if it does not advocate specifically to vote for or against the ballot proposition; and

(g) The money value of contributions of postage is the face value of the postage;

(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, 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;

(4) All other contributions not otherwise listed or exempted;

(5) A statement that the candidate or political committee has received a certification from any partnership, association, corporation, organization, or other combination of persons making a contribution to the candidate or political committee that:

(a) The contribution is not financed in any part by a foreign national; and

(b) Foreign nationals are not involved in making decisions regarding the contribution in any way;

(6) The name and address of each candidate or political committee to which any transfer of funds was made, including the amounts and dates of the transfers;

((6)) (7) 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, the amount, date, and purpose of each expenditure, and

the total sum of all expenditures. An incidental committee only must report on expenditures, made and reportable as contributions as defined in RCW 42.17A.005, to election campaigns. For purposes of this subsection, commentary or analysis on a ballot proposition by an incidental committee is not considered an expenditure if it does not advocate specifically to vote for or against the ballot proposition;

~~((7))~~ (8) The name, address, and electronic contact information of each person to whom an expenditure was made for soliciting or procuring signatures on an initiative or referendum petition, the amount of the compensation to each person, and the total expenditures made for this purpose. Such expenditures shall be reported under this subsection in addition to what is required to be reported under subsection ~~((6))~~ (7) of this section;

~~((8))~~ (9)(a) The name and address of any person and the amount owed for any debt with a value of more than seven hundred fifty dollars that has not been paid for any invoices submitted, goods received, or services performed, within five business days during the period within thirty days before an election, or within ten business days during any other period.

(b) For purposes of this subsection, debt does not include regularly recurring expenditures of the same amount that have already been reported at least once and that are not late or outstanding;

~~((9))~~ (10) The surplus or deficit of contributions over expenditures;

~~((10))~~ (11) The disposition made in accordance with RCW 42.17A.430 of any surplus funds; and

~~((11))~~ (12) Any other information required by the commission by rule in conformance with the policies and purposes of this chapter.

Sec. 4. RCW 42.17A.250 and 2010 c 204 s 411 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 42.17A.205 through 42.17A.240 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 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 the committee is in favor of or opposed to that proposition;

(f) The name and address of each person residing in the state of Washington or corporation 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 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 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 the expenditure, and the total sum of the expenditures; ~~((and))~~

(i) A statement that the out-of-state committee has received a certification from any partnership, association, corporation, organization, or other combination of persons making a contribution reportable under this section that:

(i) The contribution is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the contribution in any way; and

(j) 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. 5. RCW 42.17A.255 and 2019 c 428 s 22 are each amended to read as follows:

(1) For the purposes of this section 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 42.17A.225, 42.17A.235, and 42.17A.240. "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 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 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 (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, address, and electronic contact information 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) A statement from the person making an independent expenditure that:

(i) The expenditure is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the expenditure in any way; and

(e) Such other information as shall be required by the commission by rule in conformance with the policies and purposes of this chapter.

Sec. 6. RCW 42.17A.260 and 2019 c 428 s 23 are each amended to read as follows:

(1) The sponsor of political advertising shall file 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, if the political advertising:

(a) Is published, mailed, or otherwise presented to the public within twenty-one days of an election; and

(b) Either:

(i) Qualifies as an independent expenditure with a fair market value or actual cost of one thousand dollars or more, for political advertising supporting or opposing a candidate; or

(ii) Has a fair market value or actual cost of one thousand dollars or more, for political advertising supporting or opposing a ballot proposition.

(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, in the case of a subsequent expenditure of any size made in support of or in opposition to a ballot proposition not otherwise required to be reported pursuant to RCW 42.17A.225, 42.17A.235, or 42.17A.240, supporting or opposing the same ballot proposition that was the subject of the previous expenditure.

(3) The special report must include:

(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) A statement from the sponsor that:

(i) The political advertising is not financed in any part by a foreign national;
and

(ii) Foreign nationals are not involved in making decisions regarding the political advertising in any way; and

(h) Any other information the commission may require by rule.

(4) All persons required to report under RCW 42.17A.225, 42.17A.235, 42.17A.240, 42.17A.255, and 42.17A.305 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 42.17A.255.

(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. 7. RCW 42.17A.265 and 2019 c 428 s 24 are each amended to read as follows:

(1) Treasurers shall prepare and deliver to the commission a special report when a contribution or aggregate of contributions totals one thousand dollars or

more, is from a single person or entity, and is received during a special reporting period.

(2) A political committee shall prepare and deliver to the commission a special report when it makes a contribution or an aggregate of contributions to a single entity that totals one thousand dollars or more during a special reporting period.

(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 period beginning on the day after the last report required by RCW 42.17A.235 and 42.17A.240 to be filed before a primary and concluding on the end of the day before that primary;

(b) 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.

(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.

(6) Special reports required by this section shall be delivered electronically, or in written form if an electronic alternative is not available.

(a) The special report required of a contribution recipient 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 any subsequent contribution from the same source is received by the candidate or treasurer.

(b) The special report required of a contributor under subsection (2) of this section or RCW 42.17A.625 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 any subsequent contribution to the same person or entity is made.

(7) The special report shall include:

(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) A statement that the candidate or political committee has received a certification from any partnership, association, corporation, organization, or other combination of persons making a contribution reportable under this section that:

(i) The contribution is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the contribution in any way; and

(f) Any other information the commission may by rule require.

(8) Contributions reported under this section shall also be reported as required by other provisions of this chapter.

(9) The commission shall prepare daily a summary of the special reports made under this section and RCW 42.17A.625.

(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 42.17A.270.

Sec. 8. RCW 42.17A.305 and 2019 c 428 s 25 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) A statement from the sponsor that:

(A) The electioneering communication is not financed in any part by a foreign national; and

(B) Foreign nationals are not involved in making decisions regarding the electioneering communication in any way; and

(iv) 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, digitally or otherwise, 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 42.17A.225, 42.17A.235, 42.17A.240, and 42.17A.255 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 42.17A.255 and 42.17A.260.
- (5) Failure of any sponsor to report electronically under this section shall be a violation of this chapter.

NEW SECTION. Sec. 9. A new section is added to chapter 42.17A RCW to read as follows:

- (1) A foreign national may not make a contribution to any candidate or political committee, make an expenditure in support of or in opposition to any candidate or ballot measure, or sponsor political advertising or an electioneering communication.
- (2) A person may not make a contribution to any candidate or political committee, make an expenditure in support of or in opposition to any candidate or ballot measure, or sponsor political advertising or an electioneering communication, if:
 - (a) The contribution, expenditure, political advertising, or electioneering communication is financed in any part by a foreign national; or
 - (b) Foreign nationals are involved in making decisions regarding the contribution, expenditure, political advertising, or electioneering communication in any way.

NEW SECTION. Sec. 10. A new section is added to chapter 42.17A RCW to read as follows:

- (1) Each candidate or political committee that has accepted a contribution, and each out-of-state committee that has accepted a contribution reportable under RCW 42.17A.250, from a partnership, association, corporation, organization, or other combination of persons must receive a certification from each contributor that:
 - (a) The contribution is not financed in any part by a foreign national; and

(b) Foreign nationals are not involved in making decisions regarding the contribution in any way.

(2) The certifications must be maintained for a period of no less than three years after the date of the applicable election.

(3) At the request of the commission, each candidate or committee required to comply with subsection (1) of this section must provide to the commission copies of the certifications maintained under this section.

NEW SECTION. Sec. 11. A new section is added to chapter 42.17A RCW to read as follows:

This act does not affect or modify the power of a local government to adopt an ordinance or regulation on matters governed by this act.

Passed by the Senate March 10, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 153

[Senate Bill 6170]

PLUMBING PROFESSION--VARIOUS PROVISIONS

AN ACT Relating to plumbing; amending RCW 18.106.010, 18.106.020, 18.106.030, 18.106.040, 18.106.050, 18.106.070, 18.106.100, 18.106.110, 18.106.125, 18.106.150, 18.106.180, 18.106.200, 18.106.220, 18.106.250, 18.106.270, 18.106.320, 18.27.060, 18.27.090, 19.28.041, 19.28.191, 19.28.191, and 19.28.051; reenacting and amending RCW 19.28.091; adding new sections to chapter 18.106 RCW; prescribing penalties; providing effective dates; and providing an expiration date.

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

Sec. 1. RCW 18.106.010 and 2013 c 23 s 14 are each amended to read as follows:

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

(1) "Advisory board" means the state advisory board of plumbers.

~~(2) ("Contractor" means any person, corporate or otherwise, who engages in, or offers or advertises to engage in, any work covered by the provisions of this chapter by way of trade or business, or any person, corporate or otherwise, who employs anyone, or offers or advertises to employ anyone, to engage in any work covered by the provisions of this chapter.~~

~~(3))~~ "Department" means the department of labor and industries.

~~((4))~~ (3) "Director" means the director of department of labor and industries.

~~((5))~~ (4) "Journey level plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter.

~~((6))~~ (5) "Like-in-kind" means having similar characteristics such as plumbing size, type, and function, and being in the same location.

~~((7))~~ (6) "Medical gas piping" means oxygen, nitrous oxide, high pressure nitrogen, medical compressed air, and other medical gas or equipment, including but not limited to medical vacuum systems.

~~((8))~~ (7) "Medical gas piping installer" means a journey level plumber who has been issued a medical gas piping installer endorsement.

~~((9))~~ (8) "Plumbing" means that craft involved in installing, altering, repairing and renovating potable water systems, liquid waste systems, and medical gas piping systems within a building as defined by the plumbing code as adopted and amended by the state building code council, and includes all piping, fixtures, pumps, and plumbing appurtenances that are used for rainwater catchment and reclaimed water systems within a building. ~~((Installation in a water system of water softening or water treatment equipment is not within the meaning of plumbing as used in this chapter.~~

~~((10))~~ (9) "Plumbing contractor" means any person, corporate or otherwise, who engages in, or offers or advertises to engage in, any plumbing work covered by the provisions of this chapter by way of trade or business, or any person, corporate or otherwise, who employs anyone, or offers or advertises to employ anyone, to engage in any plumbing work as defined in this section. The plumbing contractor is responsible for ensuring the plumbing business is operated in accordance with rules adopted under this chapter.

(10) "Plumber trainee" or "trainee" means any person who has been issued a plumbing training certificate under this chapter but has not been issued an appropriate certificate of competency for work being performed. A trainee may perform plumbing work if that person is under the appropriate level of supervision.

(11) "Residential service plumber" means anyone who has been issued a certificate of competency limited to performing residential service plumbing in an existing residential structure.

(a) In single-family dwellings and duplexes only, a residential service plumber may service, repair, or replace previously existing fixtures, piping, and fittings that are outside the interior wall or above the floor, often, but not necessarily in a like-in-kind manner. In any residential structure, a residential service plumber may perform plumbing work as needed to perform drain cleaning and may perform leak repairs on any pipe, fitting, or fixture from the leak to the next serviceable connection.

(b) A residential service plumber may directly supervise plumber trainees provided the trainees have been supervised by an appropriate journey level or specialty plumber for the trainees' first two thousand hours of training.

(c) A residential service plumber may not perform plumbing for new construction of any kind.

(12) "Residential structures" means single-family dwellings, duplexes, and multiunit buildings that do not exceed three stories.

(13) "Service plumbing" means plumbing work in which previously existing fixtures, fittings, and piping is repaired or replaced often, but not necessarily, in a like-in-kind manner, or plumbing work being performed as necessary for drain cleaning.

(14) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to:

(a) Installation, maintenance, and repair of the plumbing of single-family dwellings, duplexes, and apartment buildings that do not exceed three stories;

(b) Maintenance and repair of backflow prevention assemblies; or

(c) A domestic water pumping system consisting of the installation, maintenance, and repair of the pressurization, treatment, and filtration components of a domestic water system consisting of: One or more pumps; pressure, storage, and other tanks; filtration and treatment equipment; if appropriate, a pitless adapter; along with valves, transducers, and other plumbing components that:

(i) Are used to acquire, treat, store, or move water suitable for either drinking or other domestic purposes, including irrigation, to: (A) A single-family dwelling, duplex, or other similar place of residence; (B) a public water system, as defined in RCW 70.119.020 and as limited under RCW 70.119.040; or (C) a farm owned and operated by a person whose primary residence is located within thirty miles of any part of the farm;

(ii) Are located within the interior space, including but not limited to an attic, basement, crawl space, or garage, of a residential structure, which space is separated from the living area of the residence by a lockable entrance and fixed walls, ceiling, or floor;

(iii) If located within the interior space of a residential structure, are connected to a plumbing distribution system supplied and installed into the interior space by either: (A) A person who, pursuant to RCW 18.106.070 or 18.106.090, possesses a valid temporary permit or certificate of competency as a journey level plumber, specialty plumber, or trainee, as defined in this chapter; or (B) a person exempt from the requirement to obtain a certified plumber to do such plumbing work under RCW 18.106.150.

(15) "Unsatisfied final judgment" means a judgment or final tax warrant that has not been satisfied either through payment, court-approved settlement, discharge in bankruptcy, or assignment under RCW 19.72.070.

NEW SECTION. Sec. 2. A new section is added to chapter 18.106 RCW to read as follows:

(1) Except as provided in this chapter, as of July 1, 2021, it is unlawful for any person, firm, partnership, corporation, or other entity to advertise, offer to do work, submit a bid, or perform any work under this chapter without being licensed as a plumbing contractor under this chapter. A plumbing contractor license expires twenty-four calendar months following the day of its issuance. An application for a plumbing contractor license must be made in writing to the department, accompanied by the required fee. The application shall state:

(a) The name and address of the applicant. In the case of firms or partnerships, the application must state the names of the individuals comprising the firm or partnership. In the case of corporations, the application must state the names of the corporation's managing officials;

(b) The location of the place of business of the applicant and the name under which the business is conducted;

(c) The employer social security number or tax identification number;

(d) Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:

(i) The applicant's industrial insurance account number issued by the department;

(ii) The applicant's self-insurer number issued by the department;

(iii) For applicants domiciled in another state or a province of Canada subject to an agreement entered into under RCW 51.12.120(7), filing a

certificate of coverage issued by the agency that administers workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law.

The department may verify the workers' compensation coverage information required by this subsection (1)(d), including information regarding coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington;

(e) The employment security department number; and

(f) The state excise tax registration number.

(2) The unified business identifier account number may be substituted for the information required by subsection (1)(d), (e), and (f) of this section if the applicant will not employ employees in Washington.

(3) Contractors licensed under this chapter are not required to be registered under chapter 18.27 RCW.

(4) To obtain a plumbing contractor license, the applicant must employ a full-time individual who currently possesses a valid journey level plumber's certificate of competency, or specialty plumber's certificate of competency in the specialty for the scope of work performed. No individual may serve as the certified plumber for any work exceeding the scope of his or her certificate, license, or endorsement.

(5) A plumbing contractor shall:

(a) Ensure that all plumbing work complies with the certification laws and rules of the state; and

(b) Ensure that all plumbing work is performed by properly licensed and certified plumbing individuals.

(6) As of January 1, 2021, for a contractor who employs specialty plumbers as described in RCW 18.106.010(14)(c), and is also required to be licensed as an electrical contractor as required in RCW 19.28.041, while doing pump and irrigation or domestic pump work described in rule as authorized by RCW 19.28.251, the department shall establish a single licensing document for those who qualify for both plumbing contractor license as defined by this chapter and an electrical contractor license as defined by chapter 19.28 RCW.

(7) This section does not apply to: A person who is contracting for plumbing work on his or her own residence, unless the plumbing work is on a building that is for rent, sale, or lease.

NEW SECTION. Sec. 3. A new section is added to chapter 18.106 RCW to read as follows:

(1) Each applicant for a plumbing contractor license shall file with the department a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in the sum of six thousand dollars. If no valid bond is already on file with the department at the time the application is filed, a bond must accompany the license application. The bond must have the state of Washington named as obligee with good and sufficient surety in a form to be approved by the department. The bond must be continuous and may be canceled by the surety upon the surety giving written notice to the director. A cancellation or revocation of the bond or withdrawal of the surety from the bond automatically suspends the license issued to the contractor until a new bond or

reinstatement notice has been filed and approved as provided in this section. The bond must be conditioned that the applicant will pay all persons performing labor, including employee benefits, for the contractor, will pay all taxes and contributions due to the state of Washington, and will pay all persons furnishing material or renting or supplying equipment to the contractor and will pay all amounts that may be adjudged against the contractor by reason of breach of contract including improper work in the conduct of the contracting business. A change in the name of a business or a change in the type of business entity does not impair a bond for the purposes of this section so long as one of the original applicants for such bond maintains partial ownership in the business covered by the bond.

(2) At the time of initial license or renewal, the contractor shall provide a bond or other security deposit as required by this chapter and comply with all of the other provisions of this chapter before the department may issue or renew the contractor's license.

(3) Any person, firm, or corporation having a claim against the contractor for any of the items referred to in this section may bring suit against the contractor and the bond or deposit in the superior court of the county in which the work was done or of any county in which jurisdiction of the contractor may be had. The surety issuing the bond must be named as a party to any suit upon the bond. Action upon the bond or deposit brought by a residential homeowner for breach of contract by a party to the construction contract must be commenced by filing the summons and complaint with the clerk of the appropriate superior court within two years from the date the claimed contract work was substantially completed or abandoned, whichever occurred first. Action upon the bond or deposit brought by any other authorized party must be commenced by filing the summons and complaint with the clerk of the appropriate superior court within one year from the date the claimed labor was performed and benefits accrued, taxes and contributions owing the state of Washington became due, materials and equipment were furnished, or the claimed contract work was substantially completed or abandoned, whichever occurred first. Service of process in an action filed under this chapter against the contractor and the contractor's bond or the deposit must be exclusively by service upon the department. Three copies of the summons and complaint and a fee adopted by rule of not less than fifty dollars to cover the costs must be served by registered or certified mail, or other delivery service requiring notice of receipt, upon the department at the time suit is started and the department shall maintain a record, available for public inspection, of all suits so commenced. Service is not complete until the department receives the fee and three copies of the summons and complaint. This service constitutes service and confers personal jurisdiction on the contractor and the surety for suit on claimant's claim against the contractor and the bond or deposit and the department shall transmit the summons and complaint or a copy thereof to the contractor at the address listed in the contractor's application and to the surety within two days after it has been received.

(4) The surety upon the bond is not liable in an aggregate amount in excess of the amount named in the bond nor for any monetary penalty assessed pursuant to this chapter for an infraction. The liability of the surety does not cumulate where the bond has been renewed, continued, reinstated, reissued, or otherwise

extended. The surety upon the bond may, upon notice to the department and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond is exonerated but if the actions commenced and pending and provided to the department as required in subsection (3) of this section, at any one time exceed the amount of the bond then unimpaired, claims must be satisfied from the bond in the following order:

- (a) Employee labor and claims of laborers, including employee benefits;
- (b) Claims for breach of contract by a party to the construction contract;
- (c) Registered or licensed subcontractors, material, and equipment;
- (d) Taxes and contributions due the state of Washington;
- (e) Any court costs, interest, and attorneys' fees plaintiff may be entitled to recover.

The surety is not liable for any amount in excess of the penal limit of its bond. A payment made by the surety in good faith exonerates the bond to the extent of any payment made by the surety.

(5) The total amount paid from a bond or deposit required of a plumbing contractor by this section to claimants other than residential homeowners must not exceed one-half of the bond amount.

(6) The prevailing party in an action filed under this section against the contractor and contractor's bond or deposit, for breach of contract by a party to the construction contract involving a residential homeowner, is entitled to costs, interest, and reasonable attorneys' fees. The surety upon the bond or deposit is not liable in an aggregate amount in excess of the amount named in the bond or deposit nor for any monetary penalty assessed pursuant to this chapter for an infraction.

(7) If a final judgment impairs the liability of the surety upon the bond or deposit so furnished that there is not in effect a bond or deposit in the full amount prescribed in this section, the contractor license is automatically suspended until the bond or deposit liability in the required amount unimpaired by unsatisfied judgment claims is furnished.

(8) In lieu of the surety bond required by this section the contractor may file with the department an assigned savings account, upon forms provided by the department.

(9) Any person having filed and served a summons and complaint as required by this section having an unsatisfied final judgment against the registrant for any items referred to in this section may execute upon the security held by the department by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the department within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the department shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the department must be the order of receipt by the department, but the department has no liability for payment in excess of the amount of the deposit.

(10) Within ten days after resolution of the case, a certified copy of the final judgment and order, or any settlement documents where a case is not disposed of by a court trial, a certified copy of the dispositive settlement documents must be

provided to the department by the prevailing party. Failure to provide a copy of the final judgment and order or the dispositive settlement documents to the department within ten days of entry of such an order constitutes a violation of this chapter and a penalty adopted by rule of not less than two hundred fifty dollars may be assessed against the prevailing party.

(11) If the director determines that an applicant, or a previous license of a corporate officer, owner, or partner of a current applicant, has had in the past five years a final judgment in actions under this chapter involving a residential structure, the director may require an applicant applying to renew or reinstate a plumbing contractor's license or applying for a new plumbing contractor's license to file a bond of up to three times the normally required amount.

NEW SECTION. Sec. 4. A new section is added to chapter 18.106 RCW to read as follows:

(1) At the time of plumbing contractor licensing and subsequent license renewal, the applicant shall furnish insurance or financial responsibility in the form of an assigned account in the amount of fifty thousand dollars for injury or damages to property, and one hundred thousand dollars for injury or damage including death to any one person, and two hundred thousand dollars for injury or damage including death to more than one person.

(2) An expiration, cancellation, or revocation of the insurance policy or withdrawal of the insurer from the insurance policy automatically suspends the license issued to the registrant until a new insurance policy or reinstatement notice has been filed and approved as provided in this section.

(3)(a) Proof of financial responsibility authorized in this section may be given by providing, in the amount required by subsection (1) of this section, an assigned account acceptable to the department. The assigned account shall be held by the department to satisfy any execution on a judgment issued against the contractor for damage to property or injury or death to any person occurring in the contractor's contracting operations, according to the provisions of the assigned account agreement. The department has no liability for payment in excess of the amount of the assigned account.

(b) The assigned account filed with the director as proof of financial responsibility must be canceled at the expiration of three years after:

- (i) The contractor's license has expired or been revoked; or
- (ii) The contractor has furnished proof of insurance as required by subsection (1) of this section;

If, in either case, no legal action has been instituted against the contractor or on the account at the expiration of the three-year period.

(c) If a contractor chooses to file an assigned account as authorized in this section, the contractor shall, on any contracting project, notify each person with whom the contractor enters into a contract or to whom the contractor submits a bid that the contractor has filed an assigned account in lieu of insurance and that recovery from the account for any claim against the contractor for property damage or personal injury or death occurring in the project requires the claimant to obtain a court judgment.

NEW SECTION. Sec. 5. A new section is added to chapter 18.106 RCW to read as follows:

(1) A certificate, license, or endorsement issued under this chapter may be suspended, revoked, or subject to civil penalty by the department upon determination that any one or more of the following exist:

(a) A false statement as to a material matter in the application for a certificate, license, or endorsement;

(b) Fraud, misrepresentation, or bribery in securing a certificate, license, or endorsement;

(c) A violation of any provision of this chapter; or

(d) If the plumbing contractor does not employ a full-time individual who currently possesses a valid journey level plumber's certificate of competency or specialty plumber's certificate of competency in the specialty for the scope of work performed.

(2) If the department has suspended or revoked a certificate, license, or endorsement, because of fraud or error and a hearing is requested, the suspension or revocation must be stayed until the hearing is concluded and a decision is issued.

(3) The department must remove a suspension or reinstate a revoked certificate, license, or endorsement, if the licensee pays all assessed civil penalties and is able to demonstrate to the department that the licensee has met all the qualifications established by this chapter.

Sec. 6. RCW 18.106.020 and 2013 c 23 s 15 are each amended to read as follows:

(1) No person may engage in or offer to engage in the trade of plumbing without having a journey level certificate, specialty certificate, residential service certificate, temporary permit, or trainee certificate and photo identification in his or her possession. The department ~~((may))~~ must establish by rule a requirement that the person also wear and visibly display his or her certificate or permit. A trainee must be supervised by a person who has a journey level certificate, specialty certificate, residential service certificate, or temporary permit, as specified in RCW 18.106.070. Until January 1, 2021, no contractor may employ a person to engage in or offer to engage in the trade of plumbing unless the ((person employed has a) contractor is a registered plumbing contractor under chapter 18.27 RCW and the person performing the plumbing work has a journey level certificate, specialty certificate, temporary permit, or trainee certificate. ((This section does not apply to a contractor who is contracting for work on his or her own residence. Until July 1, 2007, the department shall issue a written warning to any specialty plumber defined by RCW 18.106.010(10)(e) not having a valid plumber certification. The warning will state that the individual must apply for a plumber training certificate or be qualified for and apply for plumber certification under the requirements in RCW 18.106.040 within thirty calendar days of the warning. Only one warning will be issued to any individual. If the individual fails to comply with this section, the department shall issue a penalty or penalties as authorized by this chapter.)) After January 1, 2021, no contractor may employ a person to engage in or offer to engage in the trade of plumbing unless the contractor is a licensed plumbing contractor under this chapter and the person performing the plumbing work has a journey level certificate, specialty certificate, residential service certificate, temporary permit, or training certificate.

(2) Without exception, no person may engage in or offer to engage in medical gas piping installation without having a certificate of competency as a journey level plumber and a medical gas piping installer endorsement and photo identification in his or her possession. The department (~~may~~) **must** establish by rule a requirement that the person also wear and visibly display his or her endorsement. A trainee may engage in medical gas piping installation if he or she has a training certificate and is supervised by a person with a medical gas piping installer endorsement. No **plumbing** contractor may employ a person to engage in or offer to engage in medical gas piping installation unless the person employed has a certificate of competency as a journey level plumber and a medical gas piping installer endorsement.

~~(3) (No contractor may advertise, offer to do work, submit a bid, or perform any work under this chapter without being registered as a contractor under chapter 18.27 RCW.~~

~~(4)) Violation of this ((section)) chapter is an infraction. Each day in which a person ((engages)), firm, or corporation advertises, offers to do work, submits a bid, or performs any work in the trade of plumbing in violation of this ((section)) chapter or employs a person in violation of this ((section)) chapter is a separate infraction. Each worksite at which a person engages in the trade of plumbing in violation of this ((section)) chapter or at which a person is employed in violation of this ((section)) chapter is a separate infraction.~~

~~((5)) (4) Notices of infractions for violations of this ((section)) chapter may be issued to:~~

~~(a) The person engaging in or offering to engage in the trade of plumbing in violation of this ((section)) chapter;~~

~~(b) The contractor in violation of this ((section)) chapter; and~~

~~(c) The contractor's employee who authorized the work assignment of the person employed in violation of this ((section)) chapter.~~

~~(5) It is unlawful for anyone required to be licensed under this chapter or registered under chapter 18.27 RCW to subcontract to or use anyone not licensed under this chapter for work covered by the provisions of this chapter.~~

Sec. 7. RCW 18.106.030 and 2013 c 23 s 16 are each amended to read as follows:

(1) Any person desiring to be issued a certificate of competency as provided in this chapter shall deliver evidence in a form prescribed by the department affirming that said person has had sufficient experience in as well as demonstrated general competency in the trade of plumbing or specialty plumbing so as to qualify him or her to make an application for a certificate of competency as a journey level plumber (~~(or)~~), specialty plumber, or residential service plumber. Completion of a course of study in the plumbing trade in the armed services of the United States or at a school accredited by the workforce training and education coordinating board shall constitute sufficient evidence of experience and competency to enable such person to make application for a certificate of competency for a journey level plumber, specialty plumber, or residential service plumber.

(2) Any person desiring to be issued a medical gas piping installer endorsement shall deliver evidence in a form prescribed by the department affirming that the person has met the requirements established by the department for a medical gas piping installer endorsement.

(3) In addition to supplying the evidence as prescribed in this section, each applicant for a certificate of competency shall submit an application for such certificate on such form and in such manner as shall be prescribed by the director of the department.

Sec. 8. RCW 18.106.040 and 2013 c 23 s 17 are each amended to read as follows:

(1) Upon receipt of the application and evidence set forth in RCW 18.106.030, the director shall review the same and make a determination as to whether the applicant is eligible to take an examination for the certificate of competency. To be eligible to take the examination:

(a) Each applicant for a journey level plumber's certificate of competency shall furnish written evidence that he or she has completed a course of study in the plumbing trade in the armed services of the United States or at a school ~~((licensed))~~ accredited by the workforce training and education coordinating board, or has had four or more years of experience under the direct supervision of a ~~((licensed))~~ certified journey level plumber.

(b) Each applicant for a specialty plumber's certificate of competency under RCW 18.106.010~~((10))~~ (14)(a) shall furnish written evidence that he or she has completed a course of study in the plumbing trade in the armed services of the United States or at a school licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, or that he or she has had at least three years ~~((practical))~~ of experience in the specialty under the supervision of a certified journey level plumber or a certified plumber.

(c) Each applicant for a residential service plumber's certificate of competency under RCW 18.106.010(11) shall furnish written evidence that he or she has completed a course of study in the plumbing trade in the armed services of the United States or at a school accredited by the workforce training and education coordinating board, or has had two or more years of experience under the supervision of a certified journey level plumber, certified specialty plumber, or certified residential service plumber.

(d) Each applicant for a specialty plumber's certificate of competency under RCW 18.106.010~~((10))~~ (14) (b) or (c) shall furnish written evidence that he or she is eligible to take the examination. These eligibility requirements for the specialty plumbers defined by RCW 18.106.010~~((10))~~ (14)(c) shall be one year of practical experience working on pumping systems not exceeding one hundred gallons per minute, and two years of practical experience working on pumping systems exceeding one hundred gallons per minute, or equivalent as determined by rule by the department in consultation with the advisory board, and that experience may be obtained at the same time the individual is meeting the experience required by RCW 19.28.191. The eligibility requirements for other specialty plumbers shall be established by rule by the director pursuant to subsection (2)(b) of this section.

(2)(a) The director shall establish reasonable rules for the examinations to be given applicants for certificates of competency. In establishing the rules, the director shall consult with the state advisory board of plumbers as established in RCW 18.106.110.

(b) The director shall establish reasonable criteria by rule for determining an applicant's eligibility to take an examination for the certificate of competency for specialty plumbers under subsection (1)~~((e))~~ (d) of this section. In establishing

the criteria, the director shall consult with the state advisory board of plumbers as established in RCW 18.106.110. These rules must take effect by December 31, 2006.

(3) Upon determination that the applicant is eligible to take the examination, the director shall so notify the applicant, indicating the time and place for taking the same.

(4) No other requirement for eligibility may be imposed.

Sec. 9. RCW 18.106.050 and 2013 c 23 s 18 are each amended to read as follows:

(1) The department, with the advice of the advisory board, shall prepare a written examination to be administered to applicants for certificates of competency for journey level plumber ~~((and)),~~ specialty plumber, and residential service plumber. The examination shall be constructed to determine:

(a) Whether the applicant possesses varied general knowledge of the technical information and practical procedures that are identified with the trade of journey level plumber ~~((or)),~~ specialty plumber, or residential service plumber; and

(b) Whether the applicant is familiar with the applicable plumbing codes and the administrative rules of the department pertaining to plumbing and plumbers.

(2) The department, with the consent of the advisory board, may enter into a contract with a nationally recognized testing agency to develop, administer, and score any examinations required by this chapter. All applicants shall, before taking an examination, pay the required examination fee. The department shall set the examination fee by contract with a nationally recognized testing agency. The fee shall cover but not exceed the costs of preparing and administering the examination and the materials necessary to conduct the practical elements of the examination. The department shall approve training courses and set the fees for training courses for examinations provided by this chapter.

(3) An examination to determine the competency of an applicant for a domestic water pumping system specialty plumbing certificate as defined by RCW 18.106.010~~((10))~~ (14)(c) must be established by the department in consultation with the advisory board by December 31, 2006. The department may include an examination for appropriate electrical safety and technical requirements as required by RCW 19.28.191 with the examination required by this section. The department, in consultation with the advisory board, may accept the certification by a professional or trade association or other acceptable entity as meeting the examination requirement of this section. ~~((Individuals who can provide evidence to the department prior to January 1, 2007, that they have been employed in the pump and irrigation business as defined by RCW 18.106.010(10)(e) for not less than four thousand hours in the most recent four calendar years shall be issued the appropriate certificate by the department upon receiving such documentation and applicable fees.))~~ The department shall establish a single document for those who have received both the plumbing specialty certification defined by this subsection and have also met the certification requirements for a pump and irrigation or domestic pump specialty electrician, showing that the individual has received both certifications.

(4) The department shall certify the results of the examinations provided by this chapter, and shall notify the applicant in writing whether he or she has

passed or failed. Any applicant who has failed the examination may retake the examination, upon the terms and after a period of time that the director shall set by rule. The director may not limit the number of times that a person may take the examination.

Sec. 10. RCW 18.106.070 and 2013 c 23 s 19 are each amended to read as follows:

(1) The department shall issue a certificate of competency to all applicants who have passed the examination and have paid the fee for the certificate. The certificate may include a photograph of the holder. The certificate shall bear the date of issuance, and ~~((shall expire on the birthdate of the holder immediately following the date of issuance. The certificate shall))~~ be ~~((renewable))~~ renewed every ~~((other year))~~ three years, upon application, on or before the birthdate of the holder ~~((, except for specialty plumbers defined by RCW 18.106.010(10)(e) who also have an electrical certification issued jointly as provided by RCW 18.106.050(3) in which case their certificate shall be renewable every three years on or before the birthdate of the holder))~~. The department shall renew a certificate of competency if the applicant: (a) Pays the renewal fee assessed by the department; and (b) during the past ~~((two))~~ three years has completed ~~((sixteen))~~ twenty-four hours of continuing education approved by the department with the advice of the advisory board, including four hours related to electrical safety. For holders of the specialty plumber certificate under RCW 18.106.010~~((10))~~ (14)(c), the continuing education may comprise both electrical and plumbing education with a minimum of twelve of the required twenty-four hours of continuing education in plumbing. If a person fails to renew the certificate by the renewal date, he or she must pay a doubled fee. If the person does not renew the certificate within ninety days of the renewal date, he or she must retake the examination and pay the examination fee.

The journey level plumber ~~((and))~~, specialty plumber, and residential service plumber certificates of competency, the medical gas piping installer endorsement, and the temporary permit provided for in this chapter grant the holder the right to engage in the work of plumbing as a journey level plumber, specialty plumber, residential service plumber, or medical gas piping installer, in accordance with their provisions throughout the state and within any of its political subdivisions on any job or any employment without additional proof of competency or any other license or permit or fee to engage in the work. This section does not preclude employees from adhering to a union security clause in any employment where such a requirement exists.

(2) A person who is indentured ~~((to))~~ to an apprenticeship program approved under chapter 49.04 RCW for the plumbing construction trade or who is learning the plumbing construction trade may work in the plumbing construction trade if supervised by a certified journey level plumber or a certified specialty plumber in that plumber's specialty. All apprentices and individuals learning the plumbing construction trade shall obtain a plumbing training certificate from the department. The certificate shall authorize the holder to learn the plumbing construction trade while under the direct supervision of a journey level plumber or a specialty plumber working in his or her specialty. The certificate may include a photograph of the holder. The holder of the plumbing training certificate shall renew the certificate annually. At the time of renewal, the holder shall provide the department with an accurate list of

the holder's employers in the plumbing construction industry for the previous year and the number of hours worked for each employer. ~~((An annual))~~ Failure to provide plumbing hours worked for each employer is a violation of this chapter, subject to an infraction under RCW 18.106.320, and must result in nonrenewal of the trainee certificate. A fee shall be charged for the issuance or renewal of the certificate. The department shall set the fee by rule. The fee shall cover but not exceed the cost of administering and enforcing the trainee certification and supervision requirements of this chapter.

~~(3) ((Any person who has been issued a plumbing training certificate under this chapter may work if that person is under supervision.))~~ (a) Trainee supervision shall consist of a ((person)) trainee being on the same job site and under the control of either a journey level plumber, residential service plumber, or an appropriate specialty plumber who has an applicable certificate of competency issued under this chapter. Either a journey level plumber, residential service plumber, or an appropriate specialty plumber shall be:

(i) On the same job site as the ((noncertified individual)) trainee for a minimum of seventy-five percent of each working day unless otherwise provided in this chapter. ((The ratio of noncertified individuals to certified journey level or specialty plumbers working on a job site shall be: (a) Not more than two noncertified plumbers working on any one job site for every certified specialty plumber or journey level plumber working as a specialty plumber; and (b) not more than one noncertified plumber working on any one job site for every certified journey level plumber working as a journey level plumber.))

(ii) Available via mobile phone or similar device in a manner that allows both audio and visual direction to the trainee from the supervising plumber. Remote trainee supervision using these types of technology is only permitted in cases that meet the following criteria:

(A) The trainee has more than two thousand hours of training;

(B) The supervising plumber is no more than forty miles from the job site;
and

(C) The scope of work on the trainee's job site is service plumbing in a residential structure.

(b) An individual who has a current training certificate and who has successfully completed or is currently enrolled in an approved apprenticeship program or in a technical school program in the plumbing construction trade in a school approved by the workforce training and education coordinating board, may work without direct on-site supervision during the last six months of meeting the practical experience requirements of this chapter.

(4)(a) Until December 31, 2025, the ratio of trainees to certified journey level, residential service, or specialty plumbers working on a job site must be:

(i) Not more than three trainees working on any one residential structure job site for every certified specialty plumber or journey level plumber working as a specialty plumber;

(ii) Not more than one trainee working on any one job site for every certified journey level plumber working as a journey level plumber; and

(iii) Not more than one trainee working on any one job site for every certified residential service plumber.

(b) After December 31, 2025, not more than two trainees may work on any residential structure job site for every certified specialty plumber or journey level plumber working as a specialty plumber.

(5) An individual who has a current training certificate and who has successfully completed or is currently enrolled in a medical gas piping installer training course approved by the department may work on medical gas piping systems if the individual is under the direct supervision of a certified medical gas piping installer who holds a medical gas piping installer endorsement one hundred percent of a working day on a one-to-one ratio.

~~((5))~~ (6) The training to become a certified plumber must include not less than sixteen hours of classroom training established by the director with the advice of the advisory board. The classroom training must include, but not be limited to, electrical wiring safety, grounding, bonding, and other related items plumbers need to know to work under ((RCW 19.28.09+)) this chapter.

~~((6))~~ (7) All persons who are certified plumbers before January 1, 2003, are deemed to have received the classroom training required in subsection ((5)) (6) of this section.

(8)(a) The department shall instruct the advisory board of plumbers to convene a subgroup that includes the statewide association representing plumbing, heating, and cooling contractors; the union representing plumbers and pipefitters; the association representing plumbing contractors who employ union plumbers and pipefitters; and other directly affected stakeholders after the completion of the 2023 legislative session, the 2024 legislative session, and every three years thereafter.

(b) The work group shall evaluate the effects that the trainee ratio changes have had on the industry, including public safety and industry response to public demand for plumbing services. The work group shall determine a sustainable plan for maintaining sufficient numbers of plumbers and trainees within the plumbing workforce to safely meet the needs of the public. The report is due to the standing labor committees of the legislature before December 1st of each year that the work group convenes. The work group shall conclude on receipt of the report by the legislature. Within current funding appropriated to the department, the department must reimburse each member of the work group in accordance with the provisions of RCW 43.03.050 and 43.03.060 for each day in which the member is actually engaged in attendance of meetings of the advisory board.

Sec. 11. RCW 18.106.100 and 2013 c 23 s 23 are each amended to read as follows:

(1) The department may revoke or suspend a certificate of competency, license, or endorsement for any of the following reasons:

(a) The certificate, license, or endorsement was obtained through error or fraud;

(b) The certificate, license, or endorsement holder is judged to be incompetent to carry on the trade of plumbing as a journey level plumber ((6)), specialty plumber, or residential service plumber;

(c) The certificate, license, or endorsement holder has violated any provision of this chapter or any rule adopted under this chapter.

(2) Before a certificate of competency, license, or endorsement is revoked or suspended, the department shall send written notice using a method by which

the mailing can be tracked or the delivery can be confirmed to the certificate holder's last known address. The notice must list the allegations against the certificate holder and give him or her the opportunity to request a hearing before the advisory board. At the hearing, the department and the certificate holder have opportunity to produce witnesses and give testimony. The hearing must be conducted in accordance with chapter 34.05 RCW. The board shall render its decision based upon the testimony and evidence presented and shall notify the parties immediately upon reaching its decision. A majority of the board is necessary to render a decision.

(3) The department may deny renewal of a certificate of competency, license, or endorsement issued under this chapter if the applicant owes outstanding penalties for a final judgment under this chapter. The department shall notify the applicant of the denial using a method by which the mailing can be tracked or the delivery can be confirmed to the address on the application. The applicant may appeal the denial within twenty days by filing a notice of appeal with the department accompanied by a certified check for two hundred dollars which shall be returned to the applicant if the decision of the department is not upheld by the hearings officer. The office of administrative hearings shall conduct the hearing under chapter 34.05 RCW. If the hearings officer sustains the decision of the department, the two hundred dollars must be applied to the cost of the hearing.

Sec. 12. RCW 18.106.110 and 2013 c 23 s 24 are each amended to read as follows:

(1) There is created a state advisory board of plumbers, to be composed of ~~((seven))~~ nine members appointed by the director. Two members shall be journey level plumbers, one member shall be a specialty plumber, three members shall be persons conducting a plumbing business, at least one of which shall be primarily engaged in a specialty plumbing business, one member representing the state-approved plumbing code body, one member from the department of health, and one member from the general public who is familiar with the business and trade of plumbing.

(2) The term of one journey level plumber expires July 1, 1995; the term of the second journey level plumber expires July 1, 2000; the term of the specialty plumber expires July 1, 2008; the term of one person conducting a plumbing business expires July 1, 1996; the term of the second person conducting a plumbing business expires July 1, 2000; the term of the third person conducting a plumbing business expires July 1, 2007; the terms of the member representing the state-approved plumbing code body and the member from the department of health expire July 1, 2022; and the term of the public member expires July 1, 1997. Thereafter, upon the expiration of said terms, the director shall appoint a new member to serve for a period of three years. However, to ensure that the board can continue to act, a member whose term expires shall continue to serve until his or her replacement is appointed. In the case of any vacancy on the board for any reason, the director shall appoint a new member to serve out the term of the person whose position has become vacant.

(3) The advisory board shall carry out all the functions and duties enumerated in this chapter, as well as generally advise the department on all matters relative to ~~((this chapter))~~ the enforcement of this chapter including

plumbing industry promotion, standards of plumbing installations, consumer protection, and standards for the protection of public health.

(4) Each member of the advisory board shall receive travel expenses in accordance with the provisions of RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day in which such member is actually engaged in attendance upon the meetings of the advisory board.

Sec. 13. RCW 18.106.125 and 1983 c 124 s 17 are each amended to read as follows:

The department shall charge fees for issuance, renewal, and reinstatement of all certificates, endorsements, licenses, and permits and for examinations required by this chapter. The department shall set the fees by rule.

The fees shall cover the full cost of issuing the certificates and permits, devising and administering the examinations, and administering and enforcing this chapter. The costs shall include travel, per diem, and administrative support costs.

Sec. 14. RCW 18.106.150 and 2013 c 23 s 25 are each amended to read as follows:

(1) Nothing in this chapter shall be construed to require that a person obtain a license (~~(or a certified plumber)~~) in order to do plumbing work at his or her residence or farm or place of business or on other property owned by him or her.

(2) A current certificate of competency or apprentice permit is not required for:

(a) Persons performing plumbing work on a farm; or

(b) Certified journey level electricians, certified residential specialty electricians, or electrical trainees working for an electrical contractor and performing exempt work under:

(i) RCW 18.27.090(18) until January 1, 2021;

(ii) After January 1, 2021, under subsection (8) of this section.

(3) Nothing in this chapter shall be intended to derogate from or dispense with the requirements of any valid plumbing code enacted by a political subdivision of the state, except that no code shall require the holder of a certificate of competency to demonstrate any additional proof of competency or obtain any other license or pay any fee in order to engage in the trade of plumbing.

(4) This chapter shall not apply to common carriers subject to Part I of the Interstate Commerce Act, nor to their officers and employees.

(5) Nothing in this chapter shall be construed to apply to any farm, business, industrial plant, or corporation doing plumbing work on premises it owns or operates.

(6) Nothing in this chapter shall be construed to restrict the right of any householder to assist or receive assistance from a friend, neighbor, relative, or other person when none of the individuals doing such plumbing hold themselves out as engaged in the trade or business of plumbing.

(7) This section does not apply to anyone installing, altering, repairing, or renovating medical gas systems.

(8) As of January 1, 2021, nothing in this chapter shall be construed to apply to an entity who holds a valid electrical contractor's license under chapter 19.28 RCW that employs a certified journey level electrician, a certified residential

specialty electrician, or an electrical trainee meeting the requirements of chapter 19.28 RCW to perform plumbing work that is incidentally, directly, and immediately appropriate to the like-in-kind replacement of a household appliance or other small household utilization equipment that requires limited electrical power and limited waste, water connections, or both. An electrical trainee must be supervised by a certified electrician while performing plumbing work.

Sec. 15. RCW 18.106.180 and 2011 c 301 s 5 are each amended to read as follows:

(1) An authorized representative of the department may issue a notice of infraction as specified in RCW 18.106.020 if:

(a) A person who is doing plumbing work or who is offering to do plumbing work fails to produce evidence of:

(i) Having a certificate or permit issued by the department in accordance with this chapter, or being supervised by a person who has such a certificate or permit; and

(ii) Until January 1, 2021, being registered as a contractor as required under chapter 18.27 RCW ((or this chapter)), or being employed by a person who is registered as a contractor as required under chapter 18.27 RCW;

(b) Until January 1, 2021, a person who employs anyone, or offers or advertises to employ anyone, to do plumbing work fails to produce evidence of being registered as a contractor as required under chapter 18.27 RCW ((or this chapter)); ((or))

(c) After January 1, 2021, a person who employs anyone, or offers or advertises to employ anyone, to do plumbing work fails to produce evidence of being licensed as a plumbing contractor as required under this chapter; or

(d) A contractor violates RCW 18.106.320.

(2) A notice of infraction issued under this section shall be personally served on the person or contractor named in the notice by an authorized representative of the department or sent using a method by which the mailing can be tracked or the delivery can be confirmed to the last known address provided to the department of the person named in the notice.

Sec. 16. RCW 18.106.200 and 1996 c 147 s 5 are each amended to read as follows:

A violation designated as an infraction under this chapter shall be heard and determined by an administrative law judge of the office of administrative hearings. If a party desires to contest the notice of infraction, the party shall file a notice of appeal with the department ~~((within twenty days of issuance of the infraction))~~ specifying the grounds of the appeal within twenty days of service of the infraction in a manner provided by this chapter. The appeal must be accompanied by a certified check for two hundred dollars, which must be returned to the assessed party if the decision of the department is not sustained following the final decision in the appeal. If the final decision sustains the decision of the department, the department must apply the two hundred dollars to the payment of the expenses of the appeal, including costs charged by the office of administrative hearings. The administrative law judge shall conduct hearings in these cases at locations in the county where the infraction is alleged to have occurred.

Sec. 17. RCW 18.106.220 and 1994 c 174 s 6 are each amended to read as follows:

(1) ~~((A person who receives a notice of infraction shall respond to the notice as provided in this section within fourteen days of the date the notice was served.~~

(2)) If the person or contractor named in the notice of infraction does not wish to contest the notice of infraction, the person or contractor shall pay to the department, by check or money order, the amount of the penalty prescribed for the infraction. When a response which does not contest the determination is received by the department with the appropriate payment, the department shall make the appropriate entry in its records.

~~((3))~~ (2) If the person or contractor named in the notice of infraction wishes to contest the notice of infraction, the person or contractor shall respond by filing an answer of protest with the department specifying the grounds of protest.

~~((4))~~ (3) If any person or contractor issued a notice of infraction:

(a) Fails to respond to the notice of infraction as provided in subsection ~~((2))~~ (1) of this section; or

(b) Fails to appear at a hearing requested pursuant to subsection ~~((3))~~ (2) of this section;

the administrative law judge shall enter an appropriate order assessing the monetary penalty prescribed for the infraction and shall notify the department of the failure to respond to the notice of infraction or to appear at a requested hearing.

Sec. 18. RCW 18.106.250 and 2002 c 82 s 4 are each amended to read as follows:

(1) The administrative law judge shall conduct notice of infraction cases under this chapter pursuant to chapter 34.05 RCW.

(2) The burden of proof is on the department to establish the commission of the infraction by a preponderance of the evidence. The notice of infraction shall be dismissed if the defendant establishes that, at the time the notice was issued:

~~((a) The defendant who was issued a notice of infraction authorized by RCW 18.106.020(5)(a) had a certificate or permit issued by the department in accordance with this chapter, was supervised by a person who has such a certificate or permit, or was exempt from this chapter under RCW 18.106.150; or~~

~~(b))~~ For the defendant who was issued a notice of infraction authorized by RCW 18.106.020~~((5) (b) or)~~ (4)(a) through (c), the person employed or supervised by the defendant has a certificate, license, endorsement, ~~(or permit)~~ temporary permit, or registration issued by the department in accordance with this chapter, was supervised by a person who had such a certificate, license, ~~(or permit)~~ temporary permit, or endorsement, was exempt from this chapter under RCW 18.106.150, or was registered as a plumbing contractor under this chapter and registered as a contractor under chapter 18.27 RCW.

(3) After consideration of the evidence and argument, the administrative law judge shall determine whether the infraction was committed. If it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the record of the proceedings. If it has been established that the infraction was committed, the administrative law judge shall issue findings

of fact and conclusions of law in its decision and order determining whether the infraction was committed.

(4) An appeal from the administrative law judge's determination or order shall be to the superior court. The decision of the superior court is subject only to discretionary review pursuant to Rule 2.3 of the Rules of Appellate Procedure.

Sec. 19. RCW 18.106.270 and 1994 c 174 s 8 are each amended to read as follows:

(1) A person found to have committed an infraction under RCW 18.106.020 shall be assessed a minimum monetary penalty of ~~((two))~~ one hundred ~~((fifty))~~ dollars for the first infraction ~~(, and not more than one thousand dollars for a second or subsequent infraction)~~. A contractor found to have committed an infraction under RCW 18.106.020 must be assessed a minimum monetary penalty of five hundred dollars for the first infraction. The maximum penalty for an infraction under RCW 18.106.020 must not exceed five thousand dollars for a second or subsequent infraction. The department shall set by rule a schedule of penalties for infractions imposed under this chapter.

(2) The administrative law judge may not waive, reduce, or suspend the monetary penalty imposed for the infraction ~~((for good cause shown))~~.

(3) The director may waive or reduce collection of payment for good cause.

(4) Any individual or plumbing contractor who acquires three infractions within a thirty-six month period may have his or her certificate, license, endorsement, or registration suspended for a period of up to two years upon recommendation of the advisory board of plumbers. For purposes of this subsection, multiple violations created by a single inspection or audit are counted as one violation.

(5) Monetary penalties collected under this chapter shall be deposited in the plumbing certificate fund.

Sec. 20. RCW 18.106.320 and 2005 c 274 s 229 are each amended to read as follows:

(1) ~~((Contractors shall accurately verify and attest to the trainee hours worked by plumbing trainees on behalf of the contractor and that all training hours were under the supervision of a certified plumber and within the proper ratio, and shall provide the supervising plumbers' names and certificate numbers. However, contractors are not required to identify which hours a trainee works with a specific certified plumber.))~~ (a) The plumbing contractor shall:

(i) Accurately report all plumbing hours worked by plumbing trainees and, effective June 30, 2021, report all plumbing trainee hours worked on a quarterly basis on a form prescribed by the department;

(ii) Attest that trainee hours were under the supervision of a certified plumber and within the proper ratio;

(iii) Provide the names and certification numbers of the supervising plumbers; and

(iv) Upon request, provide the department with trainee hours worked by all trainees within their employment for the past two-year period.

(b) Plumbing contractors are not required to identify which hours a trainee works with a specific certified plumber. Plumbing hours reported on all payroll reports for audit purposes will be considered work performed by a certified plumber or trainee working within ratio. Plumbing work reported for

noncertified plumbers or supervision and ratio requirements is a violation of this chapter and subject to issuance of an infraction.

(2) The department may audit the records of a plumbing contractor that has verified the hours of experience submitted by a plumbing trainee to the department under RCW 18.106.030 in the following circumstances: Excessive hours were reported; hours were reported outside the normal course of the plumbing contractor's business; or for other similar circumstances in which the department demonstrates a likelihood of excessive or improper hours being reported. The department shall limit the audit to records necessary to verify hours. Failure to have or maintain payroll and other records for each employee performing plumbing work for the company is a violation of this chapter and subject to issuance of an infraction. The department may assess a penalty of up to five thousand dollars for failure to maintain adequate records. Records used to document plumbing work must be maintained for a minimum of three years. The department shall adopt rules implementing audit procedures. Information obtained from a plumbing contractor under the provisions of this section is confidential and is not open to public inspection under chapter 42.56 RCW.

(3) Violation of this section by a contractor is an infraction.

Sec. 21. RCW 18.27.060 and 2011 c 301 s 1 are each amended to read as follows:

(1) A certificate of registration shall be valid for two years and shall be renewed on or before the expiration date. The department shall issue to the applicant a certificate of registration upon compliance with the registration requirements of this chapter.

(2) If the department approves an application, it shall issue a certificate of registration to the applicant.

(3) If a contractor's surety bond or other security has an unsatisfied judgment against it or is canceled, or if the contractor's insurance policy is canceled, the contractor's registration shall be automatically suspended on the effective date of the impairment or cancellation. The department shall mail notice of the suspension to the contractor's address on the certificate of registration within two days after suspension using a method by which the mailing can be tracked or the delivery can be confirmed.

(4) Renewal of registration is valid on the date the department receives the required fee and proof of bond and liability insurance, if sent by certified mail or other means requiring proof of delivery. The receipt or proof of delivery shall serve as the contractor's proof of renewed registration until he or she receives verification from the department.

(5) The department shall immediately suspend the certificate of registration of a contractor who has been certified by the department of social and health services as a person who is not in compliance with a support order or a visitation order as provided in RCW 74.20A.320. The certificate of registration shall not be reissued or renewed unless the person provides to the department a release from the department of social and health services stating that he or she is in compliance with the order and the person has continued to meet all other requirements for certification during the suspension.

~~((6) For a contractor who employs plumbers, as described in RCW 18.106.010(10)(c), and is also required to be licensed as an electrical contractor as required in RCW 19.28.041, while doing pump and irrigation or domestic~~

~~pump work described in rule as authorized by RCW 19.28.251, the department shall establish a single registration/licensing document for those who qualify for both general contractor registration as defined by this chapter and an electrical contractor license as defined by chapter 19.28 RCW.)~~

Sec. 22. RCW 18.27.090 and 2013 c 23 s 13 are each amended to read as follows:

The registration provisions of this chapter do not apply to:

(1) An authorized representative of the United States government, the state of Washington, or any incorporated city, town, county, township, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state;

(2) Officers of a court when they are acting within the scope of their office;

(3) Public utilities operating under the regulations of the utilities and transportation commission in construction, maintenance, or development work incidental to their own business;

(4) Any construction, repair, or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning, or other operation of any petroleum or gas well or any surface or underground mine or mineral deposit when performed by an owner or lessee;

(5) The sale of any finished products, materials, or articles of merchandise that are not fabricated into and do not become a part of a structure under the common law of fixtures;

(6) Any construction, alteration, improvement, or repair of personal property performed by the registered or legal owner, or by a mobile/manufactured home retail dealer or manufacturer licensed under chapter 46.70 RCW who shall warranty service and repairs under chapter 46.70 RCW;

(7) Any construction, alteration, improvement, or repair carried on within the limits and boundaries of any site or reservation under the legal jurisdiction of the federal government;

(8) Any person who only furnished materials, supplies, or equipment without fabricating them into, or consuming them in the performance of, the work of the contractor;

(9) Any work or operation on one undertaking or project by one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than five hundred dollars, such work or operations being considered as of a casual, minor, or inconsequential nature. The exemption prescribed in this subsection does not apply in any instance wherein the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made into contracts of amounts less than five hundred dollars for the purpose of evasion of this chapter or otherwise. The exemption prescribed in this subsection does not apply to a person who advertises or puts out any sign or card or other device which might indicate to the public that he or she is a contractor, or that he or she is qualified to engage in the business of contractor;

(10) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts or reclamation districts; or to farming, dairying, agriculture, viticulture, horticulture, or stock or poultry raising; or to clearing or other work upon land in

rural districts for fire prevention purposes; except when any of the above work is performed by a registered contractor;

(11) An owner who contracts for a project with a registered contractor, except that this exemption shall not deprive the owner of the protections of this chapter against registered and unregistered contractors. The exemption prescribed in this subsection does not apply to a person who performs the activities of a contractor for the purpose of leasing or selling improved property he or she has owned for less than twelve months;

(12) Any person working on his or her own property, whether occupied by him or her or not, and any person working on his or her personal residence, whether owned by him or her or not but this exemption shall not apply to any person who performs the activities of a contractor on his or her own property for the purpose of selling, demolishing, or leasing the property;

(13) An owner who performs maintenance, repair, and alteration work in or upon his or her own properties, or who uses his or her own employees to do such work;

(14) A licensed architect or civil or professional engineer acting solely in his or her professional capacity, an electrician certified under the laws of the state of Washington, or a plumber certified under the laws of the state of Washington or licensed by a political subdivision of the state of Washington while operating within the boundaries of such political subdivision. The exemption provided in this subsection is applicable only when the person certified is operating within the scope of his or her certification;

(15) Any person who engages in the activities herein regulated as an employee of a registered contractor with wages as his or her sole compensation or as an employee with wages as his or her sole compensation;

(16) Contractors on highway projects who have been prequalified as required by RCW 47.28.070, with the department of transportation to perform highway construction, reconstruction, or maintenance work;

(17) A mobile/manufactured home dealer or manufacturer who subcontracts the installation, set-up, or repair work to actively registered contractors. This exemption only applies to the installation, set-up, or repair of the mobile/manufactured homes that were manufactured or sold by the mobile/manufactured home dealer or manufacturer((;

~~(18) An entity who holds a valid electrical contractor's license under chapter 19.28 RCW that employs a certified journey level electrician, a certified residential specialty electrician, or an electrical trainee meeting the requirements of chapter 19.28 RCW to perform plumbing work that is incidentally, directly, and immediately appropriate to the like-in-kind replacement of a household appliance or other small household utilization equipment that requires limited electric power and limited waste and/or water connections. An electrical trainee must be supervised by a certified electrician while performing plumbing work)).~~

Sec. 23. RCW 19.28.091 and 2003 c 399 s 301 and 2003 c 242 s 1 are each reenacted and amended to read as follows:

(1) No license under the provision of this chapter shall be required from any utility or any person, firm, partnership, corporation, or other entity employed by a utility because of work in connection with the installation, repair, or maintenance of lines, wires, apparatus, or equipment owned by or under the control of a utility and used for transmission or distribution of electricity from

the source of supply to the point of contact at the premises and/or property to be supplied and service connections and meters and other apparatus or appliances used in the measurement of the consumption of electricity by the customer.

(2) No license under the provisions of this chapter shall be required from any utility because of work in connection with the installation, repair, or maintenance of the following:

(a) Lines, wires, apparatus, or equipment used in the lighting of streets, alleys, ways, or public areas or squares;

(b) Lines, wires, apparatus, or equipment owned by a commercial, industrial, or public institution customer that are an integral part of a transmission or distribution system, either overhead or underground, providing service to such customer and located outside the building or structure: PROVIDED, That a utility does not initiate the sale of services to perform such work;

(c) Lines and wires, together with ancillary apparatus, and equipment, owned by a customer that is an independent power producer who has entered into an agreement for the sale of electricity to a utility and that are used in transmitting electricity from an electrical generating unit located on premises used by such customer to the point of interconnection with the utility's system.

(3) Any person, firm, partnership, corporation, or other entity licensed under RCW 19.28.041 may enter into a contract with a utility for the performance of work under subsection (2) of this section.

(4) No license under the provisions of this chapter shall be required from any person, firm, partnership, corporation, or other entity because of the work of installing and repairing ignition or lighting systems for motor vehicles.

(5) No license under the provisions of this chapter shall be required from any person, firm, partnership, corporation, or other entity because of work in connection with the installation, repair, or maintenance of wires and equipment, and installations thereof, exempted in RCW 19.28.010.

(6) The department may by rule exempt from licensing requirements under this chapter work performed on premanufactured electric power generation equipment assemblies and control gear involving the testing, repair, modification, maintenance, or installation of components internal to the power generation equipment, the control gear, or the transfer switch.

(7) This chapter does not require an electrical contractor license if: (a) An appropriately certified electrician or a properly supervised certified electrical trainee is performing the installation, repair, or maintenance of wires and equipment for a nonprofit corporation that holds a current tax exempt status as provided under 26 U.S.C. Sec. 501(c)(3) or a nonprofit religious organization; (b) the certified electrician or certified electrical trainee is not compensated for the electrical work; and (c) the value of the electrical work does not exceed thirty thousand dollars.

(8) An entity that currently holds a valid plumbing contractor's license under chapter 18.106 RCW, or, until January 1, 2021, an entity that currently holds a valid specialty or general plumbing contractor's registration under chapter 18.27 RCW may employ a certified plumber, a certified residential plumber, or a plumber trainee meeting the requirements of chapter 18.106 RCW to perform electrical work that is incidentally, directly, and immediately appropriate to the like-in-kind replacement of a household appliance or other small household

utilization equipment that requires limited electric power and limited waste and/or water connections. A plumber trainee must be supervised by a certified plumber or a certified residential plumber while performing electrical work. The electrical work is subject to the permitting and inspection requirements of this chapter.

Sec. 24. RCW 19.28.041 and 2013 c 23 s 28 are each amended to read as follows:

(1) It is unlawful for any person, firm, partnership, corporation, or other entity to advertise, offer to do work, submit a bid, engage in, conduct, or carry on the business of installing or maintaining wires or equipment to convey electric current, or installing or maintaining equipment to be operated by electric current as it pertains to the electrical industry, without having an unrevoked, unsuspended, and unexpired electrical contractor license, issued by the department in accordance with this chapter. All electrical contractor licenses expire twenty-four calendar months following the day of their issue. The department may issue an electrical contractor license for a period of less than twenty-four months only for the purpose of equalizing the number of electrical contractor licenses that expire each month. Application for an electrical contractor license shall be made in writing to the department, accompanied by the required fee. The application shall state:

(a) The name and address of the applicant; in case of firms or partnerships, the names of the individuals composing the firm or partnership; in case of corporations, the names of the managing officials thereof;

(b) The location of the place of business of the applicant and the name under which the business is conducted;

(c) Employer social security number;

(d) Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:

(i) The applicant's industrial insurance account number issued by the department;

(ii) The applicant's self-insurer number issued by the department; or

(iii) For applicants domiciled in a state or province of Canada subject to an agreement entered into under RCW 51.12.120(7), as permitted by the agreement, filing a certificate of coverage issued by the agency that administers the workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law;

(e) Employment security department number;

(f) State excise tax registration number;

(g) Unified business identifier (UBI) account number may be substituted for the information required by (d) of this subsection if the applicant will not employ employees in Washington, and by (e) and (f) of this subsection; and

(h) Whether a general or specialty electrical contractor license is sought and, if the latter, the type of specialty. Electrical contractor specialties include, but are not limited to: Residential, pump and irrigation, limited energy system, signs, nonresidential maintenance, restricted nonresidential maintenance, appliance repair, and a combination specialty. A general electrical contractor license shall grant to the holder the right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electric current, and

installing or maintaining equipment, or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current, in the state of Washington. A specialty electrical contractor license shall grant to the holder a limited right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electrical current, and installing or maintaining equipment; or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current in the state of Washington as expressly allowed by the license.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(d) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3) The application for an electrical contractor license shall be accompanied by a bond in the sum of four thousand dollars with the state of Washington named as obligee in the bond, with good and sufficient surety, to be approved by the department. The bond shall at all times be kept in full force and effect, and any cancellation or revocation thereof, or withdrawal of the surety therefrom, suspends the license issued to the principal until a new bond has been filed and approved as provided in this section. Upon approval of a bond, the department shall on the next business day deposit the fee accompanying the application in the electrical license fund and shall file the bond in the office. The department shall upon request furnish to any person, firm, partnership, corporation, or other entity a certified copy of the bond upon the payment of a fee that the department shall set by rule. The fee shall cover but not exceed the cost of furnishing the certified copy. The bond shall be conditioned that in any installation or maintenance of wires or equipment to convey electrical current, and equipment to be operated by electrical current, the principal will comply with the provisions of this chapter and with any electrical ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(3) that is in effect at the time of entering into a contract. The bond shall be conditioned further that the principal will pay for all labor, including employee benefits, and material furnished or used upon the work, taxes and contributions to the state of Washington, and all damages that may be sustained by any person, firm, partnership, corporation, or other entity due to a failure of the principal to make the installation or maintenance in accordance with this chapter or any applicable ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(3). In lieu of the surety bond required by this section, the license applicant may file with the department a cash deposit or other negotiable security acceptable to the department. If the license applicant has filed a cash deposit, the department shall deposit the funds in a special trust savings account in a commercial bank, mutual savings bank, or savings and loan association and shall pay annually to the depositor the interest derived from the account.

(4) The department shall issue general or specialty electrical contractor licenses to applicants meeting all of the requirements of this chapter. The provisions of this chapter relating to the licensing of any person, firm, partnership, corporation, or other entity including the requirement of a bond with the state of Washington named as obligee therein and the collection of a fee

therefor, are exclusive, and no political subdivision of the state of Washington may require or issue any licenses or bonds or charge any fee for the same or a similar purpose. No person, firm, partnership, corporation, or other entity holding more than one specialty contractor license under this chapter may be required to pay an annual fee for more than one such license or to post more than one four thousand dollar bond, equivalent cash deposit, or other negotiable security.

(5) To obtain a general or specialty electrical contractor license, the applicant must designate an individual who currently possesses a valid master journey level electrician's certificate of competency, master specialty electrician's certificate of competency in the specialty for which application has been made, or administrator's certificate as a general electrical contractor administrator or as a specialty electrical contractor administrator in the specialty for which application has been made.

(6) Administrator certificate specialties include, but are not limited to: Residential, pump and irrigation or domestic pump, limited energy system, signs, nonresidential maintenance, restricted nonresidential maintenance, appliance repair, and combination specialty. To obtain an administrator's certificate, an individual must pass an examination as set forth in RCW 19.28.051 unless the applicant was a licensed electrical contractor at any time during 1974. Applicants who were electrical contractors licensed by the state of Washington at any time during 1974 are entitled to receive a general electrical contractor administrator's certificate without examination if the applicants apply prior to January 1, 1984. The board of electrical examiners shall certify to the department the names of all persons who are entitled to either a general or specialty electrical contractor administrator's certificate.

(7) For a contractor doing domestic water pumping system work as defined by RCW 18.106.010~~((14))~~ (14)(c), the department shall consider the requirements of subsections (1)(a) through (h), (2), and (3) of this section to have been met to be a pump and irrigation or domestic pump licensed electrical contractor if ~~((the))~~:

(a) The contractor has met the plumbing contractor ((registration)) licensing requirements of chapter ((18.27)) 18.106 RCW. The department shall establish a single ((registration/)) licensing document for those who qualify for both ((general)) a plumbing contractor ((registration)) license as defined in chapter ((18.27)) 18.106 RCW and a pump and irrigation or domestic pump electrical contractor license as defined by this chapter; or

(b) Until January 1, 2021, the contractor has met the contractor registration requirements of chapter 18.27 RCW. The department shall establish a single registration/licensing document for those who qualify for both a general contractor registration as defined in chapter 18.27 RCW and a pump and irrigation or domestic pump electrical contractor license as defined by this chapter.

Sec. 25. RCW 19.28.191 and 2016 c 198 s 2 are each amended to read as follows:

(1) Upon receipt of the application, the department shall review the application and determine whether the applicant is eligible to take an examination for the master journey level electrician, journey level electrician, master specialty electrician, or specialty electrician certificate of competency.

(a) Before July 1, 2005, an applicant who possesses a valid journey level electrician certificate of competency in effect for the previous four years and a valid general administrator's certificate may apply for a master journey level electrician certificate of competency without examination.

(b) Before July 1, 2005, an applicant who possesses a valid specialty electrician certificate of competency, in the specialty applied for, for the previous two years and a valid specialty administrator's certificate, in the specialty applied for, may apply for a master specialty electrician certificate of competency without examination.

(c) Before December 1, 2003, the following persons may obtain an equipment repair specialty electrician certificate of competency without examination:

(i) A person who has successfully completed an apprenticeship program approved under chapter 49.04 RCW for the machinist trade; and

(ii) A person who provides evidence in a form prescribed by the department affirming that: (A) He or she was employed as of April 1, 2003, by a factory-authorized equipment dealer or service company; and (B) he or she has worked in equipment repair for a minimum of four thousand hours.

(d) To be eligible to take the examination for a master journey level electrician certificate of competency, the applicant must have possessed a valid journey level electrician certificate of competency for four years.

(e) To be eligible to take the examination for a master specialty electrician certificate of competency, the applicant must have possessed a valid specialty electrician certificate of competency, in the specialty applied for, for two years.

(f) To be eligible to take the examination for a journey level certificate of competency, the applicant must have:

(i) Worked in the electrical construction trade for a minimum of eight thousand hours, of which four thousand hours shall be in industrial or commercial electrical installation under the supervision of a master journey level electrician or journey level electrician and not more than a total of four thousand hours in all specialties under the supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Specialty electricians with less than a four thousand hour work experience requirement cannot credit the time required to obtain that specialty towards qualifying to become a journey level electrician; or

(ii) Successfully completed an apprenticeship program approved under chapter 49.04 RCW for the electrical construction trade.

(g)(i) To be eligible to take the examination for a specialty electrician certificate of competency, the applicant must have:

(A) Worked in the residential (as specified in WAC 296-46B-920(2)(a)), pump and irrigation (as specified in WAC 296-46B-920(2)(b)), sign (as specified in WAC 296-46B-920(2)(d)), limited energy (as specified in WAC 296-46B-920(2)(e)), nonresidential maintenance (as specified in WAC 296-46B-920(2)(g)), or other new nonresidential specialties as determined by the department in rule under the supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty for a minimum of four thousand hours;

(B) Worked in the appliance repair specialty as determined by the department in rule, restricted nonresidential maintenance as determined by the department in rule, the equipment repair specialty as determined by the department in rule, the pump and irrigation specialty other than as defined by (g)(i)(A) of this subsection or domestic pump specialty as determined by the department in rule, or a specialty other than the designated specialties in (g)(i)(A) of this subsection for a minimum of the initial ninety days, or longer if set by rule by the department. The restricted nonresidential maintenance specialty is limited to a maximum of 277 volts and 20 amperes for lighting branch circuits and/or a maximum of 250 volts and 60 amperes for other circuits excluding the replacement or repair of circuit breakers. The department may alter the scope of work for the restricted nonresidential maintenance specialty by rule. The initial period must be spent under one hundred percent supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. After this initial period, a person may take the specialty examination. If the person passes the examination, the person may work unsupervised for the balance of the minimum hours required for certification. A person may not be certified as a specialty electrician in the appliance repair specialty or in a specialty other than the designated specialties in (g)(i)(A) of this subsection, however, until the person has worked a minimum of two thousand hours in that specialty, or longer if set by rule by the department; or

(C) Successfully completed an approved apprenticeship program under chapter 49.04 RCW for the applicant's specialty in the electrical construction trade.

(ii) In meeting the training requirements for the pump and irrigation or domestic pump specialties, the individual shall be allowed to obtain the experience required by this section at the same time the individual is meeting the experience required by RCW 18.106.040(1)((e)) (d). After meeting the training requirements provided in this section, the individual may take the examination and upon passing the examination, meeting additional training requirements as may still be required for those seeking a pump and irrigation, or a domestic pump specialty certificate as defined by rule, and paying the applicable fees, the individual must be issued the appropriate certificate. The department may include an examination for specialty plumbing certificate defined in RCW 18.106.010((10)(e)) (14)(c) with the examination required by this section. The department, by rule and in consultation with the electrical board, may establish additional equivalent ways to gain the experience requirements required by this subsection. ~~((Individuals who are able to provide evidence to the department, prior to January 1, 2007, that they have been employed as a pump installer in the pump and irrigation or domestic pump business by an appropriately licensed electrical contractor, registered general contractor defined by chapter 18.27 RCW, or appropriate general specialty contractor defined by chapter 18.27 RCW for not less than eight thousand hours in the most recent six calendar years shall be issued the appropriate certificate by the department upon receiving such documentation and applicable fees.))~~ The department shall establish a single document for those who have received both an electrical specialty certification as defined by this subsection and have also met the certification requirements for

the specialty plumber as defined by RCW 18.106.010(~~((14)(e))~~), showing that the individual has received both certifications. No other experience or training requirements may be imposed.

(iii) Before July 1, 2015, an applicant possessing an electrical training certificate issued by the department is eligible to apply one hour of every two hours of unsupervised telecommunications system installation work experience toward eligibility for examination for a limited energy system certificate of competency (as specified in WAC 296-46B-920(2)(e)), if:

(A) The telecommunications work experience was obtained while employed by a contractor licensed under this chapter as a general electrical contractor (as specified in WAC 296-46B-920(1)) or limited energy system specialty contractor (as specified in WAC 296-46B-920(2)(e)); and

(B) Evidence of the telecommunications work experience is submitted in the form of an affidavit prescribed by the department.

(h) Any applicant for a journey level electrician certificate of competency who has successfully completed a two-year program in the electrical construction trade at public community or technical colleges, or not-for-profit nationally accredited technical or trade schools licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may substitute up to two years of the technical or trade school program for two years of work experience under a master journey level electrician or journey level electrician. The applicant shall obtain the additional two years of work experience required in industrial or commercial electrical installation prior to the beginning, or after the completion, of the technical school program. Any applicant who has received training in the electrical construction trade in the armed service of the United States may be eligible to apply armed service work experience towards qualification to take the examination for the journey level electrician certificate of competency.

(i) An applicant for a specialty electrician certificate of competency who, after January 1, 2000, has successfully completed a two-year program in the electrical construction trade at a public community or technical college, or a not-for-profit nationally accredited technical or trade school licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may substitute up to one year of the technical or trade school program for one year of work experience under a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Any applicant who has received training in the electrical construction trade in the armed services of the United States may be eligible to apply armed service work experience towards qualification to take the examination for an appropriate specialty electrician certificate of competency.

(j) The department must determine whether hours of training and experience in the armed services or school program are in the electrical construction trade and appropriate as a substitute for hours of work experience. The department must use the following criteria for evaluating the equivalence of classroom electrical training programs and work in the electrical construction trade:

(i) A two-year electrical training program must consist of three thousand or more hours.

(ii) In a two-year electrical training program, a minimum of two thousand four hundred hours of student/instructor contact time must be technical electrical instruction directly related to the scope of work of the electrical specialty. Student/instructor contact time includes lecture and in-school lab.

(iii) The department may not allow credit for a program that accepts more than one thousand hours transferred from another school's program.

(iv) Electrical specialty training school programs of less than two years will have all of the above student/instructor contact time hours proportionately reduced. Such programs may not apply to more than fifty percent of the work experience required to attain certification.

(v) Electrical training programs of less than two years may not be credited towards qualification for journey level electrician unless the training program is used to gain qualification for a four thousand hour electrical specialty.

(k) No other requirement for eligibility may be imposed.

(2) The department shall establish reasonable rules for the examinations to be given applicants for certificates of competency. In establishing the rules, the department shall consult with the board. Upon determination that the applicant is eligible to take the examination, the department shall so notify the applicant, indicating the time and place for taking the examination.

(3) No noncertified individual may work unsupervised more than one year beyond the date when the trainee would be eligible to test for a certificate of competency if working on a full-time basis after original application for the trainee certificate. For the purposes of this section, "full-time basis" means two thousand hours.

Sec. 26. RCW 19.28.191 and 2018 c 249 s 1 are each amended to read as follows:

(1) Upon receipt of the application, the department shall review the application and determine whether the applicant is eligible to take an examination for the master journey level electrician, journey level electrician, master specialty electrician, or specialty electrician certificate of competency.

(a) To be eligible to take the examination for a master journey level electrician certificate of competency, the applicant must have possessed a valid journey level electrician certificate of competency for four years.

(b) To be eligible to take the examination for a master specialty electrician certificate of competency, the applicant must have possessed a valid specialty electrician certificate of competency, in the specialty applied for, for two years.

(c) To be eligible to take the examination for a journey level certificate of competency, the applicant must have successfully completed an apprenticeship program approved under chapter 49.04 RCW or equivalent apprenticeship program approved by the department for the electrical construction trade in which the applicant worked in the electrical construction trade for a minimum of eight thousand hours. Four thousand of the hours shall be in industrial or commercial electrical installation under the supervision of a master journey level electrician or journey level electrician and not more than a total of four thousand hours in all specialties under the supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Specialty electricians with less than a four thousand hour work experience requirement cannot credit the time required to obtain that specialty

towards qualifying to become a journey level electrician. The holder of a specialty electrician certificate of competency with a four thousand hour work experience requirement shall be allowed to credit the work experience required to obtain that certificate towards apprenticeship requirements for qualifying to take the examination for a journey level electrician certificate of competency.

(d) To be eligible to take the examination for a specialty electrician certificate of competency, the applicant must have:

(i) Worked in the residential (as specified in WAC 296-46B-920(2)(a)), pump and irrigation (as specified in WAC 296-46B-920(2)(b)), sign (as specified in WAC 296-46B-920(2)(d)), limited energy (as specified in WAC 296-46B-920(2)(e)), nonresidential maintenance (as specified in WAC 296-46B-920(2)(g)), or other new nonresidential specialties as determined by the department in rule under the supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty for a minimum of four thousand hours;

(ii) Worked in the appliance repair specialty as determined by the department in rule, restricted nonresidential maintenance as determined by the department in rule, the equipment repair specialty as determined by the department in rule, the pump and irrigation specialty other than as defined by (d)(i) of this subsection or domestic pump specialty as determined by the department in rule, or a specialty other than the designated specialties in (d)(i) of this subsection for a minimum of the initial ninety days, or longer if set by rule by the department. The restricted nonresidential maintenance specialty is limited to a maximum of 277 volts and 20 amperes for lighting branch circuits and/or a maximum of 250 volts and 60 amperes for other circuits excluding the replacement or repair of circuit breakers. The department may alter the scope of work for the restricted nonresidential maintenance specialty by rule. The initial period must be spent under one hundred percent supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. After this initial period, a person may take the specialty examination. If the person passes the examination, the person may work unsupervised for the balance of the minimum hours required for certification. A person may not be certified as a specialty electrician in the appliance repair specialty or in a specialty other than the designated specialties in (d)(i) of this subsection, however, until the person has worked a minimum of two thousand hours in that specialty, or longer if set by rule by the department;

(iii) Successfully completed an approved apprenticeship program under chapter 49.04 RCW for the applicant's specialty in the electrical construction trade; or

(iv) In meeting the training requirements for the pump and irrigation or domestic pump specialties, the individual shall be allowed to obtain the experience required by this section at the same time the individual is meeting the experience required by RCW 18.106.040(1)((~~e~~)) (d). After meeting the training requirements provided in this section, the individual may take the examination and upon passing the examination, meeting additional training requirements as may still be required for those seeking a pump and irrigation, or a domestic pump specialty certificate as defined by rule, and paying the applicable fees, the

individual must be issued the appropriate certificate. The department may include an examination for specialty plumbing certificate defined in RCW 18.106.010(~~((10))~~) (14)(c) with the examination required by this section. The department, by rule and in consultation with the electrical board, may establish additional equivalent ways to gain the experience requirements required by this subsection. The department shall establish a single document for those who have received both an electrical specialty certification as defined by this subsection and have also met the certification requirements for the specialty plumber as defined by RCW 18.106.010(~~((10)(e))~~) (14)(c), showing that the individual has received both certifications. No other experience or training requirements may be imposed.

(e) Any applicant for a journey level electrician certificate of competency who has successfully completed a two-year program in the electrical construction trade at public community or technical colleges, or not-for-profit nationally accredited technical or trade schools licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may substitute up to two years of the technical or trade school program for two years of work experience under a master journey level electrician or journey level electrician required under the apprenticeship program. The applicant shall obtain the additional two years of work experience required in industrial or commercial electrical installation prior to the beginning, or after the completion, of the technical school program. Any applicant who has received training in the electrical construction trade in the armed service of the United States may be eligible to apply armed service work experience towards qualification to complete an apprenticeship and take the examination for the journey level electrician certificate of competency.

(f) An applicant for a specialty electrician certificate of competency who, after January 1, 2000, has successfully completed a two-year program in the electrical construction trade at a public community or technical college, or a not-for-profit nationally accredited technical or trade school licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may substitute up to one year of the technical or trade school program for one year of work experience under a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Any applicant who has received training in the electrical construction trade in the armed services of the United States may be eligible to apply armed service work experience towards qualification to take the examination for an appropriate specialty electrician certificate of competency.

(g) The department must determine whether hours of training and experience in the armed services or school program are in the electrical construction trade and appropriate as a substitute for hours of work experience. The department must use the following criteria for evaluating the equivalence of classroom electrical training programs and work in the electrical construction trade:

(i) A two-year electrical training program must consist of three thousand or more hours.

(ii) In a two-year electrical training program, a minimum of two thousand four hundred hours of student/instructor contact time must be technical electrical

instruction directly related to the scope of work of the electrical specialty. Student/instructor contact time includes lecture and in-school lab.

(iii) The department may not allow credit for a program that accepts more than one thousand hours transferred from another school's program.

(iv) Electrical specialty training school programs of less than two years will have all of the above student/instructor contact time hours proportionately reduced. Such programs may not apply to more than fifty percent of the work experience required to attain certification.

(v) Electrical training programs of less than two years may not be credited towards qualification for journey level electrician unless the training program is used to gain qualification for a four thousand hour electrical specialty.

(h) No other requirement for eligibility may be imposed.

(2) The department shall establish reasonable rules for the examinations to be given applicants for certificates of competency. In establishing the rules, the department shall consult with the board. Upon determination that the applicant is eligible to take the examination, the department shall so notify the applicant, indicating instructions for taking the examination.

(3) No noncertified individual may work unsupervised more than one year beyond the date when the trainee would be eligible to test for a certificate of competency if working on a full-time basis after original application for the trainee certificate. For the purposes of this section, "full-time basis" means two thousand hours.

Sec. 27. RCW 19.28.051 and 2006 c 185 s 8 are each amended to read as follows:

It shall be the purpose and function of the board to establish, in addition to a general electrical contractors' license, such classifications of specialty electrical contractors' licenses as it deems appropriate with regard to individual sections pertaining to state adopted codes in this chapter. In addition, it shall be the purpose and function of the board to establish and administer written examinations for general electrical administrators' certificates and the various specialty electrical administrators' certificates. Examinations shall be designed to reasonably ensure that general and specialty electrical administrators' certificate holders are competent to engage in and supervise the work covered by this statute and their respective licenses. The examinations shall include questions from the following categories to ensure proper safety and protection for the general public: (1) Safety, (2) state electrical code, and (3) electrical theory. The department with the consent of the board shall be permitted to enter into a contract with a professional testing agency to develop, administer, and score these examinations, or accept certifications or other appropriate demonstrations established by independent entities that otherwise fulfill the examination requirements of this section. (~~Individuals who can provide evidence to the department, prior to January 1, 2007, that they have been employed as a pump installer in the pump and irrigation or domestic pump business by an appropriately licensed electrical contractor, registered general contractor defined by chapter 18.27 RCW, or appropriate general specialty contractor defined by chapter 18.27 RCW for not less than eight thousand hours in the most recent six calendar years shall be issued the appropriate administrator's certificate by the department upon receiving such documentation and applicable fees.~~) The fee for the examination may be set by the department

in its contract with the professional testing agency. The department may direct that the applicant pay the fee to the professional testing agency. The fee shall cover but not exceed the costs of preparing and administering the examination. It shall be the further purpose and function of this board to advise the director as to the need of additional electrical inspectors and compliance officers to be utilized by the director on either a full-time or part-time employment basis and to carry out the duties enumerated in RCW 19.28.161 through 19.28.271 as well as generally advise the department on all matters relative to RCW 19.28.161 through 19.28.271.

NEW SECTION. Sec. 28. A new section is added to chapter 18.106 RCW to read as follows:

(1) No city, town, or county shall issue a plumbing permit for work which is to be done by any contractor required to be licensed under this chapter without verification that such contractor is currently licensed as required by law. When such verification is made, nothing contained in this section is intended to be, nor shall be construed to create, or form the basis for any liability under this chapter on the part of any city, town, or county, or its officers, employees, or agents.

(2) At the time of issuing the plumbing permit, all cities, towns, or counties are responsible for:

(a) Printing the plumbing contractor license number on the plumbing permit; and

(b) Providing a written notice to the plumbing permit applicant informing them of plumbing contractor license laws and the potential risk and monetary liability to the homeowner for using an unlicensed plumbing contractor.

(3) If a plumbing permit is obtained by an applicant or contractor who falsifies information to obtain an exemption provided under RCW 18.106.150 the plumbing permit shall be forfeited.

NEW SECTION. Sec. 29. Sections 21, 22, and 28 of this act take effect January 1, 2021.

NEW SECTION. Sec. 30. Section 25 of this act expires July 1, 2023.

NEW SECTION. Sec. 31. Section 26 of this act takes effect July 1, 2023.

Passed by the Senate January 31, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 154

[Substitute Senate Bill 6206]

MARIJUANA BUSINESSES--CERTIFICATE OF COMPLIANCE

AN ACT Relating to creating a certificate of compliance for marijuana business premises that meet the statutory qualifications at the time of application; and amending RCW 69.50.331.

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

Sec. 1. RCW 69.50.331 and 2019 c 394 s 7 are each amended to read as follows:

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana

concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, or for the renewal of a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, the board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

(a) The board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, cancellation, or renewal or denial thereof, of any license, the board may consider any prior criminal arrests or convictions of the applicant, any public safety administrative violation history record with the board, and a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW do not apply to these cases. Subject to the provisions of this section, the board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (10) of this section. Authority to approve an uncontested or unopposed license may be granted by the board to any staff member the board designates in writing. Conditions for granting this authority must be adopted by rule.

(b) No license of any kind may be issued to:

(i) A person under the age of twenty-one years;

(ii) A person doing business as a sole proprietor who has not lawfully resided in the state for at least six months prior to applying to receive a license;

(iii) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(iv) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The board may, in its discretion, subject to RCW 43.05.160, 69.50.563, 69.50.562, 69.50.334, and 69.50.342(3) suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, researching, or selling marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products thereunder must be suspended or terminated, as the case may be.

(b) The board must immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the

suspension, reissuance of the license is automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, and consider mitigating and aggravating circumstances in any case and deviate from any prescribed penalty, under rules the board may adopt.

(d) Witnesses must be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, compels obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee must forthwith deliver up the license to the board. Where the license has been suspended only, the board must return the license to the licensee at the expiration or termination of the period of suspension. The board must notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this chapter is subject to all conditions and restrictions imposed by this chapter or by rules adopted by the board to implement and enforce this chapter. All conditions and restrictions imposed by the board in the issuance of an individual license must be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee must post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee may employ any person under the age of twenty-one years.

(7)(a) Before the board issues a new or renewed license to an applicant it must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns, or to the tribal government if the application is for a license within Indian country, or to the port authority if the application for a license is located on property owned by a port authority.

(b) The incorporated city or town through the official or employee selected by it, the county legislative authority or the official or employee selected by it,

the tribal government, or port authority has the right to file with the board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The board may extend the time period for submitting written objections upon request from the authority notified by the board.

(c) The written objections must include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, board representatives must present and defend the board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the board must send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8)(a) Except as provided in (b) through ~~((4))~~ (e) of this subsection, the board may not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(b) A city, county, or town may permit the licensing of premises within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection, except elementary schools, secondary schools, and playgrounds, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.372 within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement, public safety, or public health.

(d) The board may license premises located in compliance with the distance requirements set in an ordinance adopted under (b) or (c) of this subsection. Before issuing or renewing a research license for premises within one thousand feet but not less than one hundred feet of an elementary school, secondary school, or playground in compliance with an ordinance passed pursuant to (c) of this subsection, the board must ensure that the facility:

(i) Meets a security standard exceeding that which applies to marijuana producer, processor, or retailer licensees;

(ii) Is inaccessible to the public and no part of the operation of the facility is in view of the general public; and

(iii) Bears no advertising or signage indicating that it is a marijuana research facility.

(e) The board must issue a certificate of compliance if the premises met the requirements under (a), (b), (c), or (d) of this subsection on the date of the application. The certificate allows the licensee to operate the business at the proposed location notwithstanding a later occurring, otherwise disqualifying factor.

(f) The board may not issue a license for any premises within Indian country, as defined in 18 U.S.C. Sec. 1151, including any fee patent lands within the exterior boundaries of a reservation, without the consent of the federally recognized tribe associated with the reservation or Indian country.

(9) A city, town, or county may adopt an ordinance prohibiting a marijuana producer or marijuana processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.

(10) In determining whether to grant or deny a license or renewal of any license, the board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

Passed by the Senate February 18, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 155

[Senate Bill 6229]

RECIPIENTS OF HOUSING-RELATED STATE FUNDING--WASHINGTON STATE QUALITY AWARD PROGRAM

AN ACT Relating to streamlining reporting for recipients of housing-related state funding by removing Washington state quality award program requirements; and amending RCW 43.185C.210.

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

Sec. 1. RCW 43.185C.210 and 2011 c 353 s 6 are each amended to read as follows:

(1) The transitional housing operating and rent program is created in the department to assist individuals and families who are homeless or who are at risk

of becoming homeless to secure and retain safe, decent, and affordable housing. The department shall provide grants to eligible organizations, as described in RCW 43.185.060, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, which includes security or utility deposits, first and last month's rent assistance, and eligible moving expenses to be determined by the department;

(b) Case management services designed to assist program participants to secure and retain immediate housing and to transition into permanent housing and greater levels of self-sufficiency;

(c) Operating expenses of transitional housing facilities that serve homeless families with children; and

(d) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance through the transitional housing operating and rent program are:

(a) Families with children who are homeless or who are at risk of becoming homeless and who have household incomes at or below fifty percent of the median household income for their county;

(b) Families with children who are homeless or who are at risk of becoming homeless and who are receiving services under chapter 13.34 RCW;

(c) Individuals or families without children who are homeless or at risk of becoming homeless and who have household incomes at or below thirty percent of the median household income for their county;

(d) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who has a mental health or chemical dependency disorder; and

(e) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who is an offender released from confinement within the past eighteen months.

(3) All program participants must be willing to create and actively participate in a housing stability plan for achieving permanent housing and greater levels of self-sufficiency.

(4) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180. For eligible organizations serving victims of domestic violence or sexual assault, compliance with this subsection must be accomplished in accordance with 42 U.S.C. Sec. 11383(a)(8).

~~(5)((a) Except as provided in (b) of this subsection, beginning in 2011, each eligible organization receiving over five hundred thousand dollars during the previous calendar year from the transitional housing operating and rent program and from sources including: (i) State housing related funding sources; (ii) the affordable housing for all surcharge in RCW 36.22.178; (iii) the home security fund surcharges in RCW 36.22.179 and 36.22.1791; and (iv) any other surcharge imposed under chapter 36.22 or 43.185C RCW to fund homelessness programs or other housing programs, shall apply to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system, once every three years.~~

~~(b) Cities and counties are exempt from the provisions of (a) of this subsection until 2018.~~

~~(6))~~ The department may develop rules, requirements, procedures, and guidelines as necessary to implement and operate the transitional housing operating and rent program.

~~((7))~~ (6) The department shall produce an annual transitional housing operating and rent program report that must be included in the department's homeless housing strategic plan as described in RCW 43.185C.040. The report must include performance measures to be determined by the department that address, at a minimum, the following issue areas:

(a) The success of the program in helping program participants transition into permanent affordable housing and achieve self-sufficiency or increase their levels of self-sufficiency, which shall be defined by the department based upon the costs of living, including housing costs, needed to support: (i) One adult individual; and (ii) two adult individuals and one preschool-aged child and one school-aged child;

(b) The financial performance of the program related to efficient program administration by the department and program operation by selected eligible organizations, including an analysis of the costs per program participant served;

(c) The quality, completeness, and timeliness of the information on program participants provided to the Washington homeless client management information system database; and

(d) The satisfaction of program participants in the assistance provided through the program.

Passed by the Senate February 14, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 156

[Substitute Senate Bill 6257]

UNDERGROUND STORAGE TANK REINSURANCE--EMERGENCY PROGRAM

AN ACT Relating to the underground storage tank reinsurance program; amending RCW 70.148.005, 70.148.050, 70.148.020, and 70.148.090; and adding a new section to chapter 70.148 RCW.

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

Sec. 1. RCW 70.148.005 and 1990 c 64 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) Final regulations adopted by the United States environmental protection agency (EPA) require owners and operators of underground petroleum storage tanks to demonstrate financial responsibility for accidental releases of petroleum as a precondition to continued ownership and operation of such tanks;

(b) Financial responsibility is demonstrated through the purchase of pollution liability insurance or an acceptable alternative such as coverage under a state financial responsibility program, in the amount of at least five hundred

thousand dollars per occurrence and one million dollars annual aggregate depending upon the nature, use, and number of tanks owned or operated;

(c) Many owners and operators of underground petroleum storage tanks cannot purchase pollution liability insurance either because private insurance is unavailable at any price or because owners and operators cannot meet the rigid underwriting standards of existing insurers, nor can many owners and operators meet the strict regulatory standards imposed for alternatives to the purchase of insurance; and

(d) Without a state financial responsibility program for owners and operators of underground petroleum storage tanks, many tank owners and operators will be forced to discontinue the ownership and operation of these tanks.

(2) The purpose of this chapter is to create a state financial responsibility program meeting EPA standards for owners and operators of underground petroleum storage tanks in a manner that:

(a) Minimizes state involvement in pollution liability claims management and insurance administration;

(b) Protects the state of Washington from unwanted and unanticipated liability for accidental release claims;

(c) Creates incentives for private insurers to provide needed liability insurance; and

(d) Parallels generally accepted principles of insurance and risk management.

To that end, this chapter establishes a temporary program to provide pollution liability reinsurance at a price that will encourage a private insurance company or risk retention group to sell pollution liability insurance in accordance with the requirements of this chapter to owners and operators of underground petroleum storage tanks, thereby allowing the owners and operators to comply with the financial responsibility regulations of the EPA. In the event that private insurance is not available in the state, this chapter provides an emergency program to address the need of owners and operators of underground petroleum storage tanks to demonstrate financial responsibility so that businesses may continue to operate.

(3) It is not the intent of this chapter to permit owners and operators of underground petroleum storage tanks to obtain pollution liability insurance without regard to the quality or condition of their storage tanks or without regard to the risk management practices of tank owners and operators, nor is it the intent of this chapter to provide coverage or funding for past or existing petroleum releases. Further, it is the intent of the legislature that the program follow generally accepted insurance underwriting and actuarial principles and to deviate from those principles only to the extent necessary and within the tax revenue limits provided, to make pollution liability insurance reasonably affordable and available to owners and operators who meet the requirements of this chapter, particularly to those owners and operators whose underground storage tanks meet a vital economic need within the affected community.

Sec. 2. RCW 70.148.050 and 2006 c 276 s 2 are each amended to read as follows:

The director has the following powers and duties:

(1) To design and from time to time revise a reinsurance contract providing coverage to an insurer meeting the requirements of this chapter. Before initially entering into a reinsurance contract, the director shall prepare an actuarial report describing the various reinsurance methods considered by the director and describing each method's costs. In designing the reinsurance contract the director shall consider common insurance industry reinsurance contract provisions and shall design the contract in accordance with the following guidelines:

(a) The contract shall provide coverage to the insurer for the liability risks of owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action that are underwritten by the insurer.

(b) In the event of an insolvency of the insurer, the reinsurance contract shall provide reinsurance payable directly to the insurer or to its liquidator, receiver, or successor on the basis of the liability of the insurer in accordance with the reinsurance contract. In no event may the program be liable for or provide coverage for that portion of any covered loss that is the responsibility of the insurer whether or not the insurer is able to fulfill the responsibility.

(c) The total limit of liability for reinsurance coverage shall not exceed one million dollars per occurrence and two million dollars annual aggregate for each policy underwritten by the insurer less the ultimate net loss retained by the insurer as defined and provided for in the reinsurance contract.

(d) Disputes between the insurer and the insurance program shall be settled through arbitration.

(2) To design and implement a structure of periodic premiums due the director from the insurer that takes full advantage of revenue collections and projected revenue collections to ensure affordable premiums to the insured consistent with sound actuarial principles.

(3) To periodically review premium rates for reinsurance to determine whether revenue appropriations supporting the program can be reduced without substantially increasing the insured's premium costs.

(4) To solicit bids from insurers and select an insurer to provide pollution liability insurance to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action.

(5) To monitor the activities of the insurer to ensure compliance with this chapter and protect the program from excessive loss exposure resulting from claims mismanagement by the insurer.

(6) To monitor the success of the program and periodically make such reports and recommendations to the legislature as the director deems appropriate, and to annually publish a financial report on the pollution liability insurance program trust account showing, among other things, administrative and other expenses paid from the fund.

(7) To annually report the financial and loss experience of the insurer as to policies issued under the program and the financial and loss experience of the program to the legislature.

(8) To enter into contracts with public and private agencies to assist the director in his or her duties to design, revise, monitor, and evaluate the program and to provide technical or professional assistance to the director.

(9) To examine the affairs, transactions, accounts, records, documents, and assets of insurers as the director deems advisable.

(10) To design, in consultation with the office of financial management, an emergency program to assist owners and operators of underground storage tanks in meeting the federal financial responsibility requirements in the event that a private insurer withdraws from the Washington pollution liability insurance program.

(11) To determine, assess, and collect moneys sufficient to cover the direct and indirect costs of implementing the emergency program, including initial program development costs. The moneys may be collected from underground storage tank owners and operators who are using the emergency program. All moneys collected under this section must be deposited in the pollution liability insurance program trust account created in RCW 70.148.020.

NEW SECTION. Sec. 3. A new section is added to chapter 70.148 RCW to read as follows:

(1) The director may implement an emergency program, as designed under RCW 70.148.050.

(2) At the legislative session following implementation of an emergency program, the director must provide to the legislature a report on the options available to assist owners and operators in using one or a combination of mechanisms to demonstrate financial responsibility for underground storage tanks. The report must include, but is not limited to: Discussion of a state run insurance program; alternative options to a state run insurance program; an evaluation and recommendation of the finances required to develop and implement a new financial responsibility model that complies with the federal financial responsibility requirements in 40 C.F.R. Part 280, subpart H; and recommendations for legislation necessary to implement actions needed to meet federal financial responsibility requirements in 40 C.F.R. Part 280, subpart H.

Sec. 4. RCW 70.148.020 and 2019 c 413 s 7034 are each amended to read as follows:

(1) The pollution liability insurance program trust account is established in the custody of the state treasurer. All funds appropriated for this chapter and all premiums collected for reinsurance shall be deposited in the account. Except as provided in chapter 70.340 RCW, expenditures from the account shall be used exclusively for the purposes of this chapter including payment of costs of administering the pollution liability insurance program and ~~((underground storage tank community assistance))~~ emergency program(s). Expenditures for payment of administrative and operating costs of the agency are subject to the allotment procedures under chapter 43.88 RCW and may be made only after appropriation by statute. No appropriation is required for other expenditures from the account.

(2) Each calendar quarter, the director shall report to the insurance commissioner the loss and surplus reserves required for the calendar quarter. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter.

(3) During the 2019-2021 fiscal biennium, the legislature may make appropriations from the pollution liability insurance program trust account for the leaking tank model remedies activity.

~~((4) This section expires July 1, 2030.))~~

Sec. 5. RCW 70.148.090 and 1990 c 64 s 10 are each amended to read as follows:

(1) The activities and operations of the program are exempt from the provisions and requirements of Title 48 RCW ~~((and to))~~.

(2) To the extent of their participation in the program, the activities and operations of the insurer selected by the director to provide liability insurance coverage to owners and operators of underground storage tanks are exempt from the requirements of Title 48 RCW except for:

- (a) Chapter 48.03 RCW pertaining to examinations;
- (b) RCW 48.05.250 pertaining to annual reports;
- (c) Chapter 48.12 RCW pertaining to assets and liabilities;
- (d) Chapter 48.13 RCW pertaining to investments;
- (e) Chapter 48.30 RCW pertaining to deceptive, false, or fraudulent acts or practices; and
- (f) Chapter 48.92 RCW pertaining to liability risk retention.

~~((2))~~ (3) To the extent of their participation in the program, the insurer selected by the director to provide liability insurance coverage to owners and operators of underground storage tanks shall not participate in the Washington insurance guaranty association nor shall the association be liable for coverage provided to owners and operators of underground storage tanks issued in connection with the program.

Passed by the Senate February 19, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 157

[Senate Bill 6286]

ATHLETE AGENTS--BENEFITS PROVIDED TO STUDENT ATHLETES

AN ACT Relating to benefits provided by athlete agents; and amending RCW 19.225.100.

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

Sec. 1. RCW 19.225.100 and 2016 sp.s. c 13 s 10 are each amended to read as follows:

~~((1))~~ An athlete agent ~~((, with the intent to influence a student athlete or, if the athlete is a minor, a parent or guardian of the athlete to enter into an agency contract,))~~ may not ~~((take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the athlete agent:~~

~~((a))~~ intentionally:

(1) Give a student athlete or, if the athlete is a minor, a parent or guardian of the athlete materially false or misleading information or make a materially false promise or representation with the intent to influence the athlete, parent, or guardian to enter into an agency contract;

~~((b))~~ (2) Furnish anything of value to ((the)) a student athlete ((before the athlete enters into the contract; or

~~((c) Furnish anything of value to an individual other than the athlete or another registered athlete agent.~~

~~(2) An athlete agent may not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the agent: ~~(a)~~ or another individual, if to do so may result in loss of the athlete's eligibility to participate in the athlete's sport, unless:~~

~~(a) The agent notifies the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll, not later than seventy-two hours after giving the thing of value; and~~

~~(b) The athlete or, if the athlete is a minor, a parent or guardian of the athlete acknowledges to the agent in a record that receipt of the thing of value may result in loss of the athlete's eligibility to participate in the athlete's sport;~~

~~(3) Initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian to enter an agency contract unless providing the athlete with the athlete agent disclosure form as provided in RCW 19.225.030;~~

~~((b)) (4) Refuse or willfully fail to retain or produce in response to subpoena the records required by RCW 19.225.090;~~

~~((e)) (5) Fail to disclose information required by RCW 19.225.040;~~

~~((d)) (6) Provide materially false or misleading information in an athlete agent disclosure form;~~

~~((e)) (7) Predate or postdate an agency contract;~~

~~((f)) (8) Fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport that the signing may ~~((make the athlete ineligible))~~ result in loss of the athlete's eligibility to participate ~~((as a student athlete in that))~~ in the athlete's sport;~~

~~((g)) (9) Encourage another individual to do any of the acts described in subsections (1) through (8) of this section on behalf of the agent;~~

~~(10) Encourage another individual to assist any other individual in doing any of the acts described in subsections (1) through (8) of this section on behalf of the agent;~~

~~(11) Ask or allow a student athlete to waive or attempt to waive rights under this chapter;~~

~~((h)) (12) Fail to give notice required under RCW 19.225.070; or~~

~~((i)) (13) Engage in the business of an athlete agent in this state: ~~((A)) (a)~~ At any time after conviction under RCW 19.225.110; or ~~((B)) (b)~~ within five years of entry of a civil judgment under RCW 19.225.120.~~

Passed by the Senate February 18, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 158

[Engrossed Substitute Senate Bill 6300]

ANIMALS--VARIOUS PROVISIONS

AN ACT Relating to animal welfare; amending RCW 16.08.100, 16.52.011, 16.52.085, 16.52.095, 16.52.200, 16.52.205, 16.52.207, 16.54.020, and 16.54.030; repealing RCW 16.08.030, 16.52.110, and 16.52.165; and prescribing penalties.

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

Sec. 1. RCW 16.08.100 and 2002 c 244 s 3 are each amended to read as follows:

(1) Any dangerous dog shall be immediately confiscated by an animal control authority if the: (a) Dog is not validly registered under RCW 16.08.080; (b) owner does not secure the liability insurance coverage required under RCW 16.08.080; (c) dog is not maintained in the proper enclosure; or (d) dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the responsible person. The owner must pay the costs of confinement and control. The animal control authority must serve notice upon the dog owner in person or by regular and certified mail, return receipt requested, specifying the reason for the confiscation of the dangerous dog, that the owner is responsible for payment of the costs of confinement and control, and that the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within twenty days. The animal control authority shall destroy the confiscated dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within twenty days of notification. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021.

(2) If a dangerous dog of an owner with a prior conviction under this chapter attacks or bites a person or another domestic animal, the dog's owner is guilty of a class C felony, punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that he or she was in compliance with the requirements for ownership of a dangerous dog pursuant to this chapter and the person or domestic animal attacked or bitten by the defendant's dog trespassed on the defendant's real or personal property or provoked the defendant's dog without justification or excuse. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

(3) The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether or not the dog has previously been declared potentially dangerous or dangerous, shall, upon conviction, be guilty of a class C felony punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the human severely injured or killed by the defendant's dog: (a) Trespassed on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of dog; or (b) provoked the defendant's dog without justification or excuse on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of dog. In such a prosecution, the state has the burden of showing that the owner of the dog either knew or should have known that the dog was potentially dangerous as defined in this chapter. The state may not meet its burden of proof that the owner should have known the dog was potentially dangerous solely by showing the dog

to be a particular breed or breeds. In addition, the dog shall be immediately confiscated by an animal control authority, quarantined, and upon conviction of the owner destroyed in an expeditious and humane manner.

~~(((4) Any person entering a dog in a dog fight is guilty of a class C felony punishable in accordance with RCW 9A.20.021.))~~

Sec. 2. RCW 16.52.011 and 2019 c 174 s 3 are each amended to read as follows:

(1) Principles of liability as defined in chapter 9A.08 RCW apply to this chapter.

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

(a) "Abandons" means the knowing or reckless desertion of an animal by its owner, or by a person who has taken control, custody, or possession of an animal that was involved in animal fighting as described in RCW 16.52.117, or the causing of the animal to be deserted by its owner, in any place, without making provisions for the animal's adequate care.

(b) "Animal" means any nonhuman mammal, bird, reptile, or amphibian.

(c) "Animal care and control agency" means any city or county animal control agency or authority authorized to enforce city or county municipal ordinances regulating the care, control, licensing, or treatment of animals within the city or county, and any corporation organized under RCW 16.52.020 that contracts with a city or county to enforce the city or county ordinances governing animal care and control.

(d) "Animal control officer" means any individual employed, contracted, or appointed pursuant to RCW 16.52.025 by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals. For purposes of this chapter, the term "animal control officer" shall be interpreted to include "humane officer" as defined in (h) of this subsection and RCW 16.52.025.

(e) "Dog" means an animal of the species *Canis lupus familiaris*.

(f) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.

(g) "Food" means food or feed appropriate to the species for which it is intended.

(h) "Humane officer" means any individual employed, contracted, or appointed by an animal care and control agency or humane society as authorized under RCW 16.52.025.

(i) "Law enforcement agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(j) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, and bison.

(k) "Malice" has the same meaning as provided in RCW 9A.04.110, but applied to acts against animals.

(l) "Necessary food" means the provision at suitable intervals of wholesome foodstuff suitable for the animal's age, species, and condition, and that is sufficient to provide a reasonable level of nutrition for the animal and is easily accessible to the animal or as directed by a veterinarian for medical reasons.

(m) "Necessary shelter" means a structure sufficient to protect a dog from wind, rain, snow, cold, heat, or sun that has bedding to permit a dog to remain dry and reasonably clean and maintain a normal body temperature.

(n) "Necessary water" means water that is in sufficient quantity and of appropriate quality for the species for which it is intended and that is accessible to the animal or as directed by a veterinarian for medical reasons.

(o) "Owner" means a person who has a right, claim, title, legal share, or right of possession to an animal or a person having lawful control, custody, or possession of an animal.

(p) "Person" means individuals, corporations, partnerships, associations, or other legal entities, and agents of those entities.

~~(q) ("Similar animal" means: (i) For a mammal, another animal that is in the same taxonomic order; or (ii) for an animal that is not a mammal, another animal that is in the same taxonomic class.~~

~~(r))~~ "Substantial bodily harm" means substantial bodily harm as defined in RCW 9A.04.110.

~~((s))~~ (r) "Tether" means: (i) To restrain an animal by tying or securing the animal to any object or structure; and (ii) a device including, but not limited to, a chain, rope, cable, cord, tie-out, pulley, or trolley system for restraining an animal.

Sec. 3. RCW 16.52.085 and 2016 c 181 s 1 are each amended to read as follows:

(1) If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated this chapter or a person owns, cares for, or resides with an animal in violation of an order issued under RCW 16.52.200(4) and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition.

(2) If a law enforcement officer or an animal control officer has probable cause to believe a violation of this chapter has occurred, the officer may authorize an examination of a domestic animal allegedly neglected or abused in violation of this chapter by a veterinarian to determine whether the level of neglect or abuse in violation of this chapter is sufficient to require removal of the animal. This section does not condone illegal entry onto private property.

(3) Any owner whose domestic animal is removed pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail if the owner is known. In making the decision to remove an animal pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal.

(4) The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. A custodial agency may euthanize

severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by: (a) Petitioning the district court of the county where the animal was seized for the animal's immediate return subject to court-imposed conditions, or (b) posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to post or renew a bond or security for the agency's continuing costs for the animal's care. When a court has prohibited the owner from owning, caring for, or residing with ~~((a similar))~~ animals under RCW 16.52.200(4), the agency having custody of the animal may assume ownership upon seizure and the owner may not prevent the animal's destruction or adoption by petitioning the court or posting a bond.

(5) If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the district court of the county where the animal was removed for the animal's return. The petition shall be filed with the court. Copies of the petition must be served on the law enforcement or animal care and control agency responsible for removing the animal and to the prosecuting attorney. If the court grants the petition, the agency which seized the animal must surrender the animal to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the hearing on the petition, then the petition shall be joined with the criminal matter.

(6) In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

(7) Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

Sec. 4. RCW 16.52.095 and 1994 c 261 s 7 are each amended to read as follows:

~~((It shall not be lawful for))~~ (1) Except as provided in subsection (2) of this section, it is a misdemeanor:

~~(a) For any person to cut off more than one-half of the ear or ears of any domestic animal such as an ox, cow, bull, calf, sheep, goat, or hog ~~((, or dog, and any person cutting off more than one half of the ear or ears of any such animals, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum less than twenty dollars. This section does not apply if cutting off more than one half of the ear of the animal is a customary husbandry practice));~~ or~~

(b) For any person to:

(i) Devocalize a dog;

(ii) Crop or cut off any part of the ear of a dog; or

(iii) Crop or cut off any part of the tail of a dog that is seven days old or older, or has opened its eyes, whichever occurs sooner.

(2) This section does not apply if the person performing the procedure is a licensed veterinarian utilizing accepted veterinary surgical protocols that may include local anesthesia, general anesthesia, or perioperative pain management.

Sec. 5. RCW 16.52.200 and 2016 c 181 s 2 are each amended to read as follows:

(1) The sentence imposed for a misdemeanor or gross misdemeanor violation of this chapter may be deferred or suspended in accordance with RCW 3.66.067 and 3.66.068, however the probationary period shall be two years.

(2) In case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive, however the probationary period shall remain two years.

(3) In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal care and control authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the animal's treatment to have been severe and likely to reoccur.

(4) Any person convicted of animal cruelty shall be prohibited from owning, caring for, possessing, or residing with any (~~similar~~) animals for a period of time as follows:

(a) Two years for a first conviction of animal cruelty in the second degree under RCW 16.52.207;

(b) Permanently for a first conviction of animal cruelty in the first degree under RCW 16.52.205;

(c) Permanently for a second or subsequent conviction of animal cruelty, except as provided in subsection (5) of this section.

(5) If a person has no more than two convictions of animal cruelty and each conviction is for animal cruelty in the second degree, the person may petition the sentencing court in which the most recent animal cruelty conviction occurred, for a restoration of the right to own (~~or possess a similar animal~~), care for, possess, or reside with animals five years after the date of the second conviction. In determining whether to grant the petition, the court shall consider, but not be limited to, the following:

(a) The person's prior animal cruelty in the second degree convictions;

(b) The type of harm or violence inflicted upon the animals;

(c) Whether the person has completed the conditions imposed by the court as a result of the underlying convictions;

(d) Whether the person complied with the prohibition on owning, caring for, possessing, or residing with (~~similar~~) animals; and

(e) Any other matters the court finds reasonable and material to consider in determining whether the person is likely to abuse another animal.

The court may delay its decision on forfeiture under subsection (3) of this section until the end of the probationary period.

(6) In addition to fines and court costs, the defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by law enforcement agencies, animal care and control agencies, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.

(7) If convicted, the defendant shall also pay a civil penalty of one thousand dollars to the county to prevent cruelty to animals. These funds shall be used to

prosecute offenses under this chapter and to care for forfeited animals pending trial.

(8) If a person violates the prohibition on owning, caring for, possessing, or residing with ~~((similar))~~ animals under subsection (4) of this section, that person:

(a) Shall pay a civil penalty of one thousand dollars for the first violation;

(b) Shall pay a civil penalty of two thousand five hundred dollars for the second violation; and

(c) Is guilty of a gross misdemeanor for the third and each subsequent violation.

(9) As a condition of the sentence imposed under this chapter or RCW 9.08.070 through 9.08.078, the court may also order the defendant to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

(10) Nothing in this section limits the authority of a law enforcement officer, animal control officer, custodial agency, or court to remove, adopt, euthanize, or require forfeiture of an animal under RCW 16.52.085.

Sec. 6. RCW 16.52.205 and 2015 c 235 s 6 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering or while manifesting an extreme indifference to life, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2)~~(a)~~ A person is guilty of animal cruelty in the first degree when, except as authorized by law or as provided in (c) of this subsection, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal, or exposes an animal to excessive heat or cold and as a result causes: ~~((a))~~ (i) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or ~~((b))~~ (ii) death.

(b) In determining whether an animal has experienced the condition described in (a)(i) of this subsection due to exposure to excessive heat or cold, the trier of fact shall consider any evidence as to: (i) Whether the animal's particular species and breed is physiologically adaptable to the conditions to which the animal was exposed; and (ii) the animal's age, health, medical conditions, and any other physical characteristics of the animal or factor that may affect its susceptibility to excessive heat or cold.

(c) A person is not guilty of animal cruelty in the first degree by means of exposing an animal to excessive heat or cold if the exposure is due to an unforeseen or unpreventable accident or event caused exclusively by an extraordinary force of nature.

(3) A person is guilty of animal cruelty in the first degree when he or she:

(a) Knowingly engages in any sexual conduct or sexual contact with an animal;

(b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;

(d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or

(e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.

(5) In addition to the penalty imposed in subsection (4) of this section, the court ~~((may))~~ must order that the convicted person ~~((do any of the following:~~

~~(a) Not harbor or own animals or reside in any household where animals are present;~~

~~(b))~~ not own, care for, possess, or reside in any household where an animal is present, in accordance with RCW 16.52.200.

(6) In addition to the penalties imposed in subsections (4) and (5) of this section, the court may order that the convicted person:

(a) Participate in appropriate counseling at the defendant's expense;

~~((e))~~ (b) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in ((subsection (3) of)) this section.

~~((6))~~ (7) Nothing in this section ((may be considered to)) prohibits accepted animal husbandry practices or ((accepted veterinary medical practices by)) prohibits a licensed veterinarian or certified veterinary technician from performing procedures on an animal that are accepted veterinary medical practices.

~~((7))~~ (8) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

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

(a) "Animal" means every creature, either alive or dead, other than a human being.

(b) "Sexual conduct" means any touching ~~((or))~~ by a person of, fondling by a person of, transfer of saliva by a person to, or use of a foreign object by a person on, ((either directly or through clothing, of)) the sex organs or anus of an animal, either directly or through clothing, or any transfer or transmission of semen by the person upon any part of the animal((, for the purpose of sexual gratification or arousal of the person)).

(c) "Sexual contact" means ~~((any))~~: (i) Any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or between the sex organ or anus of a person and the mouth of an animal; or (ii) any intrusion, however slight, of any part of the body of the person or foreign object into the sex organ or anus of an animal((, or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person)).

(d) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.

Sec. 7. RCW 16.52.207 and 2019 c 174 s 2 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty:

(a) The person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal; or

(b) The person takes control, custody, or possession of an animal that was involved in animal fighting as described in RCW 16.52.117 and knowingly, recklessly, or with criminal negligence abandons the animal ~~((; and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm))~~.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or

(b) ~~((Under circumstances not amounting to animal cruelty in the second degree under (c) of this subsection, abandons))~~ Abandons the animal ~~((; or~~

(e) ~~Abandons the animal and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm))~~.

(3) Animal cruelty in the second degree is a gross misdemeanor.

~~((4) In any prosecution of animal cruelty in the second degree under subsection (1)(a) or (2)(a) of this section, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.))~~

Sec. 8. RCW 16.54.020 and 2011 c 336 s 425 are each amended to read as follows:

Any person having in his or her care, custody, or control any abandoned animal as defined in RCW 16.54.010, may deliver such animal to any ~~((humane society having facilities for the care of such animals or to any pound maintained by or under contract or agreement with any city or county within which such animal was abandoned. If no such humane society or pound exists within the county))~~ animal care and control agency as defined in RCW 16.52.011 or to an animal rescue group as defined in RCW 82.04.040 having the facilities and resources necessary for the care of such animals. If such an animal care and control agency or animal rescue group cannot reasonably be identified to receive the animal, the person with whom the animal was abandoned may notify the sheriff of the county wherein the abandonment occurred.

Sec. 9. RCW 16.54.030 and 1955 c 190 s 3 are each amended to read as follows:

It shall be the duty of the sheriff of such county upon being so notified, to dispose of such animal as provided by law in reference to estrays if such law is applicable to the animal abandoned, or if not so applicable then deliver such an animal to any animal care and control agency as defined in RCW 16.52.011 or to

an animal rescue group as defined in RCW 82.04.040 having the facilities and resources necessary for the care of such an animal. If such an animal care and control agency or animal rescue group cannot reasonably be identified to receive the animal, then such an animal shall be sold by the sheriff at public auction. Notice of any such sale shall be given by posting a notice in three public places in the county at least ten days prior to such public sale. Proceeds of such sale shall be paid to the county treasurer for deposit in the county general fund.

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

(1) RCW 16.08.030 (Marauding dog—Duty of owner to kill) and 1929 c 198 s 7;

(2) RCW 16.52.110 (Old or diseased animals at large) and 2011 c 336 s 424 & 1901 c 146 s 13; and

(3) RCW 16.52.165 (Punishment—Conviction of misdemeanor) and 1982 c 114 s 7 & 1901 c 146 s 16.

Passed by the Senate March 9, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 159

[Senate Bill 6312]

NONPROFIT ORGANIZATION AND LIBRARY FUNDRAISING--RECEIPT OF PRIZE--USE TAX EXEMPTION

AN ACT Relating to making the nonprofit and library fund-raising exemption permanent; amending RCW 82.12.225; and creating a new section.

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

Sec. 1. RCW 82.12.225 and 2015 3rd sp.s. c 32 s 2 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of any article of personal property, valued at less than twelve thousand dollars, purchased or received as a prize in a contest of chance, as defined in RCW 82.04.285, from a nonprofit organization or a library, if the gross income the nonprofit organization or library receives from the sale is exempt under RCW 82.04.3651.

(2) ~~((This section expires July 1, 2020.))~~ (a) Beginning December 2020, and each December thereafter, the department must adjust the value limit for the exemption under subsection (1) of this section by multiplying the current value limit for the exemption under subsection (1) of this section by the greater of one or one plus the percentage change in the consumer price index for the most recent twelve-month period available as of December 1st of the current calendar year, and rounding the result to the nearest ten dollars. If an adjustment under this subsection (2) would reduce the value limit for the exemption under subsection (1) of this section, the department may not adjust the value limit for use in the following year. The department must promptly publish the adjusted value limit for the next calendar year on its public web site. Each adjusted value limit calculated under this subsection takes effect on the following January 1st.

(b) For purposes of this subsection (2):

(i) "Consumer price index" means the consumer price index for all urban consumers, all items, (CPI-U) for the Seattle area as calculated by the United States bureau of labor statistics or successor agency. If the United States bureau of labor statistics or successor agency ceases to calculate a CPI-U for the Seattle area, "consumer price index" means a successor index as determined by the department consistent with the purpose of this subsection (2); and

(ii) "Seattle area" means the geographic area sample that includes Seattle and surrounding areas.

NEW SECTION. Sec. 2. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

Passed by the Senate March 7, 2020.

Passed by the House March 10, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 160

[Senate Bill 6383]

RETIREMENT STRATEGY FUNDS--PLAN 3 AND DEFERRED COMPENSATION PROGRAMS--STATE INVESTMENT BOARD COMMINGLED FUNDS

AN ACT Relating to the retirement strategy funds in the plan 3 and the deferred compensation programs; and amending RCW 41.34.060, 41.34.140, 41.50.770, and 41.50.780; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that participants in the retirement strategy funds of the deferred compensation and plan 3 defined contribution plans would gain broader investment exposure to a diversified asset mix by including the state investment board's commingled pension fund in the asset mix. It is the intent of the legislature to confirm participant access to a broader scope of assets.

Sec. 2. RCW 41.34.060 and 2011 c 80 s 2 are each amended to read as follows:

(1) Members may select investments as provided in subsections (2) and (4) of this section. If a member of the public employees' retirement system entering plan 3 under RCW 41.40.785, a member of the teachers' retirement system entering plan 3 under RCW 41.32.835, or a member of the school employees' retirement system entering plan 3 under RCW 41.35.610 does not select investments, the member's account shall be invested in the default investment option of the retirement strategy fund that is closest to the retirement target date of the member. Retirement strategy fund means one of several diversified asset allocation portfolios managed by investment advisors under contract to the state investment board. The asset mix of the portfolios adjusts over time depending on a target retirement date. The retirement strategy fund asset mix may include investment in state investment board commingled funds as authorized in RCW 43.33A.170.

(2) Members may elect to have their account invested by the state investment board. In order to reduce transaction costs and address liquidity

issues, based upon recommendations of the state investment board, the department may require members to provide up to ninety days' notice prior to moving funds from the state investment board portfolio to self-directed investment options provided under subsection (4) of this section.

(a) For members of the retirement system as provided for in chapter 41.32 RCW of plan 3, investment shall be in the same portfolio as that of the teachers' retirement system combined plan 2 and 3 fund under RCW 41.50.075(2).

(b) For members of the retirement system as provided for in chapter 41.35 RCW of plan 3, investment shall be in the same portfolio as that of the school employees' retirement system combined plan 2 and 3 fund under RCW 41.50.075(4).

(c) For members of the retirement system as provided for in chapter 41.40 RCW of plan 3, investment shall be in the same portfolio as that of the public employees' retirement system combined plan 2 and 3 fund under RCW 41.50.075(3).

(3) The state investment board shall declare (~~monthly~~) unit values no less than monthly for the portfolios or funds, or portions thereof, utilized under subsection (2)(a), (b), and (c) of this section. The declared values shall be an approximation of portfolio or fund values, based on internal procedures of the state investment board. Such declared unit values and internal procedures shall be in the sole discretion of the state investment board. The state investment board may delegate any of the powers and duties under this subsection, including discretion, pursuant to RCW 43.33A.030. Member accounts shall be credited by the department with a rate of return based on changes to such unit values.

(4) Members may elect to self-direct their investments as set forth in RCW 41.34.130 and 43.33A.190.

Sec. 3. RCW 41.34.140 and 2011 c 80 s 3 are each amended to read as follows:

(1) A state board or commission, agency, or any officer, employee, or member thereof is not liable for any loss or deficiency resulting from member defined contribution investments selected, made, or required pursuant to RCW 41.34.060 (1), (2), or (4).

(2) Neither the department, nor director or any employee, nor the state investment board, nor any officer, employee, or member thereof is liable for any loss or deficiency resulting from a member investment in the default option pursuant to RCW 41.34.060(1) or reasonable efforts to implement investment directions pursuant to RCW 41.34.060 (1), (2), or (4).

(3) The state investment board, or any officer, employee, or member thereof is not liable with respect to any declared monthly unit valuations or crediting of rates of return, or any other exercise of powers or duties, including discretion, under RCW 41.34.060(3).

(4) The department, or any officer or employee thereof, is not liable for crediting rates of return which are consistent with the state investment board's declaration of (~~monthly~~) unit valuations pursuant to RCW 41.34.060(3).

Sec. 4. RCW 41.50.770 and 2016 c 112 s 1 are each amended to read as follows:

(1) "Employee" as used in this section and RCW 41.50.780 includes all full-time, part-time, and career seasonal employees of the state, a county, a municipality, or other political subdivision of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of the government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and of the superior and district courts; and members of the state legislature or of the legislative authority of any county, city, or town.

(2) The state, through the department, and any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body is authorized to contract with an employee to defer a portion of that employee's income, which deferred portion shall in no event exceed the amount allowable under 26 U.S.C. Sec. 401(a) or 457, and deposit or invest such deferred portion in a credit union, savings and loan association, bank, or mutual savings bank or purchase life insurance, shares of an investment company, individual securities, or fixed and/or variable annuity contracts from any insurance company or any investment company licensed to contract business in this state.

(3) Beginning no later than January 1, 2017, all persons newly employed by the state on a full-time basis who are eligible to participate in a deferred compensation plan under 26 U.S.C. Sec. 457 shall be enrolled in the state deferred compensation plan unless the employee affirmatively elects to waive participation in the plan. Persons who participate in the plan without having selected a deferral amount or investment option shall contribute three percent of taxable compensation to their plan account which shall be invested in a default option selected by the state investment board in consultation with the director. This subsection does not apply to higher education undergraduate and graduate student employees and shall be administered consistent with the requirements of the federal internal revenue code.

(4) Beginning no later than January 1, 2017, any county, municipality, or other political subdivision offering the state deferred compensation plan authorized under this section, may choose to administer the plan with an opt-out feature for new employees as described in subsection (3) of this section.

(5) Employees participating in the state deferred compensation plan under 26 U.S.C. Sec. 457 or money-purchase retirement savings plan under 26 U.S.C. Sec. 401(a) administered by the department shall self-direct the investment of the deferred portion of their income through the selection of investment options as set forth in subsection (6) of this section.

(6) The department can provide such plans as it deems are in the interests of state employees. In addition to the types of investments described in this section, the state investment board, with respect to the state deferred compensation plan under 26 U.S.C. Sec. 457 or money-purchase retirement savings plan under 26 U.S.C. Sec. 401(a), shall invest the deferred portion of an employee's income, without limitation as to amount, in accordance with RCW 43.84.150, 43.33A.140, and 41.50.780, and pursuant to investment policy established by the state investment board for the state deferred compensation plan under 26 U.S.C. Sec. 457 or money-purchase retirement savings plan under 26 U.S.C. Sec. 401(a). The state investment board, after consultation with the director regarding any recommendations made pursuant to RCW 41.50.088(2), shall provide a set

of options for participants to choose from for investment of the deferred portion of their income. Any income deferred under these plans shall continue to be included as regular compensation, for the purpose of computing the state or local retirement and pension benefits earned by any employee.

(7) Any retirement strategy fund asset mix may include investment in a state investment board commingled fund. Retirement strategy fund means one of several diversified asset allocation portfolios managed by investment advisors under contract to the state investment board. The state investment board shall declare unit values for its commingled funds no less than monthly for the funds or portions thereof requiring valuation. The declared values shall be an approximation of portfolio or fund values, and both the values and the frequency of the valuation shall be based on internal procedures of the state investment board. Such declared unit values, the frequency of their valuation, and internal procedures shall be in the sole discretion of the state investment board. The state investment board may delegate any of the powers and duties under this subsection, including discretion, pursuant to RCW 43.33A.030.

(8) Coverage of an employee under optional salary deferral programs under this section shall not render such employee ineligible for simultaneous membership and participation in any pension system for public employees.

Sec. 5. RCW 41.50.780 and 2016 c 112 s 2 are each amended to read as follows:

(1) The deferred compensation principal account is hereby created in the state treasury.

(2) The amount of compensation deferred under 26 U.S.C. Sec. 457 by employees under agreements entered into under the authority contained in RCW 41.50.770 shall be paid into the deferred compensation principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by the department. The deferred compensation principal account shall be used to carry out the purposes of RCW 41.50.770. All eligible state employees shall be given the opportunity to participate in agreements entered into by the department under RCW 41.50.770. State agencies shall cooperate with the department in providing employees with the opportunity to participate.

(3) Any county, municipality, or other subdivision of the state may elect to participate in any agreements entered into by the department under RCW 41.50.770, including the making of payments therefrom to the employees participating in a deferred compensation plan upon their separation from state or other qualifying service. Accordingly, the deferred compensation principal account shall be considered to be a public pension or retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein.

(4) All moneys in the state deferred compensation principal account and the state deferred compensation administrative account, all property and rights purchased therewith, and all income attributable thereto, shall be held in trust by the state investment board, as set forth under RCW 43.33A.030, for the exclusive benefit of the state deferred compensation plan's participants and their beneficiaries. Neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, has any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments under the plan.

These payments and right thereto are nonassignable and nontransferable. Unpaid accumulated deferrals are not subject to attachment, garnishment, or execution and are not transferable by operation of law in event of bankruptcy or insolvency, except to the extent otherwise required by law.

(5) The state investment board has the full power to invest moneys in the state deferred compensation principal account and the state deferred compensation administrative account in accordance with RCW 43.84.150, 43.33A.140, 43.33A.170, and 41.50.770, and cumulative investment directions received pursuant to RCW 41.50.770. All investment and operating costs of the state investment board associated with the investment of the deferred compensation plan assets shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, one hundred percent of all earnings from these investments shall accrue directly to the deferred compensation principal account.

(6)(a) No state board or commission, agency, or any officer, employee, or member thereof is liable for any loss or deficiency resulting from participant investments selected pursuant to RCW 41.50.770(5).

(b) Neither the department, nor the director or any employee, nor the state investment board, nor any officer, employee, or member thereof is liable for any loss or deficiency resulting from reasonable efforts to implement investment directions pursuant to RCW 41.50.770(5).

(c) The state investment board, or any officer, employee, or member thereof is not liable with respect to any declared unit valuations or crediting of rates of return, or any other exercise of powers or duties.

(d) The department, or any officer or employee thereof, is not liable for crediting rates of return which are consistent with the state investment board's declaration of unit valuations.

(7) The deferred compensation administrative account is hereby created in the state treasury. All expenses of the department pertaining to the deferred compensation plan including staffing and administrative expenses shall be paid out of the deferred compensation administrative account. Any excess balances credited to this account over administrative expenses disbursed from this account shall be transferred to the deferred compensation principal account at such time and in such amounts as may be determined by the department with the approval of the office of financial management. Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from this account shall be transferred to this account from the deferred compensation principal account.

(8)(a)(i) The department shall keep or cause to be kept full and adequate accounts and records of the assets of each individual participant, obligations, transactions, and affairs of any deferred compensation plans created under RCW 41.50.770 and this section. The department shall account for and report on the investment of state deferred compensation plan assets or may enter into an agreement with the state investment board for such accounting and reporting.

(ii) The department's duties related to individual participant accounts include conducting the activities of trade instruction, settlement activities, and direction of cash movement and related wire transfers with the custodian bank and outside investment firms.

(iii) The department has sole responsibility for contracting with any recordkeepers for individual participant accounts and shall manage the performance of recordkeepers under those contracts.

(b)(i) The department's duties under (a)(ii) of this subsection do not limit the authority of the state investment board to conduct its responsibilities for asset management and balancing of the deferred compensation funds.

(ii) The state investment board has sole responsibility for contracting with outside investment firms to provide investment management for the deferred compensation funds and shall manage the performance of investment managers under those contracts.

(c) The state treasurer shall designate and define the terms of engagement for the custodial banks.

(9) The department may adopt rules necessary to carry out its responsibilities under RCW 41.50.770 and this section.

Passed by the Senate February 13, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 161

[Senate Bill 6417]

SURVIVOR OPTION ELECTION--CHANGE AFTER RETIREMENT

AN ACT Relating to allowing retirees to change their survivor option election after retirement; and amending RCW 41.26.460, 41.32.785, 41.32.851, 41.35.220, 41.37.170, 41.40.660, 41.40.845, and 43.43.271.

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

Sec. 1. RCW 41.26.460 and 2019 c 102 s 1 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.26.430 or disability retirement under RCW 41.26.470, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse or domestic partner; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse or domestic partner, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid

to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married or a domestic partner, must provide the written consent of his or her spouse or domestic partner to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married or a domestic partner and both the member and member's spouse or domestic partner do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse or domestic partner as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal or domestic partner consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal or domestic partner consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse or domestic partner from a postretirement marriage or domestic partnership as a survivor during a one-year period beginning one year after the date of the postretirement marriage or domestic partnership provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage or domestic partnership prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse or domestic partner as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse or a person not their domestic partner as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(5) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.26.530(1) and the member's divorcing spouse or domestic partner be divided into two separate benefits payable over the life of each spouse or domestic partner.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried or in a domestic partnership at the time of retirement remains subject to the spousal or domestic partner consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse or former domestic partner shall be eligible to commence receiving their separate benefit upon reaching the ages provided in RCW 41.26.430(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse or domestic partner if the nonmember ex spouse or former domestic partner was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (4) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse or domestic partner shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

(6) Beginning on the date that the state receives a determination from the federal internal revenue service that this subsection (6) conforms with federal law, retirees have up to ninety calendar days after the receipt of their first retirement allowance to change their survivor election under subsections (1) and (2) of this section. If a member changes the member's survivor election under this subsection the change is effective the first of the following month and is prospective only.

Sec. 2. RCW 41.32.785 and 2019 c 102 s 3 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.32.765 or retirement for disability under RCW 41.32.790, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(5) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member

who meets the length of service requirements of RCW 41.32.815 and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.32.765(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (4) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

(6) Beginning on the date that the state receives a determination from the federal internal revenue service that this subsection (6) conforms with federal law, retirees have up to ninety calendar days after the receipt of their first retirement allowance to change their survivor election under subsections (1) and (2) of this section. If a member changes the member's survivor election under this subsection the change is effective the first of the following month and is prospective only.

Sec. 3. RCW 41.32.851 and 2019 c 102 s 4 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.32.875 or retirement for disability under RCW 41.32.880, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. Upon the death of the retired member, all benefits shall cease.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to such person or persons as the retiree shall have nominated by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not

limited to, a joint and one hundred percent survivor option and joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty-percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.32.875(1) and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any

reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.32.875(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

(5) Beginning on the date that the state receives a determination from the federal internal revenue service that this subsection (5) conforms with federal law, retirees have up to ninety calendar days after the receipt of their first retirement allowance to change their survivor election under subsections (1) and (2) of this section. If a member changes the member's survivor election under this subsection the change is effective the first of the following month and is prospective only.

Sec. 4. RCW 41.35.220 and 2019 c 102 s 5 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.35.420 or 41.35.680 or retirement for disability under RCW 41.35.440 or 41.35.690, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life.

(i) For members of plan 2, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(ii) For members of plan 3, upon the death of the retired member, the member's benefits shall cease.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid

to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member of plan 2 who meets the length of service requirements of RCW 41.35.420, or a member of plan 3 who meets the length of service requirements of RCW 41.35.680(1), and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the ages provided in RCW 41.35.420(1) for members of plan 2, or RCW 41.35.680(1) for members of plan 3, and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

(5) Beginning on the date that the state receives a determination from the federal internal revenue service that this subsection (5) conforms with federal law, retirees have up to ninety calendar days after the receipt of their first retirement allowance to change their survivor election under subsections (1) and (2) of this section. If a member changes the member's survivor election under this subsection the change is effective the first of the following month and is prospective only.

Sec. 5. RCW 41.37.170 and 2019 c 102 s 6 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.37.210 or retirement for disability under RCW 41.37.230, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout the member's life. If the retiree dies before the total of the retirement allowance paid to the retiree equals the amount of the retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization the retiree nominated by written designation duly executed and filed with the department; or if there is no designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there is neither a designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, the portion of the member's reduced retirement allowance as the

department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) The department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) The department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.37.210 and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.37.210(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

(5) Beginning on the date that the state receives a determination from the federal internal revenue service that this subsection (5) conforms with federal law, retirees have up to ninety calendar days after the receipt of their first retirement allowance to change their survivor election under subsections (1) and (2) of this section. If a member changes the member's survivor election under this subsection the change is effective the first of the following month and is prospective only.

Sec. 6. RCW 41.40.660 and 2019 c 102 s 8 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.40.630 or retirement for disability under RCW 41.40.670, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the

department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a

postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(5) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.40.720 and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.40.630(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (4) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

(6) Beginning on the date that the state receives a determination from the federal internal revenue service that this subsection (6) conforms with federal law, retirees have up to ninety calendar days after the receipt of their first retirement allowance to change their survivor election under subsections (1) and (2) of this section. If a member changes the member's survivor election under this subsection the change is effective the first of the following month and is prospective only.

Sec. 7. RCW 41.40.845 and 2019 c 102 s 9 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.40.820 or retirement for disability under RCW 41.40.825, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. Upon the death of the member, the member's benefits shall cease.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) No later than July 1, 2002, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted under this section and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.40.820(1) and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.40.820(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

(5) Beginning on the date that the state receives a determination from the federal internal revenue service that this subsection (5) conforms with federal law, retirees have up to ninety calendar days after the receipt of their first retirement allowance to change their survivor election under subsections (1) and (2) of this section. If a member changes the member's survivor election under this subsection the change is effective the first of the following month and is prospective only.

Sec. 8. RCW 43.43.271 and 2019 c 102 s 10 are each amended to read as follows:

(1) A member commissioned on or after January 1, 2003, upon retirement for service as prescribed in RCW 43.43.250 shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout the member's life. However, if the

retiree dies before the total of the retirement allowance paid to the retiree equals the amount of the retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse or domestic partner; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse or domestic partner, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married or in a domestic partnership, must provide the written consent of his or her spouse or domestic partner to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married or in a domestic partnership and both the member and member's spouse or domestic partner do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse or domestic partner as the beneficiary. This benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless consent by the spouse or domestic partner is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spouse or domestic partner consent provisions of (a) of this subsection do not apply.

(3) No later than January 1, 2003, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse or domestic partner from a postretirement marriage or domestic partnership as a survivor during a one-year period beginning one year after the date of the postretirement marriage or domestic partnership provided the retirement allowance payable to

the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage or domestic partnership prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse or domestic partner as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse or a nondomestic partner as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who has completed at least five years of service and the member's divorcing spouse or former domestic partner be divided into two separate benefits payable over the life of each spouse or domestic partner.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried or in a domestic partnership at the time of retirement remains subject to the spouse or domestic partner consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse or former domestic partner shall be eligible to commence receiving their separate benefit upon reaching the ages provided in RCW 43.43.250(2) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse or domestic partner if the nonmember ex spouse or former domestic partner was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse or former domestic partner shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

(5) Beginning on the date that the state receives adetermination from the federal internal revenue service that thissubsection (5) conforms with federal law, retirees have up to ninetycalendar days after the receipt of their first retirement allowanceto change their survivor election under subsections (1) and (2) ofthis section. If a member changes the member's survivor electionunder this

subsection the change is effective the first of the following month and is prospective only.

Passed by the Senate March 10, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 162

[Senate Bill 6420]

UNDERGROUND UTILITIES--VARIOUS PROVISIONS

AN ACT Relating to underground utilities and safety committee; amending RCW 19.122.050 and 19.122.130; and reenacting and amending RCW 19.122.020.

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

Sec. 1. RCW 19.122.020 and 2011 c 263 s 2 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) "Bar hole" means a hole made in the soil or pavement with a hand-operated bar for the specific purpose of testing the subsurface atmosphere with a combustible gas indicator.

(2) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(3) "Commission" means the utilities and transportation commission.

(4) "Damage" includes the substantial weakening of structural or lateral support of an underground facility, penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected facility operator determines that repairs are required.

(5) "Emergency" means any condition constituting a clear and present danger to life or property, or a customer service outage.

(6) "End user" means any utility customer or consumer of utility services or commodities provided by a facility operator.

(7) "Equipment operator" means an individual conducting an excavation.

(8) "Excavation" and "excavate" means any operation, including the installation of signs, in which earth, rock, or other material on or below the ground is moved or otherwise displaced by any means.

(9) "Excavation confirmation code" means a code or ticket issued by a one-number locator service for the site where an excavation is planned. The code must be accompanied by the date and time it was issued.

(10) "Excavator" means any person who engages directly in excavation.

(11) "Facility operator" means any person who owns an underground facility or is in the business of supplying any utility service or commodity for compensation. "Facility operator" does not include a utility customer who owns a service lateral that terminates at a facility operator's main utility line.

(12) "Gas" means natural gas, flammable gas, or toxic or corrosive gas.

(13) "Hazardous liquid" means:

(a) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 as in effect on March 1, 1998;

(b) Carbon dioxide; and

(c) Other substances designated as hazardous by the secretary of transportation and incorporated by reference by the commission by rule.

(14) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.

(15) "Large project" means a project that exceeds seven hundred linear feet.

(16) "Locatable underground facility" means an underground facility which can be marked with reasonable accuracy.

(17) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American public works association. Markings shall include identification letters indicating the specific type of the underground facility. Locate marks are not required to indicate the depth of the underground facility given the potential change of topography over time.

(18) "Notice" or "notify" means contact in person or by telephone or other electronic method, and, with respect to contact of a one-number locator service, also results in the receipt of a valid excavation confirmation code.

(19) "One-number locator service" means a service through which a person can notify facility operators and request marking of underground facilities.

(20) "Person" means an individual, partnership, franchise holder, association, corporation, the state, a city, a county, a town, or any subdivision or instrumentality of the state, including any unit of local government, and its employees, agents, or legal representatives.

(21) "Pipeline" or "pipeline system" means all or parts of a pipeline facility through which hazardous liquid or gas moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping or compressor units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. "Pipeline" or "pipeline system" does not include process or transfer pipelines.

(22) "Pipeline company" means a person or entity constructing, owning, or operating a pipeline for transporting hazardous liquid or gas. "Pipeline company" does not include:

(a) Distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail; or

(b) Excavation contractors or other contractors that contract with a pipeline company.

(23) "Reasonable accuracy" means location within twenty-four inches of the outside dimensions of both sides of an underground facility.

(24) "Service lateral" means an underground water, stormwater, or sewer facility located in a public right-of-way or utility easement that connects an end user's building or property to a facility operator's underground facility, and terminates beyond the public right-of-way or utility easement.

(25) "Transfer pipeline" means a buried or aboveground pipeline used to carry hazardous liquid between a tank vessel or transmission pipeline and the first valve inside secondary containment at a facility, provided that any discharge

on the facility side of the first valve will not directly impact waters of the state. "Transfer pipeline" includes valves and other appurtenances connected to the pipeline, pumping units, and fabricated assemblies associated with pumping units. "Transfer pipeline" does not include process pipelines, pipelines carrying ballast or bilge water, transmission pipelines, or tank vessel or storage tanks.

(26) "Transmission pipeline" means a pipeline that transports hazardous liquid or gas within a storage field, or transports hazardous liquid or gas from an interstate pipeline or storage facility to a distribution main or a large volume hazardous liquid or gas user, or operates at a hoop stress of twenty percent or more of the specified minimum yield strength.

(27) "Underground facility" means any item buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including but not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors that are below ground. This definition does not include pipelines as defined in subsection (21) of this section, but does include distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail.

(28) "Unlocatable underground facility" means, subject to the provisions of RCW 19.122.030, an underground facility that cannot be marked with reasonable accuracy using available information to designate the location of an underground facility. "Unlocatable underground facility" includes, but is not limited to, service laterals, storm drains, and nonconductive and nonmetallic underground facilities that do not contain trace wires.

(29) "Utility easement" means a right held by a facility operator to install, maintain, and access an underground facility or pipeline.

Sec. 2. RCW 19.122.050 and 2011 c 263 s 9 are each amended to read as follows:

(1) An excavator who, in the course of excavation, contacts or damages an underground facility shall notify the facility operator and a one-number locator service, and report the damage as required under RCW 19.122.053. If the damage causes an emergency condition, the excavator causing the damage shall also call 911 to alert the appropriate local public safety agencies and take all appropriate steps to ensure the public safety. No damaged underground facility may be buried until it is repaired or relocated.

(2) A facility operator notified in accordance with subsection (1) of this section shall arrange for repairs or relocation as soon as is practical, or permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

Sec. 3. RCW 19.122.130 and 2017 c 20 s 1 are each amended to read as follows:

(1) The commission must contract with a statewide, nonprofit entity whose purpose is to reduce damages to underground and above ground facilities, promote safe excavation practices, and review complaints of alleged violations of this chapter. The contract must not obligate funding by the commission for activities performed by the nonprofit entity or the safety committee under this section.

(2) The contracting entity must create a safety committee to:

(a) Advise the commission and other state agencies, the legislature, and local governments on best practices and training to prevent damage to underground utilities, and policies to enhance worker and public safety; and

(b) Review complaints alleging violations of this chapter involving practices related to underground facilities.

(3)(a) The safety committee will consist of thirteen members, who must be nominated by represented groups and appointed by the contracting entity to staggered three-year terms. The safety committee must include representatives of:

(i) Local governments;

(ii) A natural gas utility subject to regulation under Titles 80 and 81 RCW;

(iii) Contractors;

(iv) Excavators;

(v) An electric utility subject to regulation under Title 80 RCW;

(vi) A consumer-owned utility, as defined in RCW 19.27A.140;

(vii) A pipeline company;

(viii) ~~((The insurance industry;))~~ A water-sewer district subject to regulation under Title 57 RCW;

(ix) The commission; and

(x) A telecommunications company.

(b) The safety committee may pass bylaws and provide for those organizational processes that are necessary to complete the safety committee's tasks.

(4) The safety committee must meet at least once every three months.

(5) The safety committee may review complaints of alleged violations of this chapter involving practices related to underground facilities. Any person may bring a complaint to the safety committee regarding an alleged violation occurring on or after January 1, 2013.

(6) To review complaints of alleged violations, the safety committee must appoint at least three and not more than five members as a review committee. ~~The review committee must ((include the same number of members representing excavators and facility operators. One member representing facility operators must also be a representative of a pipeline company or a natural gas utility subject to regulation under Titles 80 and 81 RCW. The review committee must also include a member representing the insurance industry))~~ be a balanced group, including at least one excavator and one facility operator.

(7) Before reviewing a complaint alleging a violation of this chapter, the review committee must notify the person making the complaint and the alleged violator of its review and of the opportunity to participate.

(8) The safety committee may provide written notification to the commission, with supporting documentation, that a person has likely committed a violation of this chapter, and recommend remedial action that may include a penalty amount, training, or education to improve public safety, or some combination thereof.

Passed by the Senate March 10, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 163

[Senate Bill 6565]

MOTORCYCLE PARKING--PERMISSIBLE METHODS

AN ACT Relating to establishing permissible methods of parking a motorcycle; and amending RCW 46.61.575.

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

Sec. 1. RCW 46.61.575 and 1977 ex.s. c 151 s 41 are each amended to read as follows:

(1) Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

(2) Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder. This subsection does not apply to the parking of motorcycles, unless a local jurisdiction prohibits angle parking as permitted under subsection (3)(a)(i) of this section and does not otherwise specify the manner in which a motorcycle must park.

(3)(a)(i) Every motorcycle stopped or parked on a one-way or two-way highway shall be so stopped or parked parallel or at an angle to the curb or edge of the highway with at least one wheel or fender within twelve inches of the curb nearest to which the motorcycle is parked or as close as practicable to the edge of the shoulder nearest to which the motorcycle is parked. A motorcycle may not be parked in such a manner that it extends into the roadway.

(ii) A county, city, or town may by ordinance prohibit the angle stopping or parking of a motorcycle as specified in (a)(i) of this subsection, but must post visible signage in a location to provide notice of the prohibition on angle stopping or parking for the prohibition to apply to that location.

(b)(i) More than one motorcycle may occupy a parking space, provided that the parked motorcycles occupying the parking space do not exceed the boundaries of that parking space.

(ii) All motor vehicle parking laws and penalties for the unlawful parking of a motor vehicle apply to each motorcycle parked in a parking space when multiple motorcycles are parked in that space to the same extent that motor vehicle parking laws apply to a single motor vehicle when it is the sole motor vehicle parked in a parking space. When proof of payment is required to be displayed by each motor vehicle parking at a location, all motorcycles must display such proof of payment, even if more than one motorcycle is parked in the same parking space. However, parking spaces that are metered by the space may not require payment multiple times for the use of a single parking space by multiple motorcycles during the same period of time.

(4) Local authorities may by ordinance or resolution permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway unless the secretary of transportation has determined by order that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic. The angle parking of motorcycles, which is governed under subsection (3) of this section, is not subject to this determination by the secretary of transportation.

~~((4))~~ (5) The secretary with respect to highways under his or her jurisdiction may place official traffic control devices prohibiting, limiting, or restricting the stopping, standing, or parking of vehicles on any highway where the secretary has determined by order, such stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person shall stop, stand, or park any vehicle in violation of the restrictions indicated by such devices.

Passed by the Senate March 9, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 164

[Substitute Senate Bill 6632]

BUSINESS LICENSING SERVICE PROGRAM--FUNDING

AN ACT Relating to providing additional funding for the business licensing service program administered by the department of revenue; amending RCW 19.02.075; and providing an effective date.

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

Sec. 1. RCW 19.02.075 and 2013 c 144 s 20 are each amended to read as follows:

~~((The))~~ (1)(a) Except as provided in (b) of this subsection, the department must collect a handling fee on each business license application and each renewal application filing. The department must set the amount of the handling fees by rule, as authorized by RCW 19.02.030. The handling fees may not exceed ((nineteen dollars for each business license application, and eleven) ninety dollars for each business license application filed by any person to open or reopen a business, ten dollars for each business license renewal application filing, and nineteen dollars for each business license application filed for any other purpose. Handling fees collected under this section must be deposited in the business license account created under RCW 19.02.210.

(b) No handling fee is collected on a business license application filed by an existing business for the following purposes:

(i) To open an additional location; or

(ii) To obtain a nonresident city endorsement.

(2) The department may increase all handling ((and renewal)) fees within the limits provided in this section for the purposes of defraying the department's costs associated with the administration of this chapter, including making improvements in the business licensing service program, ((including)) such as

improvements in technology and customer services, expanded access, and infrastructure.

(3) Annually, by the last day of September, beginning September 30, 2023, the department must review the business license account balance at the end of the previous fiscal year. If the balance in the account exceeds one million dollars or the department projects that the balance in the business license account will exceed one million dollars at the end of the current fiscal year, the department must reduce one or more of the handling fees authorized in subsection (1) of this section. Handling fees must be reduced under this subsection (3) to the extent the department determines necessary to result in a balance in the business license account of no more than one million dollars at the end of the next fiscal year as projected by the department. This subsection (3) does not require the department to reduce handling fees more than once in any fiscal year.

(4) In increasing or decreasing any fee under this section, the department may round the adjusted fee to the nearest whole dollar that does not exceed the dollar limits in subsection (1) of this section.

NEW SECTION. Sec. 2. This act takes effect July 1, 2020.

Passed by the Senate February 18, 2020.

Passed by the House March 7, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 165

[Engrossed Senate Bill 6690]

AEROSPACE BUSINESS AND OCCUPATION TAXES--WORLD TRADE ORGANIZATION COMPLIANCE

AN ACT Relating to aerospace business and occupation taxes and world trade organization compliance; reenacting and amending RCW 82.04.260; adding a new section to chapter 82.04 RCW; adding a new section to chapter 51.04 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) Over the past two decades, the legislature has taken significant action to promote a positive business environment for Washington's aerospace industry. The legislature finds that the industry plays a significant role not only in the health of Washington's economy, but also in the health of the United States economy. Moreover, the domestic aerospace industry has faced significant challenges with the large subsidies provided to international competitors.

(2) The legislature finds that a commitment to the elimination of trade barriers for aerospace as well as several other vital Washington exports is important. The legislature also wishes to help bring the United States into full compliance with a recent world trade organization ruling asserting Washington's business and occupation tax rate of 0.2904 percent violates world trade organization rules. The legislature hopes this action to help bring the United States into compliance will end the threat of retaliatory tariffs against many of Washington's industries, including agricultural products, fish, wine, and intellectual property.

(3) The legislature appreciates the state aerospace industry's commitment to complying with the world trade organization ruling by advocating for the repeal of the preferential business and occupation tax. The legislature hopes that the repeal of this Washington aerospace preference will ensure continued economic success and competitiveness for the industry as well as many other industries. The legislature further hopes that the repeal of the 0.2904 business and occupation tax will allow for the complete resolution of all trade disputes surrounding large civil aircraft.

(4) The legislature further finds that the people of Washington benefit from the presence of the aerospace industry in Washington state. The industry provides good wages and benefits for thousands of engineers, technicians, mechanics, and support staff working across the state. Furthermore, the legislature has a goal of preserving and growing employment in Washington state. The legislature intends that the future consideration of all tax measures will work to achieve this goal in a manner compliant with the world trade organization.

NEW SECTION. Sec. 2. A new section is added to chapter 82.04 RCW to read as follows:

The rate of 0.357 percent authorized pursuant to RCW 82.04.260(11)(e) may be imposed only if the following conditions are met:

(1) The department of commerce verifies with the United States trade representative that the United States and the European Union have entered into a written agreement that resolves any world trade organization disputes involving large civil aircraft.

(2) Such agreement expressly allows a business and occupation tax rate reduction for commercial airplane manufacturers to 0.357 percent or less.

(3) The department of commerce notifies the department in writing that the conditions of subsections (1) and (2) of this section are met and provides a copy of the agreement between the United States and the European Union or other document providing for the business and occupation tax rate reduction to the department.

(4) The department of labor and industries notifies the department in writing that a significant commercial airplane manufacturer has at least a three-tenths of one percent aerospace apprenticeship utilization rate of its qualified apprenticeable workforce in Washington, as defined in section 4 of this act.

(5) Within thirty days of receiving the last of the written notices described in subsections (3) and (4) of this section, the department must provide written notice to the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department, that the tax rates in RCW 82.04.260(11)(e) are reduced to 0.357 percent and the effective date of the rate reduction.

(6) Any rate reduction to 0.357 percent pursuant to this section and RCW 82.04.260(11)(e) must occur on the first day of the next calendar quarter that is at least sixty days after the department receives the last of the written notices described in subsections (3) and (4) of this section.

(7) For the purpose of this section, "world trade organization disputes involving large civil airplanes" means any disputes filed by the United States or the European Union prior to the effective date of this section that involve either

allegations of subsidies to large civil airplanes, or allegations of taxes imposed by Washington on commercial airplanes, or both.

Sec. 3. RCW 82.04.260 and 2019 c 425 s 1 and 2019 c 336 s 4 are each reenacted and amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2025, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c)(i) Except as provided otherwise in (c)(iii) of this subsection, from July 1, 2025, until January 1, 2036, dairy products; or selling dairy products that the person has manufactured to purchasers who either transport in the ordinary course of business the goods out of state or purchasers who use such dairy products as an ingredient or component in the manufacturing of a dairy product; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state or sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product.

(ii) For the purposes of this subsection (1)(c), "dairy products" means:

(A) Products, not including any marijuana-infused product, that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products, such as whey and casein; and

(B) Products comprised of not less than seventy percent dairy products that qualify under (c)(ii)(A) of this subsection, measured by weight or volume.

(iii) The preferential tax rate provided to taxpayers under this subsection (1)(c) does not apply to sales of dairy products on or after July 1, 2023, where a dairy product is used by the purchaser as an ingredient or component in the manufacturing in Washington of a dairy product;

(d)(i) Beginning July 1, 2025, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this

state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(ii) For purposes of this subsection (1)(d), "fruits" and "vegetables" do not include marijuana, useable marijuana, or marijuana-infused products; and

(e) Wood biomass fuel; as to such persons the amount of tax with respect to the business is equal to the value of wood biomass fuel manufactured, multiplied by the rate of 0.138 percent. For the purposes of this section, "wood biomass fuel" means a liquid or gaseous fuel that is produced from lignocellulosic feedstocks, including wood, forest, or field residue and dedicated energy crops, and that does not include wood treated with chemical preservations such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5)(a) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year was two hundred fifty thousand dollars or less; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(b) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the calendar year was more than two hundred fifty thousand dollars; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent through June 30, 2019, and 0.9 percent beginning July 1, 2019.

(6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons

the amount of tax with respect to such business is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(8)(a) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business is equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

(b) If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of

the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007; ~~((and))~~

(ii) 0.2904 percent beginning July 1, 2007, through March 31, 2020; and

(iii) Beginning April 1, 2020, 0.484 percent, subject to any reduction required under (e) of this subsection (11). The tax rate in this subsection (11)(a)(iii) applies to all business activities described in this subsection (11)(a).

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection (11) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.2904 percent through March 31, 2020; and

(ii) Beginning April 1, 2020, the following rates, which are subject to any reduction required under (e) of this subsection (11):

(A) The rate under RCW 82.04.250(1) on the business of making retail sales of tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes; and

(B) 0.484 percent on all other business activities described in this subsection (11)(b).

(c) For the purposes of this subsection (11), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d)(i) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection (11) must file a complete annual tax performance report with the department under RCW 82.32.534. However, this requirement does not apply to persons reporting under the tax rate in (a)(iii) of this subsection (11), so long as that rate remains 0.484 percent, or under any of the tax rates in (b)(ii)(A) and (B) of this subsection (11), so long as those tax rates remain the rate imposed pursuant to RCW 82.04.250(1) and 0.484 percent, respectively.

(ii) Nothing in (d)(i) of this subsection (11) may be construed as affecting the obligation of a person reporting under a tax rate provided in this subsection (11) to file a complete annual tax performance report with the department under RCW 82.32.534: (A) Pursuant to another provision of this title as a result of claiming a tax credit or exemption; or (B) pursuant to (d)(i) of this subsection (11) as a result of claiming the tax rates in (a)(ii) or (b)(i) of this subsection (11) for periods ending before April 1, 2020.

(e)(i) After March 31, 2021, the tax rates under (a)(iii) and (b)(ii) of this subsection (11) must be reduced to 0.357 percent provided the conditions in section 2 of this act are met. The effective date of the rates authorized under this subsection (11)(e) must occur on the first day of the next calendar quarter that is at least sixty days after the department receives the last of the two written notices pursuant to section 2 (3) and (4) of this act.

(ii) Both a significant commercial airplane manufacturer separately and the rest of the aerospace industry as a whole, receiving the rate of 0.357 percent

under this subsection (11)(e) are subject to the aerospace apprenticeship utilization rates required under section 4 of this act by April 1, 2026, or five years after the effective date of the 0.357 percent rate authorized under this subsection (11)(e), whichever is later, as determined by the department of labor and industries.

(iii) The provisions of RCW 82.32.805 and 82.32.808 do not apply to this subsection (11)(e).

(f)(i) Except as provided in ~~((e))~~ (f)(ii) of this subsection (11), this subsection (11) does not apply on and after July 1, 2040.

(ii) With respect to the manufacturing of commercial airplanes or making sales, at retail or wholesale, of commercial airplanes, this subsection (11) does not apply on and after July 1st of the year in which the department makes a determination that any final assembly or wing assembly of any version or variant of a commercial airplane that is the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850 has been sited outside the state of Washington. This subsection (11)~~((e))~~ (f)(ii) only applies to the manufacturing or sale of commercial airplanes that are the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850. This subsection (11)(f)(ii) continues to apply during the time that a person is subject to the tax rate in (a)(iii) of this subsection (11).

(g) For the purposes of this subsection, "a significant commercial airplane manufacturer" means a manufacturer of commercial airplanes with at least fifty thousand full-time employees in Washington as of January 1, 2021.

(12)(a) Until July 1, 2045, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(b) Until July 1, 2045, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; (ii) timber products into other timber products or wood products; or (iii) products defined in RCW 19.27.570(1); as to such persons the amount of the tax with respect to the business is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(c) Until July 1, 2045, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; (iii) wood products manufactured by that person from timber or timber products; or (iv) products defined in RCW 19.27.570(1) manufactured by that person~~((f))~~; as to such persons the amount of the tax with respect to the business is equal to the gross proceeds of sales of the timber, timber products, wood products, or products defined in RCW 19.27.570(1) multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(d) Until July 1, 2045, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (12)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulose fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulose products containing primarily, by weight or volume, cellulose materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection (12)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection (12) must file a complete annual tax performance report with the department under RCW 82.32.534.

(g) Nothing in this subsection (12) may be construed to affect the taxation of any activity defined as a retail sale in RCW 82.04.050(2) (b) or (c), defined as a wholesale sale in RCW 82.04.060(2), or taxed under RCW 82.04.280(1)(g).

(13) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(14)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.35 percent until July 1, 2024, and 0.484 percent thereafter.

(b) A person reporting under the tax rate provided in this subsection (14) must file a complete annual tax performance report with the department under RCW 82.32.534.

NEW SECTION. Sec. 4. A new section is added to chapter 51.04 RCW to read as follows:

(1) A significant commercial airplane manufacturer receiving the rate of 0.357 percent under RCW 82.04.260(11)(e) is subject to an aerospace apprenticeship utilization rate of one and five-tenths percent of its qualified apprenticeable workforce in Washington by July 1, 2026, or five years after the effective date of the 0.357 percent rate authorized under RCW 82.04.260(11)(e), whichever is later, as determined by the department of labor and industries.

(2) The aerospace industry in Washington, excluding a significant commercial airplane manufacturer, is subject to an aerospace apprenticeship utilization rate of one and five-tenths percent of its qualified apprenticeable workforce in Washington by July 1, 2026, or five years after the effective date of the 0.357 percent rate authorized under RCW 82.04.260(11)(e), whichever is later, as determined by the department of labor and industries.

(3) Aerospace employers must report relevant occupation data related to the qualified apprenticeable workforce to the department of labor and industries.

(4) The department of labor and industries shall report the aerospace apprenticeship utilization rate to the department and the appropriate committees of the legislature annually beginning October 1, 2024.

(5) The department of labor and industries shall determine aerospace apprenticeship utilization rates under this section based on the framework developed under section 5 of this act and using occupational data reported to the department of labor and industries and/or the employment security department. For data reported to the department of labor and industries, the department of labor and industries shall determine the form and manner in which occupational data is reported, consistent with the framework developed under section 5 of this act, and may adopt rules to ensure full participation within the industry necessary to implement the requirements of this section. The department of labor and industries, consulting with the department of revenue, may also require additional information on the annual tax performance report under RCW 82.32.534. The department of labor and industries may adopt rules to ensure full participation within the industry and necessary to implement the requirements of this section.

(6) For the purposes of this section, the following definitions apply.

(a) "Aerospace employer" means any person that qualifies for the rate under RCW 82.04.260(11)(e) with twenty-five or more employees in positions determined to be qualified occupations by the Washington state apprenticeship

and training council according to chapter 49.04 RCW directly applicable to the production of commercial aircraft.

(b) "Qualified apprenticeable workforce" means all occupations approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW directly applicable to the production of commercial aircraft.

(c) "Significant commercial airplane manufacturer" means a manufacturer of commercial airplanes with at least fifty thousand full-time employees in Washington as of January 1, 2021.

NEW SECTION. Sec. 5. (1) An aerospace workforce council is created in the department of labor and industries to establish a framework for apprenticeship utilization reporting and to establish efficient pathways to achieve targets required under section 4 of this act. Beginning in calendar year 2020, the council must:

(a) Meet at least twice per year until the apprenticeship utilization levels in section 4 of this act are achieved;

(b) Monitor the progress of a significant commercial airplane manufacturer, as defined in section 4 of this act, and the aerospace industry as a whole in achieving the apprenticeship utilization levels established in section 4 of this act;

(c) Report to the legislature by December 1, 2023, on the apprenticeship utilization rate across the aerospace industry and include any recommendations implementing the intent of this act, including policy changes needed to expand upon early success of apprenticeship utilization if reached before the date set forth in section 4 of this act.

(2) The council must consist of fourteen members, appointed by the governor:

(a) One member must be appointed from each of the two largest aerospace labor organizations in Washington;

(b) Two members must be from a Washington aerospace industry business, only one of which must be from a significant commercial airplane manufacturer;

(c) Two members must be from nonprofit entities engaged in workforce training for the aerospace industry;

(d) One representative from the governor's office;

(e) One representative from the workforce training and education coordinating board;

(f) The state trade representative or the representative's designee;

(g) The director of the department of labor and industries, or the director's designee;

(h) One member from each of the two largest caucuses of the house of representatives, as appointed by the speaker of the house of representatives; and

(i) One member from each of the two largest caucuses of the senate, as appointed by the president of the senate.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 12, 2020.

Passed by the House March 11, 2020.

Approved by the Governor March 25, 2020.

Filed in Office of Secretary of State March 26, 2020.

CHAPTER 166

[Engrossed House Bill 1187]

CONSERVATION DISTRICT-SPONSORED FISH HABITAT ENHANCEMENT PROJECTS--
HYDRAULIC PROJECT ELIGIBILITY STANDARDS

AN ACT Relating to revising hydraulic project eligibility standards under RCW 77.55.181 for conservation district-sponsored fish habitat enhancement projects; and amending RCW 77.55.181.

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

Sec. 1. RCW 77.55.181 and 2019 c 150 s 1 are each amended to read as follows:

(1)(a) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under this section and must be a project to accomplish one or more of the following tasks:

(i) Elimination of human-made or caused fish passage barriers, including:

(A) Culvert repair and replacement; and

(B) Fish passage barrier removal projects that comply with the forest practices rules, as the term "forest practices rules" is defined in RCW 76.09.020;

(ii) Restoration of an eroded or unstable stream bank 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;

(iii) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks; or

(iv) Restoration of native kelp and eelgrass beds and restoring native oysters.

(b) 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.

(c) A fish habitat enhancement project must be approved in one of the following ways in order to receive the permit review and approval process created in this section:

(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))~~
By conservation districts as conservation district-sponsored fish habitat enhancement or restoration projects;

(vi) Through a formal grant program established by the legislature or the department for fish habitat enhancement or restoration;

(vii) Through the department of transportation's environmental retrofit program as a stand-alone fish passage barrier correction project;

(viii) Through a local, state, or federally approved fish barrier removal grant program designed to assist local governments in implementing stand-alone fish passage barrier corrections;

(ix) By a city or county for a stand-alone fish passage barrier correction project funded by the city or county;

(x) Through the approval process established for forest practices hydraulic projects in chapter 76.09 RCW; or

(xi) 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. Applicants for a forest practices hydraulic project that are not otherwise required to submit a joint aquatic resource permit application must submit a copy of their forest practices application to the appropriate local government on the same day that they submit the forest practices application to the department of natural resources.

(b) Local governments shall accept the application identified in this section as notice of the proposed project. A local government shall be provided with a fifteen-day comment period during which it may transmit comments regarding environmental impacts to the department or, for forest practices hydraulic projects, to the department of natural resources.

(c) Except for forest practices hydraulic projects, 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 within forty-five days. 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. Permitting decisions over forest practices hydraulic approvals must be made consistent with chapter 76.09 RCW.

(d) 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.

(e) Any person aggrieved by the approval, denial, conditioning, or modification of a permit other than a forest practices hydraulic project under this section may appeal the decision as provided in RCW 77.55.021(8). Appeals of a forest practices hydraulic project may be made as provided in chapter 76.09 RCW.

(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.

(5) No civil liability may be imposed by any court on the state or its officers and employees for any adverse impacts resulting from a fish enhancement project permitted by the department or the department of natural resources under the criteria of this section except upon proof of gross negligence or willful or wanton misconduct.

Passed by the House February 12, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 167

[Second Substitute House Bill 1191]

SCHOOL NOTIFICATIONS--VARIOUS PROVISIONS

AN ACT Relating to school notifications; amending RCW 28A.320.128, 9A.44.138, 13.04.155, 13.40.215, 28A.225.330, and 72.09.730; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.195 RCW; adding a new section to chapter 28A.710 RCW; and adding a new section to chapter 42.56 RCW.

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

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

(1) A school district superintendent, a designee of the superintendent, or a principal of a school who receives information pursuant to RCW 28A.225.330, 9A.44.138, 13.04.155, 13.40.215, or 72.09.730 shall comply with the notification provisions described in this section.

(2) Upon receipt of information described in subsection (1) of this section, a school district superintendent or a designee of the superintendent must provide the received information to the principal of the school where the student is enrolled or will enroll, or if not known, where the student was most recently enrolled.

(3)(a) Upon receipt of information about a sex offense as defined in RCW 9.94A.030, the principal must comply with the notification requirements in RCW 9A.44.138.

(b) Upon receipt of information about a violent offense as defined in RCW 9.94A.030, any crime under chapter 9.41 RCW, unlawful possession or delivery, or both, of a controlled substance in violation of chapter 69.50 RCW, or a school disciplinary action, the principal, subject to requirements of subsection (4) of this section, has discretion to share the information with a school district staff member if, in the principal's judgment, the information is necessary for:

(i) The staff member to supervise the student;

(ii) The staff member to provide or refer the student to therapeutic or behavioral health services; or

(iii) Security purposes.

(4)(a) Upon receipt of information about an adjudication in juvenile court for an unlawful possession of a controlled substance in violation of chapter 69.50 RCW, the principal must notify the student and the parent or legal guardian at least five days before sharing the information with a school district staff member.

(b) If either the student or the student's parent or legal guardian objects to the proposed sharing of the information, the student, the student's parent or legal guardian, or both, may, within five business days of receiving notice from the principal, appeal the decision to share the information with staff to the superintendent of the school district in accordance with procedures adopted by the district.

(c) The superintendent shall have five business days after receiving an appeal under (b) of this subsection to make a written determination on the matter. Determinations by superintendents under this subsection are final and not subject to further appeal.

(d) A principal may not share adjudication information under this subsection with a school district staff member while an appeal is pending.

(5) Any information received by school district staff under this section is exempt from disclosure under chapter 42.56 RCW 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.).

NEW SECTION. Sec. 2. A new section is added to chapter 28A.195 RCW to read as follows:

The administrator of a private school approved under this chapter must comply with the notification provisions of section 1 of this act that apply to superintendents, designees of superintendents, and principals.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.710 RCW to read as follows:

The administrator of a charter public school governed by this chapter must comply with the notification provisions of section 1 of this act that apply to superintendents, designees of superintendents, and principals.

Sec. 4. RCW 28A.320.128 and 2002 c 206 s 1 are each amended to read as follows:

(1) By September 1, ~~((2003))~~ 2020, each school district board of directors shall adopt a policy that addresses the following issues:

(a) Procedures for providing notice of threats of violence or harm to the student or school employee who is the subject of the threat. The policy shall define "threats of violence or harm"; and

~~(b) Procedures for ((disclosing information that is provided to the school administrators about a student's conduct, including but not limited to the student's prior disciplinary records, official juvenile court records, and history of violence, to classroom teachers, school staff, and school security who, in the judgment of the principal, should be notified; and~~

~~(e) Procedures for determining whether or not any threats or conduct established in the policy may be grounds for suspension or expulsion of the student))~~ complying with the notification provisions in section 1 of this act.

(2) ~~The ((superintendent of public instruction))~~ Washington state school directors' association, in consultation with educators and representatives of law enforcement, classified staff, ~~((and))~~ organizations with expertise in violence prevention and intervention, and organizations that provide free legal services for youth, shall adopt, and revise as necessary, a model policy that includes the issues listed in subsection (1) of this section ~~((by January 1, 2003))~~. The model policy shall be ~~((posted on the superintendent of public instruction's))~~ disseminated by the Washington state school directors' association and made available to the public on its web site. ((The)) Each school district((s, in drafting their own policies,)) shall ~~((review))~~ adopt the model policy required by this subsection unless it has a compelling reason to develop and adopt a different policy that also addresses the issues identified in subsection (1) of this section.

(3) School districts, school district boards of directors, school officials, and school employees providing notice in good faith as required and consistent with the board's policies adopted under this section are immune from any liability arising out of such notification.

(4) A person who intentionally and in bad faith or maliciously, knowingly makes a false notification of a threat under this section is guilty of a misdemeanor punishable under RCW 9A.20.021.

Sec. 5. RCW 9A.44.138 and 2011 c 337 s 4 are each amended to read as follows:

(1) Upon receiving notice from a registered person pursuant to RCW 9A.44.130 that the person will be attending a school enrolling students in grades kindergarten through twelve or an institution of higher education, or will be employed with an institution of higher education, the sheriff must promptly notify the designated recipient of the school ((district and the school principal)) or institution ~~((s department))~~ of ~~((public safety and shall provide that school or department with))~~ the person's: (a) Name and any aliases used; (b) complete residential address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) ~~((social security number; (h)))~~ photograph; and ~~((+))~~ (h) risk level classification.

(2) ~~((A principal or department))~~ Except as provided in subsection (3) of this section, a designated recipient receiving notice under this ~~((subsection))~~ section must disclose the information received from the sheriff as follows:

(a) If the student is classified as a risk level II or III, the ~~((principal))~~ designated recipient shall provide the information received to every teacher of the student and to any other personnel who, in the judgment of the ~~((principal))~~ designated recipient, supervises the student or for security purposes should be aware of the student's record;

(b) If the student is classified as a risk level I, the ~~((principal or department))~~ designated recipient shall provide the information received only to personnel who, in the judgment of the ~~((principal or department))~~ designated recipient, for security purposes should be aware of the student's record.

(3) When the designated recipient is the administrator of a school district, the designated recipient must disclose the information to the principal of the school that the registered person will be attending, whether the school is a

common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW. The principal must then disclose the information as provided in subsection (2) of this section.

~~(4) The sheriff shall notify the applicable ((school district and school principal or institution's department of public safety)) designated recipient whenever a student's risk level classification is changed or the sheriff is notified of a change in the student's address.~~

~~((4)) (5) Any information received by school or institution personnel under this ((subsection)) section is ((confidential)) exempt from disclosure under chapter 42.56 RCW 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.~~

(6) For the purposes of this section, "designated recipient" means: (a) The superintendent of the school district, or his or her designee, of a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW; (b) the administrator of a charter public school governed by chapter 28A.710 RCW; (c) the administrator of a private school approved under chapter 28A.195 RCW; or (d) the director of the department of public safety at an institution of higher education.

Sec. 6. RCW 13.04.155 and 2000 c 27 s 1 are each amended to read as follows:

(1) ((Whenever a minor enrolled in any common school is)) The provisions of this section apply only to persons who:

(a) Were adjudicated in juvenile court or convicted in adult criminal court((; or adjudicated or entered into a diversion agreement with the juvenile court on any)) of ((the following offenses, the court must notify the principal of the student's school of the disposition of the case, after first notifying the parent or legal guardian that such notification will be made)):

~~((a)) (i) A violent offense as defined in RCW 9.94A.030;~~

~~((b)) (ii) A sex offense as defined in RCW 9.94A.030;~~

~~((c) Inhaling toxic fumes under chapter 9.47A RCW;~~

~~(d) A controlled substances violation under chapter 69.50 RCW;~~

~~(e) A liquor violation under RCW 66.44.270; and~~

~~(f) Any crime under chapters 9A.41, 9A.36, 9A.40, 9A.46, and 9A.48 RCW.~~

(2) The principal must provide the information received under subsection (1) of this section to every teacher of any student who qualifies under subsection (1) of this section and 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. The principal must provide the information to teachers and other personnel based on any written records that the principal maintains or receives from a juvenile court administrator or a law enforcement agency regarding the student.))

(iii) Any crime under chapter 9A.41 RCW; or

(iv) Unlawful possession or delivery, or both, of a controlled substance in violation of chapter 69.50 RCW;

(b) Are twenty-one years of age or younger; and

(c) Have not received a high school diploma or its equivalent.

(2)(a) The court must provide written notification of the juvenile court adjudication or adult criminal court conviction of a person described in

subsection (1) of this section to the designated recipient of the school where the person:

(i) Was enrolled prior to adjudication or conviction; or

(ii) Has expressed an intention to enroll following adjudication or conviction.

(b) No notification is required if the person described in subsection (1) of this section is between eighteen and twenty-one years of age and:

(i) The person's prior or intended enrollment information cannot be obtained; or

(ii) The person asserts no intention of enrolling in an educational program.

(3) Any information received by a ((principal or school personnel)) designated recipient under this section is ((confidential)) exempt from disclosure under chapter 42.56 RCW 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.

(4) For the purposes of this section, "designated recipient" means: (a) The superintendent of the school district, or his or her designee, of a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW; (b) the administrator of a charter public school governed by chapter 28A.710 RCW; or (c) the administrator of a private school approved under chapter 28A.195 RCW.

Sec. 7. RCW 13.40.215 and 1999 c 198 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest ((possible)) practicable date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to the following:

(i) The chief of police of the city, if any, in which the juvenile will reside; and

(ii) The sheriff of the county in which the juvenile will reside((; and

((iii) The approved private schools and the common school district board of directors of the district in which the juvenile intends to reside or the approved private school or public school district in which the juvenile last attended school, whichever is appropriate, except when it has been determined by the department that the juvenile is twenty-one years old or will be in the community for less than seven consecutive days on approved leave and will not be attending school during that time)).

(b) ((After July 25, 1999, the department shall send a written notice to approved private and public schools under the same conditions identified in subsection (1)(a)(iii) of this section when a juvenile adjudicated of any offense is transferred to a community residential facility, discharged, paroled, released, or granted a leave.)) (i) Except as provided in subsection (2) of this section, at the earliest practicable date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of an individual who is found to have committed a violent offense or a sex offense, is twenty-one years

of age or younger, and has not received a high school diploma or its equivalent, to the designated recipient of the school where the juvenile either: (A) Was enrolled prior to incarceration or detention; or (B) has expressed an intention to enroll following his or her release. This notice must also include the restrictions described in subsection (5) of this section.

(ii) The community residential facility shall provide written notice of the offender's criminal history to the designated recipient of any school that the offender attends while residing at the community residential facility and to any employer that employs the offender while residing at the community residential facility.

(iii) As used in this subsection, "designated recipient" means: (A) The superintendent of the school district, or his or her designee, of a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW; (B) the administrator of a charter public school governed by chapter 28A.710 RCW; or (C) the administrator of a private school approved under chapter 28A.195 RCW.

(c) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific juvenile:

(i) The victim of the offense for which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the juvenile in any court proceedings involving the offense; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the juvenile. The notice to the chief of police or the sheriff shall include the identity of the juvenile, the residence where the juvenile will reside, the identity of the person, if any, responsible for supervising the juvenile, and the time period of any authorized leave.

(d) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical furloughs.

(e) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2)(a) If a juvenile found to have committed a violent offense, a sex offense, or stalking escapes from a facility of the department, the secretary shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the juvenile resided immediately before the juvenile's arrest. If previously requested, the secretary shall also notify the witnesses and the victim of the offense which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide. If the juvenile is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(b) The secretary may authorize a leave, for a juvenile found to have committed a violent offense, a sex offense, or stalking, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may

authorize a leave, which shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. Prior to the commencement of an emergency or medical leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will be during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave. If previously requested, the department shall also notify the witnesses and victim of the offense which the juvenile was found to have committed or the victim's next of kin if the offense was a homicide.

In case of an emergency or medical leave the secretary may waive all or any portion of the requirements for leaves pursuant to RCW 13.40.205 (2)(a), (3), (4), and (5).

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The secretary shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) Upon discharge, parole, transfer to a community residential facility, or other authorized leave or release, a convicted juvenile sex offender shall not attend a public or approved private elementary, middle, or high school that is attended by a victim or a sibling of a victim of the sex offender. The parents or legal guardians of the convicted juvenile sex offender shall be responsible for transportation or other costs associated with or required by the sex offender's change in school that otherwise would be paid by a school district. ~~((Upon discharge, parole, transfer to a community residential facility, or other authorized leave or release of a convicted juvenile sex offender, the secretary shall send written notice of the discharge, parole, or other authorized leave or release and the requirements of this subsection to the common school district board of directors of the district in which the sex offender intends to reside or the district in which the sex offender last attended school, whichever is appropriate. The secretary shall send a similar notice to any approved private school the juvenile will attend, if known, or if unknown, to the approved private schools within the district the juvenile resides or intends to reside.))~~

(6) For purposes of this section the following terms have the following meanings:

- (a) "Violent offense" means a violent offense under RCW 9.94A.030;
- (b) "Sex offense" means a sex offense under RCW 9.94A.030;
- (c) "Stalking" means the crime of stalking as defined in RCW 9A.46.110;
- (d) "Next of kin" means a person's spouse, parents, siblings, and children.

Sec. 8. RCW 28A.225.330 and 2013 c 182 s 10 are each amended to read as follows:

(1) When enrolling a student who has attended school in another school district, the school enrolling the student may request the parent and the student to briefly indicate in writing whether or not the student has:

- (a) Any history of placement in special educational programs;
- (b) Any past, current, or pending disciplinary action;

- (c) Any history of violent behavior, or behavior listed in RCW 13.04.155;
- (d) Any unpaid fines or fees imposed by other schools; and
- (e) Any health conditions affecting the student's educational needs.

(2) The school enrolling the student shall request ~~((the school the student previously attended to send))~~ the student's permanent record including records of disciplinary action, history of violent behavior or behavior listed in RCW 13.04.155, attendance, immunization records, and academic performance from the school the student previously attended. If the student has not paid a fine or fee under RCW 28A.635.060, or tuition, fees, or fines at approved private schools the school may withhold the student's official transcript, but shall transmit information about the student's academic performance, special placement, immunization records, records of disciplinary action, and history of violent behavior or behavior listed in RCW 13.04.155. If the official transcript is not sent due to unpaid tuition, fees, or fines, the enrolling school shall notify both the student and parent or guardian that the official transcript will not be sent until the obligation is met, and failure to have an official transcript may result in exclusion from extracurricular activities or failure to graduate.

(3) Upon request, school districts shall furnish a set of unofficial educational records to a parent or guardian of a student who is transferring out of state and who meets the definition of a child of a military family in transition under Article II of RCW 28A.705.010. School districts may charge the parent or guardian the actual cost of providing the copies of the records.

(4) If information is requested under subsection (2) of this section, the information shall be transmitted within two school days after receiving the request and the records shall be sent as soon as possible. The records of a student who meets the definition of a child of a military family in transition under Article II of RCW 28A.705.010 shall be sent within ten days after receiving the request. Any school district or district employee who releases the information in compliance with this section is immune from civil liability for damages unless it is shown that the school district employee acted with gross negligence or in bad faith. The professional educator standards board shall provide by rule for the discipline under chapter 28A.410 RCW of a school principal or other chief administrator of a public school building who fails to make a good faith effort to assure compliance with this subsection.

(5) Any school district or district employee who releases the information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith.

~~(6) ((When a school receives information under this section or RCW 13.40.215 that a student has a history of disciplinary actions, criminal or violent behavior, or other behavior that indicates the student could be a threat to the safety of educational staff or other students, the school shall provide this information to the student's teachers and security personnel.~~

~~(7))~~ A school may not prevent a student who is dependent pursuant to chapter 13.34 RCW from enrolling if there is incomplete information as enumerated in subsection (1) of this section during the ten business days that the department of social and health services has to obtain that information under RCW 74.13.631. In addition, upon enrollment of a student who is dependent pursuant to chapter 13.34 RCW, the school district must make reasonable efforts

to obtain and assess that child's educational history in order to meet the child's unique needs within two business days.

Sec. 9. RCW 72.09.730 and 2011 c 107 s 1 are each amended to read as follows:

(1) ~~((At the earliest possible date and in no event later than thirty days before))~~ The provisions of this section apply only to an offender ((is)) released from confinement((; the department shall provide notice to the school district board of directors of the district in which the offender last attended school if the offender)) who:

(a) Was convicted of a violent offense or sex offense as those terms are defined in RCW 9.94A.030;

(b) Is twenty-one years of age or younger at the time of release(;

~~Has been convicted of a violent offense, a sex offense, or stalking);~~ and

(c) ~~((Last attended))~~ Has not received a high school ((in this state)) diploma or its equivalent.

(2) At the earliest practicable date, and in no event later than thirty days before release from confinement, the department must provide written notification of the release of an offender described in subsection (1) of this section to the designated recipient of the school where the offender:

(a) Was enrolled prior to incarceration or detention; or

(b) Has expressed an intention to enroll following his or her release.

(3) If after providing notification as required under subsection (2) of this section, the release of an offender described in subsection (1) of this section is delayed, the department must inform the designated recipient of the modified release date.

(4) This section applies whenever an offender is being released from total confinement, regardless if the release is to parole, community custody, work release placement, or furlough.

(5) For the purposes of this section, "designated recipient" means: (a) The superintendent of the school district, or his or her designee, of a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW; (b) the administrator of a charter public school governed by chapter 28A.710 RCW; or (c) the administrator of a private school approved under chapter 28A.195 RCW.

NEW SECTION. Sec. 10. A new section is added to chapter 42.56 RCW to read as follows:

Information received by a school district superintendent, a designee of the superintendent, or a principal pursuant to RCW 28A.225.330, 9A.44.138, 13.04.155, 13.40.215, or 72.09.730 is exempt from disclosure under this chapter.

Passed by the House March 9, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 168

[Engrossed Substitute House Bill 1622]

DROUGHTS--DEPARTMENT OF ECOLOGY

AN ACT Relating to drought preparedness and response; amending RCW 43.83B.400, 43.83B.405, 43.83B.410, 43.83B.415, and 43.83B.430; adding new sections to chapter 43.83B RCW; decodifying RCW 43.83B.005, 43.83B.200, 43.83B.210, 43.83B.300, 43.83B.345, 43.83B.360, 43.83B.380, and 43.83B.385; repealing RCW 43.83B.220 and 43.83B.336; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.83B RCW to read as follows:

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

- (1) "Department" means the department of ecology.
- (2) "Drought condition" means that the water supply for a geographic area, or for a significant portion of a geographic area, is below seventy-five percent of normal and the water shortage is likely to create undue hardships for water users or the environment.

(3) "Normal" water supply, for the purpose of determining drought conditions, means the median amount of water available to a geographical area, relative to the most recent thirty-year base period used to define climate normals.

Sec. 2. RCW 43.83B.400 and 1989 c 171 s 1 are each amended to read as follows:

~~((It is the intent of) The legislature ((to provide emergency powers to the department of ecology to enable it to take actions, in a timely and expeditious manner, that are designed to alleviate hardships and reduce burdens on various water users and uses arising from drought conditions. As used in this chapter, "drought condition" means that the water supply for a geographical area or for a significant portion of a geographical area is below seventy-five percent of normal and the water shortage is likely to create undue hardships for various water uses and users.)) recognizes that drought and water shortages can place a significant hardship on Washington communities, farms, and the natural environment. Rising temperatures due to climate change may cause water supply shortages to be more frequent and severe in the future. Therefore, the ability to respond to drought and water shortage emergencies is critical to the long-term prosperity of our state. It is the intent of the legislature to provide the department with the authority to effectively and efficiently take actions when a drought emergency occurs to alleviate hardship on water users and our natural environment.~~

The legislature also recognizes that effective emergency drought response is predicated on building resiliency and preparedness before water shortages occur. Therefore, it is also the intent of the legislature that the department assist water users by supporting measures to strengthen the resiliency and preparedness of water users to drought conditions in the long term.

Sec. 3. RCW 43.83B.405 and 1989 c 171 s 2 are each amended to read as follows:

- (1) Whenever it appears to the department, based on the definitions of drought condition and normal water supply set forth in section 1 of this act, that

drought conditions may develop, the department may issue a drought advisory. The drought advisory should seek to increase the awareness and readiness of affected water users and may recommend voluntary actions to alleviate drought impacts.

(2)(a) Whenever it appears to the department (~~(of ecology)~~), based on the definitions of drought condition and normal water supply set forth in section 1 of this act, that a drought condition either exists or is forecast to occur within the state or portions thereof, the department (~~(of ecology)~~) is authorized to issue orders of drought emergency, pursuant to adopted rules (~~(previously adopted)~~), to implement the powers as set forth in RCW 43.83B.410 through 43.83B.420. (~~The department shall, immediately upon the issuance of an order under this section, cause said order to be published in newspapers of general circulation in the areas of the state to which the order relates.~~)

(b) Prior to the issuance of an order of drought emergency, the department shall (~~(a)~~):

(i) Consult with (~~(and obtain the views of)~~) the federal and state government entities identified in the drought contingency plan periodically revised by the department pursuant to (~~RCW 43.83B.410(4)~~), and

(~~b~~)) section 7 of this act and consult with affected federally recognized tribes:

(ii) Consider input from local water users, including nursery and landscape professionals, in the determination of undue hardship under section 1(2) of this act; and

(iii) Obtain the written approval of the governor.

(c) Upon issuance of an order of drought emergency, the department shall notify the public of the order consistent with rules adopted by the department.

(d) Orders of drought emergency issued under (~~(this section)~~) (a) of this subsection shall be deemed orders for the purposes of chapter 34.05 RCW.

(e) A person may petition the department to declare a drought emergency for the state or portions of the state. The department may review a petition, but any order of drought emergency issued after receipt of a petition must be based on the definitions of drought condition and normal water supply set forth in section 1 of this act, and must be issued according to the procedure set forth in this section. The department must not rely exclusively on information presented in a petition when determining whether to issue an order of drought emergency.

(~~(2)~~) (3)(a) Any order issued under subsection (~~(1)~~) (2) of this section shall contain a termination date for the order. The termination date shall be not later than one calendar year from the date the order is issued. Although the department may, with the written approval of the governor, change the termination date by amending the order, no such amendment or series of amendments may have the effect of extending its termination to a date which is later than two calendar years after the issuance of the order.

(~~(3)~~) (b) The provisions of (~~(subsection (2) of)~~) this section do not preclude the issuance of more than one order under subsection (~~(1)~~) (2) of this section for different areas of the state, or sequentially for the same area, as the need arises (~~(for such an order or orders)~~).

Sec. 4. RCW 43.83B.410 and 1989 c 171 s 3 are each amended to read as follows:

Upon the issuance of an order of drought emergency under RCW 43.83B.405(2), the department ~~((of ecology is empowered to))~~ may:

(1)(a) Authorize emergency withdrawal of public surface and ground waters, including dead storage within reservoirs, on a temporary basis and authorize temporary or permanent associated physical works ~~((which may be either temporary or permanent))~~. The department shall prioritize the approval of emergency withdrawal authorizations in order to address those most affected by the water deficit to ensure the survival of irrigated crops, the state's fisheries, and the provision of water for small communities.

~~(b)~~ The termination date for ~~((the authority to make such an))~~ emergency withdrawals may not be later than the termination date of the order issued under RCW 43.83B.405(2) ~~((under which the power to authorize the withdrawal is established))~~.

~~(c)~~ The department ~~((of ecology))~~ may issue ~~((such))~~ emergency withdrawal authorizations only when, after investigation and after providing appropriate federal, state, and local governmental bodies and affected federally recognized tribes an opportunity to comment, the following are found:

(i) The waters proposed for withdrawal are to be used for a beneficial use involving a previously established activity or purpose;

(ii) The previously established activity or purpose was furnished water through rights applicable to the use of a public body of water that cannot be exercised due to the lack of water arising from natural drought conditions; and

(iii) The proposed withdrawal will not reduce flows or levels below essential minimums necessary ~~((A))~~ to ~~((assure))~~ ensure the maintenance of fisheries requirements~~((;))~~ and ~~((B))~~ to protect federal and state interests including, among others, power generation, navigation, and existing water rights~~((;))~~.

~~((B))~~ ~~(d)~~ All emergency withdrawal authorizations issued under this section shall contain provisions that allow for termination of withdrawals, in whole or in part, whenever withdrawals will conflict with flows and levels as provided in ~~((A))~~ ~~(c)~~(iii) of this subsection. ~~((Domestic and irrigation uses of public surface and ground waters shall be given priority in determining "beneficial uses."))~~

~~(e)~~ As to water withdrawal and associated works authorized under this subsection, the requirements of chapter 43.21C RCW and public bidding requirements as otherwise provided by law are waived and inapplicable. All state and local agencies with authority to issue permits or other authorizations for such works shall, to the extent possible, expedite the processing of the permits or authorizations in keeping with the emergency nature of the requests and shall provide a decision to the applicant within fifteen calendar days of the date of application. All state departments or other agencies having jurisdiction over state or other public lands, if such lands are necessary to effectuate the withdrawal authorizations issued under this subsection, shall provide short-term easements or other appropriate property interest upon the payment of the fair market value. This mandate shall not apply to any lands of the state that are reserved for a special purpose or use that cannot properly be carried out if the property interest were conveyed;

(2) Approve a temporary change in purpose, place of use, ~~((or))~~ point of diversion, or point of withdrawal, consistent with existing state policy allowing

transfer or lease of waters between willing parties, as provided for in RCW 90.03.380, 90.03.390, and 90.44.100. However, compliance with any requirements of ~~((a))~~ notice of newspaper publication of these sections or ~~((b))~~ the state environmental policy act ~~((c))~~ under chapter 43.21C RCW, is not required when such changes are necessary to respond to drought conditions as determined by the department ~~((of ecology))~~. An approval of a temporary change of a water right as authorized under this subsection is not admissible as evidence in either supporting or contesting the validity of water claims in ~~((State of Washington, Department of Ecology v. Acquavella, Yakima county superior court number 77-2-01484-5))~~ a general adjudication under RCW 90.03.210 or any similar proceeding where the existence of a water right is at issue~~((:))~~;

(3) Employ additional persons for specified terms of time, consistent with the term of a drought condition, as are necessary to ensure the successful performance of the activities associated with implementing the emergency drought program of this chapter~~((:))~~;

(4) ~~((Revise the drought contingency plan previously developed by the department; and~~

~~((5))~~ Acquire needed emergency drought-related equipment;

(5) Enter into agreements with applicants receiving emergency withdrawal authorizations established under this section to recover the costs, or a portion thereof, of mitigation for emergency withdrawal authorizations, provided that mitigation is done to protect instream flows, federally regulated flows, or senior water rights. The department may establish the specifics of cost recovery by rule, based on the amount of water used in the emergency withdrawal, which shall not exceed the cost of mitigation; and

(6) Enter into interagency agreements as authorized under chapter 39.34 RCW to partner in emergency drought response.

Sec. 5. RCW 43.83B.415 and 1989 c 171 s 4 are each amended to read as follows:

(1)(a) The department ~~((of ecology is authorized to make loans, grants, or combinations of loans and grants from emergency agricultural water supply funds when necessary to provide water to alleviate emergency drought conditions in order to ensure the survival of irrigated crops and the state's fisheries. For the purposes of this section, "emergency agricultural water supply funds" means funds appropriated from the state emergency water projects revolving account created under RCW 43.83B.360. The department of ecology may make the loans, grants, or combinations of loans and grants as matching funds in any case where federal, local, or other funds have been made available on a matching basis. The department may make a loan of up to ninety percent of the total eligible project cost or combination loan and grant up to one hundred percent of the total single project cost. The grant portion for any single project shall not exceed twenty percent of the total project cost except that, for activities forecast to have fifty percent or less of normal seasonal water supply, the grant portion for any single project or entity shall not exceed forty percent of the total project cost. No single entity shall receive more than ten percent of the total emergency agricultural water supply funds available for drought relief. These funds shall not be used for nonagricultural drought relief purposes unless there are no other capital budget funds available for these purposes. In any biennium the total expenditures of emergency agricultural water supply funds for~~

~~nonagricultural drought relief purposes may not exceed ten percent of the total of such funds available during that biennium.~~

~~(2)(a) Except as provided in (b) of this subsection, after June 30, 1989, emergency agricultural water supply funds, including the repayment of loans and any accrued interest, shall not be used for any purpose except during drought conditions as determined under RCW 43.83B.400 and 43.83B.405.~~

~~(b) Emergency agricultural water supply funds may be used on a one-time basis for the development of procedures to be used by state governmental entities to implement the state's drought contingency plan.) is authorized to issue grants to eligible public entities to reduce current or future hardship caused by water unavailability stemming from drought conditions. No single entity may receive more than twenty-five percent of the total funds available. The department is not obligated to fund projects that do not provide sufficient benefit to alleviating hardship caused by drought or water unavailability. Projects must show substantial benefit from securing water supply, availability, or reliability relative to project costs.~~

~~(b) Except for projects for public water systems serving economically disadvantaged communities, the department may only fund up to fifty percent of the total eligible cost of the project. Money used by applicants as a cash match may not originate from other state funds.~~

~~(c) For the purposes of this chapter, eligible public entities include only:~~

~~(i) Counties, cities, and towns;~~

~~(ii) Water and sewer districts formed under chapter 57.02 RCW;~~

~~(iii) Public utility districts formed under chapter 54.04 RCW;~~

~~(iv) Port districts formed under chapter 53.04 RCW;~~

~~(v) Conservation districts formed under chapter 89.08 RCW;~~

~~(vi) Irrigation districts formed under chapter 87.03 RCW;~~

~~(vii) Watershed management partnerships formed under RCW 39.34.200;~~

~~and~~

~~(viii) Federally recognized tribes.~~

~~(2) Grants may be used to develop projects that enhance the ability of water users to effectively mitigate for the impacts of water unavailability arising from drought. Project applicants must demonstrate that the projects will increase their resiliency, preparedness, or ability to withstand drought conditions when they occur. Projects may include, but are not limited to:~~

~~(a) Creation of additional water storage;~~

~~(b) Implementation of source substitution projects;~~

~~(c) Development of alternative, backup, or emergency water supplies or interties;~~

~~(d) Installation of infrastructure or creation of educational programs that improve water conservation and efficiency or promote use of reclaimed water;~~

~~(e) Development or update of local drought contingency plans if not already required by state rules adopted under chapter 246-290 WAC;~~

~~(f) Mitigation of emergency withdrawals authorized under RCW 43.83B.410(1);~~

~~(g) Projects designed to mitigate for the impacts of water supply shortages on fish and wildlife; and~~

~~(h) Emergency construction or modification of water recreational facilities.~~

(3) During a drought emergency order pursuant to RCW 43.83B.405(2), the department shall prioritize funding for projects designed to relieve the immediate hardship caused by water unavailability.

Sec. 6. RCW 43.83B.430 and 2016 sp.s. c 36 s 933 are each amended to read as follows:

The state drought preparedness and response account is created in the state treasury. All receipts from appropriated funds designated for the account and ~~((funds transferred from the state emergency water projects revolving account))~~ all cost recovery revenues collected under RCW 43.83B.410(5) must be deposited into the account. Expenditures from the account may be used for drought preparedness and response activities under this chapter, including grants issued under RCW 43.83B.415. Moneys in the account may be spent only after appropriation. ~~((Expenditures from the account may be used only for drought preparedness. During the 2009-2011 fiscal biennium, the legislature may transfer from the state drought preparedness account to the state general fund such amounts as reflect the excess fund balance of the account. For the 2015-2017 fiscal biennium, the account may also accept revenue collected from emergency drought well-related water service contracts and may be used for drought response.))~~

NEW SECTION. Sec. 7. A new section is added to chapter 43.83B RCW to read as follows:

In collaboration with affected governments, the department may revise the existing drought contingency plan. The department shall notify interested parties of any updates to the drought contingency plan.

NEW SECTION. Sec. 8. A new section is added to chapter 43.83B RCW to read as follows:

(1) The department shall initiate a pilot program in a selected basin or basins to explore the cost, feasibility, and benefits of entering into long-term water right lease agreements. The purpose of the agreements is to alleviate water supply conditions that may affect public health and safety, drinking water supplies, agricultural activities, or fish and wildlife survival. Under this program, the department is authorized to negotiate and enter into contractual agreements before a drought emergency is declared under RCW 43.83B.405(2) that identify projects, measures, sources of water, and other resources that may be accessed during times of water shortage. Water right changes executed under agreement under this section are subject to the requirements of RCW 90.03.380.

(2) The department shall submit a report to the legislature by December 31, 2024, on the results of the pilot program. The department shall include a summary of the contracts entered into pursuant to this section and recommendations to the legislature.

(3) This section expires June 30, 2025.

NEW SECTION. Sec. 9. The following sections are decodified:

(1) RCW 43.83B.005 (Transfer of duties to the department of health);

(2) RCW 43.83B.200 (Deposit of proceeds from repayment of loans, interest, gifts, grants, etc., in state and local improvements revolving account-water supply facilities—Use);

(3) RCW 43.83B.210 (Loans or grants from department of ecology—Authorized—Limitations);

(4) RCW 43.83B.300 (Legislative findings—General obligation bonds authorized—Issuance, terms—Appropriation required);

(5) RCW 43.83B.345 (Rates of charges for water—Payment into bond redemption fund—Grants and loans—Contracts);

(6) RCW 43.83B.360 (State emergency water projects revolving account—Proceeds from sale of bonds);

(7) RCW 43.83B.380 (Appropriations to department of health—Authorized projects—Conditions); and

(8) RCW 43.83B.385 (Appropriations to department of ecology—Authorized projects—Findings).

NEW SECTION. **Sec. 10.** The following acts or parts of acts are each repealed:

(1) RCW 43.83B.220 (Contractual agreements) and 2009 c 549 s 5159, 1989 c 11 s 17, & 1975 1st ex.s. c 295 s 5; and

(2) RCW 43.83B.336 (Civil penalties).

Passed by the House March 7, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 169

[Engrossed House Bill 1694]

TENANTS--PAYMENTS IN INSTALLMENTS

AN ACT Relating to allowing tenants to pay certain sums in installments; amending RCW 43.31.605 and 59.18.253; and adding a new section to chapter 59.18 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 59.18 RCW to read as follows:

(1)(a) Except as provided in (b) of this subsection, upon receipt of a tenant's written request, a landlord must permit the tenant to pay any deposits, nonrefundable fees, and last month's rent in installments.

(b) A landlord is not required to permit a tenant to pay in installments if the total amount of the deposits and nonrefundable fees do not exceed twenty-five percent of the first full month's rent and payment of the last month's rent is not required at the inception of the tenancy.

(2) In all cases where premises are rented for a specified time that is three months or longer, the tenant may elect to pay any deposits, nonrefundable fees, and last month's rent in three consecutive and equal monthly installments, beginning at the inception of the tenancy. In all other cases, the tenant may elect to pay any deposits, nonrefundable fees, and last month's rent in two consecutive and equal monthly installments, beginning at the inception of the tenancy.

(3) A landlord may not impose any fee, charge any interest, or otherwise impose a cost on a tenant because a tenant elects to pay in installments. Installment payments are due at the same time as rent is due. All installment schedules must be in writing and signed by the landlord and the tenant.

(4)(a) A fee or deposit to hold a dwelling unit or secure that the prospective tenant will move into a dwelling unit, as authorized under RCW 59.18.253, shall not be considered a deposit or nonrefundable fee for purposes of this section.

(b) A landlord may not request a fee or deposit to hold a dwelling unit or secure that the prospective tenant will move into a dwelling unit in excess of twenty-five percent of the first month's rent.

(5) Beginning January 1, 2021, any landlord who refuses to permit a tenant to pay any deposits, nonrefundable fees, and last month's rent in installments upon the tenant's written request as described in subsection (1) of this section is subject to a statutory penalty of one month's rent and reasonable attorneys' fees payable to the tenant.

(6)(a) In any application seeking relief pursuant RCW 59.18.283(3), the court shall issue a finding as to whether the tenant is low-income, limited resourced, or experiencing hardship to determine if the landlord would be eligible for reimbursement through the landlord mitigation program account established within RCW 43.31.605(1)(c). In making this finding, the court may include an inquiry regarding the tenant's income relative to area median income, household composition, any extenuating circumstances, or other factors, and may rely on written declarations or oral testimony by the parties at the hearing.

(b) After a finding that the tenant is low-income, limited resourced, or experiencing hardship, the court may issue an order: (i) Finding that the landlord is eligible to receive on behalf of the tenant and may apply for reimbursement from the landlord mitigation program; and (ii) directing the clerk to remit, without further order of the court, any future payments made by the tenant in order to reimburse the department of commerce pursuant to RCW 43.31.605(1)(c)(iii). Nothing in this subsection shall be deemed to obligate the department of commerce to provide assistance in claim reimbursement through the landlord mitigation program if there are not sufficient funds.

(c) Upon payment by the department of commerce to the landlord for the remaining or total amount of the judgment, as applicable, the judgment is satisfied and the landlord shall file a satisfaction of judgment with the court.

Sec. 2. RCW 43.31.605 and 2019 c 356 s 12 are each amended to read as follows:

(1)(a) Subject to the availability of funds for this purpose, the landlord mitigation program is created and administered by the department. The department shall have such rule-making authority as the department deems necessary to administer the program.

(b) The following types of claims related to landlord mitigation for renting private market rental units to low-income tenants using a housing subsidy program are eligible for reimbursement from the landlord mitigation program account:

(i) Up to one thousand dollars for improvements identified in RCW 59.18.255(1)(a). In order to be eligible for reimbursement under this subsection (1)(b)(i), the landlord must pay for the first five hundred dollars for improvements, and rent to the tenant whose housing subsidy program was conditioned on the real property passing inspection. Reimbursement under this subsection (1)(b)(i) may also include up to fourteen days of lost rental income from the date of offer of housing to the applicant whose housing subsidy

program was conditioned on the real property passing inspection until move in by that applicant;

(ii) Reimbursement for damages as reflected in a judgment obtained against the tenant through either an unlawful detainer proceeding, or through a civil action in a court of competent jurisdiction after a hearing;

(iii) Reimbursement for damages established pursuant to subsection (2) of this section; and

(iv) Reimbursement for unpaid rent and unpaid utilities, provided that the landlord can evidence it to the department's satisfaction.

(c) Claims related to landlord mitigation for an unpaid judgment for rent, unpaid judgments resulting from the tenant's failure to comply with an installment payment agreement identified in section 1 of this act, late fees, attorneys' fees, and costs after a court order pursuant to RCW 59.18.410(3), including any unpaid portion of the judgment after the tenant defaults on the payment plan pursuant to RCW 59.18.410(3)(c), are eligible for reimbursement from the landlord mitigation program account and are exempt from any postjudgment interest required under RCW 4.56.110. Any claim for reimbursement under this subsection (1)(c) is not an entitlement.

(i) The department shall provide for a form on its web site for tenants and landlords to apply for reimbursement funds for the landlord pursuant to this subsection (1)(c).

(ii) The form must include: (A) Space for the landlord and tenant to provide names, mailing addresses, phone numbers, date of birth for the tenant, and any other identifying information necessary for the department to process payment; (B) the landlord's statewide vendor identification number and how to obtain one; (C) name and address to whom payment must be made; (D) the amount of the judgment with instructions to include any other supporting documentation the department may need to process payment; (E) instructions for how the tenant is to reimburse the department under (c)(iii) of this subsection; (F) a description of the consequences if the tenant does not reimburse the department as provided in this subsection (1)(c); (G) a signature line for the landlord and tenant to confirm that they have read and understood the contents of the form and program; and (H) any other information necessary for the operation of the program. If the tenant has not signed the form after the landlord has made good faith efforts to obtain the tenant's signature, the landlord may solely submit the form but must attest to the amount of money owed and sign the form under penalty of perjury.

(iii) When a landlord has been reimbursed pursuant to this subsection (1)(c), the tenant for whom payment was made shall reimburse the department by depositing the amount disbursed from the landlord mitigation program account into the court registry of the superior court in which the judgment was entered. The tenant or other interested party may seek an ex parte order of the court under the unlawful detainer action to order such funds to be disbursed by the court. Upon entry of the order, the court clerk shall disburse the funds and include a case number with any payment issued to the department. If directed by the court, a clerk shall issue any payments made by a tenant to the department without further court order.

(iv) The department may deny an application made by a tenant who has failed to reimburse the department for prior payments issued pursuant to this subsection (1)(c).

(v) With any disbursement from the account to the landlord, the department shall notify the tenant at the address provided within the application that a disbursement has been made to the landlord on the tenant's behalf and that failure to reimburse the account for the payment through the court registry may result in a denial of a future application to the account pursuant to this subsection (1)(c). The department may include any other additional information about how to reimburse the account it deems necessary to fully inform the tenant.

(vi) The department's duties with respect to obtaining reimbursement from the tenant to the account are limited to those specified within this subsection (1)(c).

(vii) If at any time funds do not exist in the landlord mitigation program account to reimburse claims submitted under this subsection (1)(c), the department must create and maintain a waitlist and distribute funds in the order the claims are received pursuant to subsection (6) of this section. Payment of any claims on the waitlist shall be made only from the landlord mitigation program account. The department shall not be civilly or criminally liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds for reimbursement.

(2) In order for a claim under subsection (1)(b)(iii) of this section to be eligible for reimbursement from the landlord mitigation program account, a landlord must:

(a) Have ensured that the rental property was inspected at the commencement of the tenancy by both the tenant and the landlord or landlord's agent and that a detailed written move-in property inspection report, as required in RCW 59.18.260, was prepared and signed by both the tenant and the landlord or landlord's agent;

(b) Make repairs and then apply for reimbursement to the department;

(c) Submit a claim on a form to be determined by the department, signed under penalty of perjury; and

(d) Submit to the department copies of the move-in property inspection report specified in (a) of this subsection and supporting materials including, but not limited to, before repair and after repair photographs, videos, copies of repair receipts for labor and materials, and such other documentation or information as the department may request.

(3) The department shall make reasonable efforts to review a claim within ten business days from the date it received properly submitted and complete claims to the satisfaction of the department. In reviewing a claim pursuant to subsection (1)(b) of this section, and determining eligibility for reimbursement, the department must receive documentation, acceptable to the department in its sole discretion, that the claim involves a private market rental unit rented to a low-income tenant who is using a housing subsidy program.

(4) Claims pursuant to subsection (1)(b) of this section related to a tenancy must total at least five hundred dollars in order for a claim to be eligible for reimbursement from the program. While claims or damages may exceed five thousand dollars, total reimbursement from the program may not exceed five thousand dollars per tenancy.

(5) Damages, beyond wear and tear, that are eligible for reimbursement include, but are not limited to: Interior wall gouges and holes; damage to doors and cabinets, including hardware; carpet stains or burns; cracked tiles or hard

surfaces; broken windows; damage to household fixtures such as disposal, toilet, sink, sink handle, ceiling fan, and lighting. Other property damages beyond normal wear and tear may also be eligible for reimbursement at the department's discretion.

(6) All reimbursements for eligible claims shall be made on a first-come, first-served basis, to the extent of available funds. The department shall use best efforts to notify the tenant of the amount and the reasons for any reimbursements made.

(7) The department, in its sole discretion, may inspect the property and the landlord's records related to a claim, including the use of a third-party inspector as needed to investigate fraud, to assist in making its claim review and determination of eligibility.

(8) A landlord in receipt of reimbursement from the program pursuant to subsection (1)(b) of this section is prohibited from:

(a) Taking legal action against the tenant for damages attributable to the same tenancy; or

(b) Pursuing collection, or authorizing another entity to pursue collection on the landlord's behalf, of a judgment against the tenant for damages attributable to the same tenancy.

(9) A landlord denied reimbursement under subsection (1)(b)(iii) of this section may seek to obtain a judgment from a court of competent jurisdiction and, if successful, may resubmit a claim for damages supported by the judgment, along with a certified copy of the judgment. The department may reimburse the landlord for that portion of such judgment that is based on damages reimbursable under the landlord mitigation program, subject to the limitations set forth in this section.

(10) Determinations regarding reimbursements shall be made by the department in its sole discretion.

(11) The department must establish a web site that advertises the landlord mitigation program, the availability of reimbursement from the landlord mitigation program account, and maintains or links to the agency rules and policies established pursuant to this section.

(12) Neither the state, the department, or persons acting on behalf of the department, while acting within the scope of their employment or agency, is liable to any person for any loss, damage, harm, or other consequence resulting directly or indirectly from the department's administration of the landlord mitigation program or determinations under this section.

(13)(a) A report to the appropriate committees of the legislature on the effectiveness of the program and recommended modifications shall be submitted to the governor and the appropriate committees of the legislature by January 1, 2021. In preparing the report, the department shall convene and solicit input from a group of stakeholders to include representatives of large multifamily housing property owners or managers, small rental housing owners in both rural and urban markets, a representative of tenant advocates, and a representative of the housing authorities.

(b) The report shall include discussion of the effectiveness of the program as well as the department's recommendations to improve the program, and shall include the following:

(i) The number of total claims and total amount reimbursed to landlords by the fund;

(ii) Any indices of fraud identified by the department;

(iii) Any reports by the department regarding inspections authorized by and conducted on behalf of the department;

(iv) An outline of the process to obtain reimbursement for improvements and for damages from the fund;

(v) An outline of the process to obtain reimbursement for lost rent due to the rental inspection and tenant screening process, together with the total amount reimbursed for such damages;

(vi) An evaluation of the feasibility for expanding the use of the mitigation fund to provide up to ninety-day no interest loans to landlords who have not received timely rental payments from a housing authority that is administering section 8 rental assistance;

(vii) Any other modifications and recommendations made by stakeholders to improve the effectiveness and applicability of the program.

(14) As used in this section:

(a) "Housing subsidy program" means a housing voucher as established under 42 U.S.C. Sec. 1437 as of January 1, 2018, or other housing subsidy program including, but not limited to, valid short-term or long-term federal, state, or local government, private nonprofit, or other assistance program in which the tenant's rent is paid either partially by the program and partially by the tenant, or completely by the program directly to the landlord;

(b) "Low-income" means income that does not exceed eighty percent of the median income for the standard metropolitan statistical area in which the private market rental unit is located; and

(c) "Private market rental unit" means any unit available for rent that is owned by an individual, corporation, limited liability company, nonprofit housing provider, or other entity structure, but does not include housing acquired, or constructed by a public housing agency under 42 U.S.C. Sec. 1437 as it existed on January 1, 2018.

Sec. 3. RCW 59.18.253 and 2011 c 132 s 12 are each amended to read as follows:

(1) It shall be unlawful for a landlord to require a fee or deposit from a prospective tenant for the privilege of being placed on a waiting list to be considered as a tenant for a dwelling unit.

(2) A landlord who charges a prospective tenant a fee or deposit to hold a dwelling unit or secure that the prospective tenant will move into a dwelling unit, after the dwelling unit has been offered to the prospective tenant, must provide the prospective tenant with a receipt for the fee or deposit, together with a written statement of the conditions, if any, under which the fee or deposit may be retained, immediately upon payment of the fee or deposit.

(3) A landlord may not request a fee or deposit to hold a dwelling or secure that the prospective tenant will move into the dwelling unit in excess of twenty-five percent of the first month's rent as described in section 1(4) of this act.

(4)(a) If the prospective tenant does occupy the dwelling unit, then the landlord must credit the amount of the fee or deposit to the tenant's first month's rent or to the tenant's security deposit. If the prospective tenant does not occupy the dwelling unit, then the landlord may keep up to the full amount of any fee or

deposit that was paid by the prospective tenant to secure the tenancy, so long as it is in accordance with the written statement of conditions furnished to the prospective tenant at the time the fee or deposit was charged.

(b) A fee or deposit to hold a dwelling unit or secure that the prospective tenant will move into a dwelling unit under this subsection does not include any cost charged by a landlord to use a tenant screening service or obtain background information on a prospective tenant.

(c) A portion of the fee or deposit may not be withheld if the dwelling unit fails a tenant-based rental assistance program inspection by a qualified inspector as defined in RCW 59.18.030. If the inspection does not occur within ten days from the date of collection of the fee or deposit or a longer period of time that the landlord and tenant may agree upon, the landlord may notify the tenant that the dwelling unit will no longer be held. The landlord shall promptly return the fee or deposit to the prospective tenant after the landlord is notified that the dwelling unit failed the inspection or the landlord has notified the tenant that the dwelling unit will no longer be held. The landlord complies with this section by promptly depositing the fee or deposit in the United States mail properly addressed with first-class postage prepaid.

~~((4))~~ (5) In any action brought for a violation of this section, a landlord may be liable for the amount of the fee or deposit charged. In addition, any landlord who violates this section may be liable to the prospective tenant for an amount not to exceed two times the fee or deposit. The prevailing party may also recover court costs and a reasonable attorneys' fee.

Passed by the House March 7, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 170

[House Bill 1841]

TRAINS--MINIMUM CREW SIZE

AN ACT Relating to establishing minimum crew size on certain trains; adding new sections to chapter 81.40 RCW; creating a new section; repealing RCW 81.40.010 and 81.40.035; prescribing penalties; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that adequate personnel are critical to ensuring railroad operational safety, security, and in the event of a hazardous material incident, support of first responder activities, as well as in the interest of the safety of passengers and the general public. Therefore, the legislature declares that this act regulating minimum railroad employee staffing to reduce risk to localities constitutes an exercise of the state's police power to protect and promote the health, safety, security, and welfare of the residents of the state by reducing the risk exposure to local communities and protecting environmentally sensitive and/or pristine lands and waterways.

NEW SECTION. Sec. 2. A new section is added to chapter 81.40 RCW to read as follows:

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

(1) "Class I" means a railroad carrier designated as a class I railroad by the United States surface transportation board and its subsidiaries or is owned and operated by entities whose combined total railroad operational ownership and controlling interest meets the United States surface transportation board designation as a class I railroad carrier.

(2) "Class III" means a railroad carrier designated as a class III railroad by the United States surface transportation board.

(3) "Commission" means the utilities and transportation commission created in chapter 80.01 RCW.

(4) "Crewmember" means a railroad operating craft employee who has been trained and meets the requirements and qualifications as determined by the federal railroad administration for a railroad operating service employee.

(5) "Other railroad carrier" means a railroad carrier that is not a class I carrier.

(6) "Railroad carrier" means a carrier of persons or property upon vehicles, other than streetcars, operated upon stationary rails, the route of which is principally outside incorporated cities and towns. "Railroad carrier" includes any officers and agents of the railroad carrier.

NEW SECTION. Sec. 3. A new section is added to chapter 81.40 RCW to read as follows:

(1) Except as provided in section 4 of this act, any person, corporation, company, or officer of the court operating any railroad, railway, or any part of any railroad or railway, in the state of Washington, and engaged, as a common carrier, in the transportation of freight or passengers, shall operate and manage all trains and switching assignments over its road with crews consisting of no less than two crewmembers.

(2) Class III railroad carriers operating on their roads while at a speed of twenty-five miles per hour or less are exempt from subsection (1) of this section.

NEW SECTION. Sec. 4. A new section is added to chapter 81.40 RCW to read as follows:

(1) On the effective date of this section, automatic waivers to the train crew size requirement in section 3 of this act shall be granted to other railroad carriers.

(2) Such automatic waivers will remain in effect until ordered by the commission.

(3) The commission must act to ensure that railroad carriers supplement trains entering Washington state with the requisite number of train crewmembers pursuant to this act, at the closest regular station stop or crew change point located in proximity to and adjacent with either side of the state border, having been established and in use by the carrier on January 1, 2020.

(4)(a) The commission may order railroad carriers to increase the number of railroad employees in areas of increased risk to the public, passengers, railroad employees, or the environment, or on specific trains, routes, or to switch assignments on their road with additional numbers of crewmembers, and may direct the placement of additional crewmembers, if it is determined that such an increase in staffing or the placement of additional crewmembers is necessary to protect the safety, health, and welfare of the public, passengers, or railroad

employees, to prevent harm to the environment or to address site specific safety or security hazards.

(b) In issuing such an order, the commission may consider relevant factors including, but not limited to, the volatility of the commodities being transported, train volume, risk mitigation measures, environmental and operating factors that impact vulnerabilities, risk exposure to passengers, the general public, railroad employees, communities, or the environment along the train route, security risks including sabotage or terrorism threat levels, a railroad carrier's prior history of accidents, compliance violations, operating practices, infrastructure investments including track and equipment maintenance issues or lack thereof, employee training and support programs, first responder access, and any other relevant factors in the interest of safety.

NEW SECTION. Sec. 5. A new section is added to chapter 81.40 RCW to read as follows:

(1) Pursuant to the enforcement of the provisions of this act, the highest priority and paramount obligation of the commission must be its duty to ensure the safety and protection of the public, passengers, railroad employees, communities, environment, and areas of cultural significance in the furtherance of the highest degree of safety in railroad transportation.

(2) Each train or engine run in violation of section 3 of this act constitutes a separate offense. However, section 3 of this act does not apply in the case of disability of one or more members of any train crew while out on the road between division terminals, or assigned to wrecking trains.

(3) Any person, corporation, company, or officer of the court operating any railroad, or part of any railroad or railway within the state of Washington, and engaged as a common carrier, in the transportation of freight or passengers, who violates any of the provisions of section 3 of this act may be subject to fines of not less than one thousand dollars and not more than one hundred thousand dollars for each offense, as determined by the commission through order.

(4) The commission may impose fines exceeding the provisions in subsection (3) of this section when a serious injury or fatality occurs involving a carrier's violation of this act. All relevant factors may be considered including, but not limited to, the class, assets, profitability, and operational safety record of the carrier, as well as deterrence in ascertaining an appropriate punitive penalty, as determined by the commission through order.

(5) It is the duty of the commission to enforce this section.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

(1) RCW 81.40.010 (Full train crews—Passenger—Safety review—Penalty—Enforcement) and 2003 c 53 s 386, 1992 c 102 s 1, & 1961 c 14 s 81.40.010; and

(2) RCW 81.40.035 (Freight train crews) and 1967 c 2 s 2.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person, entity, 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. 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.

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

Passed by the House March 10, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 27, 2020, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 27, 2020.

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

"I am returning herewith, without my approval as to Section 8, House Bill No. 1841 entitled:

"AN ACT Relating to establishing minimum crew size on certain trains."

This legislation establishes minimum crew size requirements for certain railroad carriers, with exceptions for class III carriers traveling under 25 mph. The bill authorizes the Utilities and Transportation Commission to issue monetary penalties for violations as well as establish higher crew minimums for high risk railroad carriers.

Section 8 makes this legislation effective immediately by declaring that the act is necessary for the immediate preservation of the public peace, health or safety, or support of state government and its existing public institutions.

However, given the complexity of this legislation, the Utilities and Transportation Commission needs time to engage stakeholders in a rule making process, which is necessary in order to implement the safety requirements of the bill.

For these reasons I have vetoed Section 8 of House Bill No. 1841.

With the exception of Section 8, House Bill No. 1841 is approved."

CHAPTER 171

[House Bill 2217]

COTTAGE FOOD PRODUCT LABELING--PERMIT NUMBER

AN ACT Relating to cottage food product labeling requirements; and amending RCW 69.22.020.

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

Sec. 1. RCW 69.22.020 and 2011 c 281 s 2 are each amended to read as follows:

(1) The director may adopt, by rule, requirements for cottage food operations. These requirements may include, but are not limited to:

(a) The application and renewal of permits under RCW 69.22.030;

(b) Inspections as provided under RCW 69.22.040;

(c) Sanitary procedures;

(d) Facility, equipment, and utensil requirements;

(e) Labeling specificity beyond the requirements of this section;

(f) Requirements for clean water sources and waste and wastewater disposal; and

(g) Requirements for washing and other hygienic practices.

(2) A cottage food operation must package and properly label for sale to the consumer any food it produces, and the food may not be repackaged, sold, or used as an ingredient in other foods by a food processing plant, or sold by a food service establishment.

(3) A cottage food operation must place on the label of any food it produces or packages, at a minimum, the following information:

(a) The name and ((address)) permit number issued under RCW 69.22.030 of the business of the cottage food operation;

(b) The name of the cottage food product;

(c) The ingredients of the cottage food product, in descending order of predominance by weight;

(d) The net weight or net volume of the cottage food product;

(e) Allergen labeling as specified by the director in rule;

(f) If any nutritional claim is made, appropriate labeling as specified by the director in rule;

(g) The following statement printed in at least the equivalent of eleven-point font size in a color that provides a clear contrast to the background: "Made in a home kitchen that has not been subject to standard inspection criteria."

(4) Cottage food products may only be sold directly to the consumer and may not be sold by internet, mail order, or for retail sale outside the state.

(5) Cottage food products must be stored only in the primary domestic residence.

Passed by the House February 12, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 172

[Substitute House Bill 2250]

COASTAL COMMERCIAL DUNGENESS CRAB POT REMOVAL PROGRAM--EXPANSION

AN ACT Relating to coastal crab derelict gear recovery; and amending RCW 77.70.500.

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

Sec. 1. RCW 77.70.500 and 2010 c 193 s 3 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 and during that

portion of the coastal Dungeness crab fishery that occurs from May 1st through September 15th.

(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.

(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; 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 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.

(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.

Passed by the House February 12, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 173

[Substitute House Bill 2343]

URBAN HOUSING SUPPLY--VARIOUS PROVISIONS

AN ACT Relating to urban housing supply; amending RCW 36.70A.600, 43.21C.495, 36.70A.620, and 36.70A.610; reenacting and amending RCW 36.70A.030; and creating a new section.

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

Sec. 1. RCW 36.70A.600 and 2019 c 348 s 1 are each amended to read as follows:

(1) A city planning pursuant to RCW 36.70A.040 is encouraged to take the following actions in order to increase its residential building capacity:

(a) Authorize development in one or more areas of not fewer than five hundred acres that include at least one train station served by commuter rail or light rail with an average of at least fifty residential units per acre that require no more than an average of one on-site parking space per two bedrooms in the portions of multifamily zones that are located within the areas;

(b) Authorize development in one or more areas of not fewer than ~~((five))~~ two hundred acres in cities with a population greater than forty thousand or not fewer than ~~((two))~~ one hundred ~~((fifty))~~ acres in cities with a population less than forty thousand that include at least one bus stop served by scheduled bus service of at least four times per hour for twelve or more hours per day with an average of at least twenty-five residential units per acre that require no more than an average of one on-site parking space per two bedrooms in portions of the multifamily zones that are located within the areas;

(c) Authorize at least one duplex, triplex, quadplex, sixplex, stacked flat, townhouse, or courtyard apartment on each parcel in one or more zoning districts that permit single-family residences unless a city documents a specific infrastructure of physical constraint that would make this requirement unfeasible for a particular parcel;

(d) Authorize a duplex, triplex, quadplex, sixplex, stacked flat, townhouse, or courtyard apartment on one or more parcels for which they are not currently authorized;

(e) Authorize cluster zoning or lot size averaging in all zoning districts that permit single-family residences;

~~((e) Authorize attached accessory dwelling units on all parcels containing single-family homes where the lot is at least three thousand two hundred square feet in size, and permit both attached and detached accessory dwelling units on all parcels containing single-family homes, provided lots are at least four thousand three hundred fifty six square feet in size. Qualifying city ordinances or regulations may not provide for on-site parking requirements, owner occupancy requirements, or square footage limitations below one thousand square feet for the accessory dwelling unit, and must not prohibit the separate rental or sale of accessory dwelling units and the primary residence. Cities must set applicable impact fees at no more than the projected impact of the accessory dwelling unit. To allow local flexibility, other than these factors, accessory dwelling units may be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority, and must follow all applicable state and federal laws and local ordinances;))~~

(f) Adopt a subarea plan pursuant to RCW 43.21C.420;

(g) Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii), except that an environmental impact statement pursuant to RCW 43.21C.030 is not required for such an action;

(h) Adopt increases in categorical exemptions pursuant to RCW 43.21C.229 for residential or mixed-use development;

(i) Adopt a form-based code in one or more zoning districts that permit residential uses. "Form-based code" means a land development regulation that uses physical form, rather than separation of use, as the organizing principle for the code;

(j) Authorize a duplex on each corner lot within all zoning districts that permit single-family residences;

(k) Allow for the division or redivision of land into the maximum number of lots through the short subdivision process provided in chapter 58.17 RCW; ~~((and))~~

(l) Authorize a minimum net density of six dwelling units per acre in all residential zones, where the residential development capacity will increase within the city. For purposes of this subsection, the calculation of net density does not include the square footage of areas that are otherwise prohibited from development, such as critical areas, the area of buffers around critical areas, and the area of roads and similar features;

(m) Create one or more zoning districts of medium density in which individual lots may be no larger than three thousand five hundred square feet and single-family residences may be no larger than one thousand two hundred square feet;

(n) Authorize accessory dwelling units in one or more zoning districts in which they are currently prohibited;

(o) Remove minimum residential parking requirements related to accessory dwelling units;

(p) Remove owner occupancy requirements related to accessory dwelling units;

(q) Adopt new square footage requirements related to accessory dwelling units that are less restrictive than existing square footage requirements related to accessory dwelling units;

(r) Adopt maximum allowable exemption levels in WAC 197-11-800(1) as it existed on the effective date of this section, or such subsequent date as may be provided by the department of ecology by rule, consistent with the purposes of this section;

(s) Adopt standards for administrative approval of final plats pursuant to RCW 58.17.100;

(t) Adopt ordinances authorizing administrative review of preliminary plats pursuant to RCW 58.17.095;

(u) Adopt other permit process improvements where it is demonstrated that the code, development regulation, or ordinance changes will result in a more efficient permit process for customers;

(v) Update use matrices and allowable use tables that eliminate conditional use permits and administrative conditional use permits for all housing types, including single-family homes, townhomes, multifamily housing, low-income housing, and senior housing, but excluding essential public facilities;

(w) Allow off-street parking to compensate for lack of on-street parking when private roads are utilized or a parking demand study shows that less parking is required for the project;

(x) Develop a local program that offers homeowners a combination of financing, design, permitting, or construction support to build accessory dwelling units. A city may condition this program on a requirement to provide the unit for affordable home ownership or rent the accessory dwelling unit for a defined period of time to either tenants in a housing subsidy program as defined in RCW 43.31.605(14) or to tenants whose income is less than eighty percent of the city or county median family income. If the city includes an affordability requirement under the program, it must provide additional incentives, such as:

(i) Density bonuses;

(ii) Height and bulk bonuses;

(iii) Fee waivers or exemptions;

(iv) Parking reductions; or

(v) Expedited permitting; and

(y) Develop a local program that offers homeowners a combination of financing, design, permitting, or construction support to convert a single-family home into a duplex, triplex, or quadplex where those housing types are authorized. A local government may condition this program on a requirement to provide a certain number of units for affordable home ownership or to rent a certain number of the newly created units for a defined period of time to either tenants in a housing subsidy program as defined in RCW 43.31.605(14) or to tenants whose income is less than eighty percent of the city or county median family income. If the city includes an affordability requirement, it must provide additional incentives, such as:

(i) Density bonuses;

(ii) Height and bulk bonuses;

(iii) Fee waivers or exemptions;

(iv) Parking reductions; or

(v) Expedited permitting.

(2) A city planning pursuant to RCW 36.70A.040 may adopt a housing action plan as described in this subsection. The goal of any such housing plan must be to encourage construction of additional affordable and market rate housing in a greater variety of housing types and at prices that are accessible to a greater variety of incomes, including strategies aimed at the for-profit single-family home market. A housing action plan may utilize data compiled pursuant to RCW 36.70A.610. The housing action plan should:

(a) Quantify existing and projected housing needs for all income levels, including extremely low-income households, with documentation of housing and household characteristics, and cost-burdened households;

(b) Develop strategies to increase the supply of housing, and variety of housing types, needed to serve the housing needs identified in (a) of this subsection;

(c) Analyze population and employment trends, with documentation of projections;

(d) Consider strategies to minimize displacement of low-income residents resulting from redevelopment;

(e) Review and evaluate the current housing element adopted pursuant to RCW 36.70A.070, including an evaluation of success in attaining planned housing types and units, achievement of goals and policies, and implementation of the schedule of programs and actions;

(f) Provide for participation and input from community members, community groups, local builders, local realtors, nonprofit housing advocates, and local religious groups; and

(g) Include a schedule of programs and actions to implement the recommendations of the housing action plan.

(3) If adopted by April 1, ~~((2021))~~ 2023, ordinances, amendments to development regulations, and other nonproject actions taken by a city to implement the actions specified in subsection (1) of this section, with the exception of the action specified in subsection (1)(f) of this section, are not subject to administrative or judicial appeal under chapter 43.21C RCW.

(4) Any action taken by a city prior to April 1, ~~((2021))~~ 2023, to amend their comprehensive plan, or adopt or amend ordinances or development regulations, solely to enact provisions under subsection (1) of this section is not subject to legal challenge under this chapter.

(5) In taking action under subsection (1) of this section, cities are encouraged to utilize strategies that increase residential building capacity in areas with frequent transit service and with the transportation and utility infrastructure that supports the additional residential building capacity.

(6) A city ~~((with a population over twenty thousand))~~ that is planning to take at least two actions under subsection (1) of this section, and that action will occur between July 28, 2019, and April 1, 2021, is eligible to apply to the department for planning grant assistance of up to one hundred thousand dollars, subject to the availability of funds appropriated for that purpose. The department shall develop grant criteria to ensure that grant funds awarded are proportionate to the level of effort proposed by a city, and the potential increase in housing supply or regulatory streamlining that could be achieved. Funding may be provided in advance of, and to support, adoption of policies or ordinances consistent with this section. A city can request, and the department may award, more than one hundred thousand dollars for applications that demonstrate extraordinary potential to increase housing supply or regulatory streamlining.

(7) A city seeking to develop a housing action plan under subsection (2) of this section is eligible to apply to the department for up to one hundred thousand dollars.

(8) The department shall establish grant award amounts under subsections (6) and (7) of this section based on the expected number of cities that will seek grant assistance, to ensure that all cities can receive some level of grant support. If funding capacity allows, the department may consider accepting and funding applications from cities with a population of less than twenty thousand if the actions proposed in the application will create a significant amount of housing capacity or regulatory streamlining and are consistent with the actions in this section.

(9) In implementing chapter 348, Laws of 2019, cities are encouraged to prioritize the creation of affordable, inclusive neighborhoods and to consider the risk of residential displacement, particularly in neighborhoods with communities at high risk of displacement.

Sec. 2. RCW 43.21C.495 and 2019 c 348 s 4 are each amended to read as follows:

If adopted by April 1, ((2024)) 2023, amendments to development regulations and other nonproject actions taken by a city to implement RCW 36.70A.600 (1) or (4), with the exception of the action specified in RCW 36.70A.600(1)(f), are not subject to administrative or judicial appeals under this chapter.

Sec. 3. RCW 36.70A.620 and 2019 c 348 s 5 are each amended to read as follows:

In counties and cities planning under RCW 36.70A.040, minimum residential parking requirements mandated by municipal zoning ordinances for housing units constructed after July 1, 2019, are subject to the following requirements:

(1) For housing units that are affordable to very low-income or extremely low-income individuals and that are located within one-quarter mile of a transit stop that receives transit service at least ((four)) two times per hour for twelve or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or .75 space per unit. A city may require a developer to record a covenant that prohibits the rental of a unit subject to this parking restriction for any purpose other than providing for housing for very low-income or extremely low-income individuals. The covenant must address price restrictions and household income limits and policies if the property is converted to a use other than for low-income housing. A city may establish a requirement for the provision of more than one parking space per bedroom or .75 space per unit if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit.

(2) For housing units that are specifically for seniors or people with disabilities, that are located within one-quarter mile of a transit stop that receives transit service at least four times per hour for twelve or more hours per day, a city may not impose minimum residential parking requirements for the residents of such housing units, subject to the exceptions provided in this subsection. A city may establish parking requirements for staff and visitors of such housing units. A city may establish a requirement for the provision of one or more parking space per bedroom if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit. A city may require a developer to record a covenant that prohibits the rental of a unit subject to this parking restriction for any purpose other than providing for housing for seniors or people with disabilities.

(3) For market rate multifamily housing units that are located within one-quarter mile of a transit stop that receives transit service from at least one route that provides service at least four times per hour for twelve or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or .75 space per unit. A city or county may establish a requirement for the provision of more than one parking space per bedroom or .75 space per unit if the jurisdiction has determined a particular housing unit to

be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit.

Sec. 4. RCW 36.70A.030 and 2019 c 348 s 2 are each reenacted and amended to read as follows:

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

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:

(a) For rental housing, sixty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or

(b) For owner-occupied housing, eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(3) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(4) "City" means any city or town, including a code city.

(5) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(6) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

(7) "Department" means the department of commerce.

(8) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(9) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(10) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(11) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(12) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(13) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(14) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(15) "Minerals" include gravel, sand, and valuable metallic substances.

(16) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay(~~(, paired with on-site or off-site voluntary services designed to support a person living with a disability to be a successful tenant in a housing arrangement, improve the resident's health status, and connect residents of the housing with community-based health care, treatment, and employment services))~~ that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary

services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

(17) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(18) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(19) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(20) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

(21) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(22) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(23) "Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

(24) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(25) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(26) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(27) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(28) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

NEW SECTION. Sec. 5. The department of ecology shall remove parking as an element of the environment within WAC 197-11-444 and as a component of the environmental checklist within WAC 197-11-960, as those sections existed on the effective date of this section, the next time that the department amends rules implementing chapter 43.21C RCW after the effective date of this section.

Sec. 6. RCW 36.70A.610 and 2019 c 348 s 3 are each amended to read as follows:

(1) The Washington center for real estate research at the University of Washington shall produce a ~~((report every two years))~~ series of reports as

described in this section that compiles housing supply and affordability metrics for each city planning under RCW 36.70A.040 with a population of ten thousand or more.

(a) The initial report, completed by October 15, 2020, must be a compilation of objective criteria relating to ~~((development regulations, zoning,))~~ income, employment, housing and rental prices, housing affordability ~~((programs))~~ by housing tenure, and other metrics relevant to assessing housing supply and affordability for all income segments, including the percentage of cost-burdened households~~((s))~~ of each ~~((city subject to the report required by this section))~~ jurisdiction. This report may also include city-specific median income data for those cities implementing the multifamily tax exemption program under chapter 84.14 RCW.

(b) The report completed by October 15, 2021, must include an analysis of the private rental housing market for each area outlining the number of units, vacancy rates, and rents by unit type, where possible. This analysis should separate market rate multifamily rental housing developments and other smaller scale market rate rental housing. This analysis should also incorporate data from the Washington state housing finance commission on subsidized rental housing in the area consistent with the first report under this subsection.

(c) The report completed by October 15, 2022, must also include data relating to actions taken by cities under chapter 348, Laws of 2019 as well as detailed information on development regulations, levies and fees, and zoning related to housing development.

(d) The report completed by October 15, 2024, and every two years thereafter, must also include relevant data relating to buildable lands reports prepared under RCW 36.70A.215, where applicable, and updates to comprehensive plans under this chapter.

(2) The Washington center for real estate research shall collaborate with the Washington housing finance commission and the office of financial management to develop the metrics compiled in the ~~((report))~~ series of reports under this section.

(3) The ~~((report))~~ series of reports under this section must be submitted, consistent with RCW 43.01.036, to the standing committees of the legislature with jurisdiction over housing issues and this chapter.

Passed by the House March 7, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 174

[Substitute House Bill 2374]

MOTOR VEHICLE DEALERS--SECONDARY PRODUCTS

AN ACT Relating to preserving the ability of auto dealers to offer consumers products not supplied by an auto manufacturer; amending RCW 63.14.043; and adding a new section to chapter 46.96 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.96 RCW to read as follows:

(1) Notwithstanding the terms of a franchise agreement, a brand owner shall not directly or indirectly:

- (a) Require a new motor vehicle dealer to offer a secondary product;
- (b) Require a new motor vehicle dealer to provide a customer with a disclosure not otherwise required by law; or
- (c) Prohibit a new motor vehicle dealer from offering a secondary product including, but not limited to:
 - (i) Service contracts;
 - (ii) Maintenance agreements;
 - (iii) Extended warranties;
 - (iv) Protection product guarantees;
 - (v) Guaranteed asset protection waivers;
 - (vi) Insurance;
 - (vii) Replacement parts;
 - (viii) Vehicle accessories;
 - (ix) Oil; or
 - (x) Supplies.

(2) It is not a violation of this section for a brand owner to offer an incentive program to new motor vehicle dealers to encourage them to sell or offer to sell a secondary product approved, endorsed, sponsored, or offered by the brand owner, provided the program does not provide vehicle sales or service incentives.

(3) It is not a violation of this section for a brand owner to prohibit a new motor vehicle dealer from using secondary products for any repair work paid for by the brand owner under the terms of a warranty, recall, service contract, extended warranty, maintenance plan, or certified preowned vehicle program established or offered by the brand owner.

(4) For the purposes of this section:

(a) "Brand owner" means a manufacturer, distributor, factory branch, factory representative, agent, officer, parent company, wholly or partially owned subsidiary, affiliate entity, or other person under common control with a factory, importer, or distributor.

(b) "Common control" has the same meaning as in RCW 48.31B.005.

(c) "Customer" means the retail purchaser of a vehicle or secondary product from a new motor vehicle dealer.

(d) "Original equipment manufacturer parts" means parts manufactured by or for a vehicle's original manufacturer or its designee.

(e) "Secondary product" means all products that are not new motor vehicles or original equipment manufacturer parts.

Sec. 2. RCW 63.14.043 and 2006 c 288 s 1 are each amended to read as follows:

(1) If a retail installment contract for the purchase of a motor vehicle meets the requirements of this chapter and meets the requirements of any federal law applicable to a retail installment contract for the purchase of a motor vehicle, the retail installment contract shall be accepted for consideration by any lender, except for lenders licensed and regulated under the provisions of chapter 31.04

RCW, to whom application for credit relating to the retail installment contract is made.

(2) If a retail installment contract for the purchase of a motor vehicle includes the purchase of a secondary product, a lender who shares common control with a brand owner may not directly or indirectly require, as a condition of acceptance of assignment of the retail installment contract, that the buyer purchase a secondary product from a particular provider, administrator, or insurer. A violation of this subsection is deemed to affect the public interest and constitutes an unlawful and unfair practice under chapter 19.86 RCW.

(3) For the purposes of this section, "secondary product," "common control," and "brand owner" have the same meanings as provided in section 1 of this act.

Passed by the House March 9, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 175

[House Bill 2512]

MOBILE HOMES AND MANUFACTURED HOMES--PROPERTY TAX DISTRAINT

AN ACT Relating to interest and penalty relief for qualified mobile home and manufactured home owners; and amending RCW 84.56.070.

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

Sec. 1. RCW 84.56.070 and 2019 c 75 s 2 are each amended to read as follows:

(1) The county treasurer must proceed to collect all personal property taxes after first completing the tax roll for the current year's collection.

(2) The treasurer must give notice by mail to all persons charged with personal property taxes, and if the taxes are not paid before they become delinquent, the treasurer must commence delinquent collection efforts. A delinquent collection charge for costs incurred by the treasurer may be added to the account.

(3) In the event that the treasurer is unable to collect the taxes when due under this section, the treasurer must prepare papers in distraint, except as provided in (a) of this subsection. The papers must contain a description of the personal property, the amount of taxes including any amounts deferred under chapters 84.37 and 84.38 RCW that are a lien on the personal property to be distrained, the amount of the accrued interest at the rate provided by law from the date of delinquency, and the name of the owner or reputed owner.

(a) Except as provided in (f) of this subsection, nontitle eliminated mobile homes and manufactured homes, as defined in RCW 46.04.302, are subject to distraint no sooner than three years after the date of first delinquency.

(b) The treasurer must without demand or notice distrain sufficient goods and chattels belonging to the person charged with the taxes to pay the same, with interest at the rate provided by law from the date of delinquency, together with all accruing costs. The treasurer must proceed to advertise the distraint by posting written notices in three public places in the county in which the property

has been distrained, including the county courthouse. The notice must state the time when and place where the property will be sold.

~~((b))~~ (c) The county treasurer, or the treasurer's deputy, must tax the same fees for making the distraint and sale of goods and chattels for the payment of taxes as are allowed by law to sheriffs for making levy and sale of property on execution. Traveling fees must be computed from the county seat of the county to the place of making distraint.

~~((e))~~ (d) If the taxes for which the property is distrained, and the interest and costs accruing thereon, are not paid before the date appointed for the sale, which may not be less than ten days after the taking of the property, the treasurer or treasurer's designee must proceed to sell the property at public auction, or so much thereof as is sufficient to pay the taxes and any amounts deferred under chapters 84.37 and 84.38 RCW that are a lien on the property to be sold, with interest and costs. If there is any excess of money arising from the sale of any personal property, the treasurer must pay the excess less any cost of the auction to the owner of the property so sold or to his or her legal representative.

~~((d))~~ (e) If necessary to distraint any standing timber owned separately from the ownership of the land upon which the same may stand, or any fish trap, pound net, reef net, set net, or drag seine fishing location, or any other personal property as the treasurer determines to be incapable or reasonably impracticable of manual delivery, it is deemed to have been distrained and taken into possession when the treasurer has, at least thirty days before the date fixed for the sale thereof, filed with the auditor of the county wherein the property is located a notice in writing reciting that the treasurer has distrained the property. The notice must describe the property, give the name of the owner or reputed owner, the amount of the tax due, with interest, and the time and place of sale. A copy of the notice must also be sent to the owner or reputed owner at his or her last known address, by registered letter at least thirty days prior to the date of sale.

~~((e))~~ (f) If the county treasurer has reasonable grounds to believe that any personal property, including mobile homes, manufactured homes, or park model trailers, upon which taxes have been levied, but not paid, is about to be removed from the county where the property has been assessed, or is about to be destroyed, sold, or disposed of, the county treasurer may demand the taxes, without the notice provided for in this section, and if necessary distraint sufficient goods and chattels to pay the same.

(4) The county treasurer must waive outstanding interest and penalties on delinquent taxes due from the title owner of a mobile or manufactured home if the property is subject to an action for distraint under this section and the following requirements are met:

(a) The title owner is income-qualified under RCW 84.36.381(5)(a), as verified by the county assessor;

(b) The title owner occupies the property as the owner's principal place of residence;

(c) The title owner or agent is paying the delinquent base taxes owed on the year or years that the outstanding interest and penalties are being waived and submits a complete application at least fourteen days prior to recording of distraint documents; and

(d) The title owner has not previously received a waiver on the property as provided under this section.

(5) As an alternative to the sale procedure specified in this section, the county treasurer may conduct a public auction sale by electronic media pursuant to RCW 36.16.145.

Passed by the House February 16, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 176

[House Bill 2524]

AGRICULTURAL MARKETING AND FAIR PRACTICES ACT--PEARS--MEDIATION

AN ACT Relating to expanding the scope of agricultural products subject to requirements in chapter 15.83 RCW related to negotiation concerning production or marketing; and amending RCW 15.83.010, 15.83.020, and 15.83.030.

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

Sec. 1. RCW 15.83.010 and 1989 c 355 s 2 are each amended to read as follows:

~~((Unless the context clearly requires otherwise, the))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accredited association of producers" means an association of producers which is accredited by the director to be the exclusive negotiation agent for all producer members of the association within a negotiating unit.

(2) "Advance contract" means a contract for purchase and sale of a crop entered into before the crop becomes a growing crop and providing for delivery at or after the harvest of that crop.

(3) "Agricultural products" as used in this chapter means pears, sweet corn, and potatoes produced for sale from farms in this state.

(4) "Association of producers" means any association of producers of agricultural products engaged in marketing, negotiating for its members, shipping, or processing as defined in section 15(a) of the federal agriculture marketing act of 1929 or in section 1 of 42 Stat. 388.

(5) "Director" means the director of the department of agriculture.

(6) "Handler" means a processor or a person engaged in the business or practice of:

(a) Acquiring agricultural products from producers or associations of producers for use by a processor;

(b) Processing agricultural products received from producers or associations of producers, provided that a cooperative association owned by producers shall not be a handler except when contracting for crops from producers who are not members of the cooperative association;

(c) Contracting or negotiating contracts or other arrangements, written or oral, with or on behalf of producers or associations of producers with respect to the production or marketing of any agricultural product for use by a processor;

or

(d) Acting as an agent or broker for a handler in the performance of any function or act specified in (a), (b), or (c) of this subsection.

(7) "Negotiate" means meeting at reasonable times and for reasonable periods of time commencing at least sixty days before the normal planting date for sweet corn and potatoes, or at least sixty days before the normal harvest date for pears, and concluding within thirty days of the normal planting date for sweet corn and potatoes, or within thirty days of the normal harvest date for pears, to make a serious, fair, and reasonable attempt to reach agreement by acknowledging or refuting with reason points brought up by either party with respect to the price, terms of sale, compensation for products produced under contract, or other terms relating to the production or sale of these products: PROVIDED, That neither party shall be required to disclose proprietary business or financial records or information.

(8) "Negotiating unit" means a negotiating unit approved by the director under RCW 15.83.020.

(9) "Person" means an individual, partnership, corporation, association, or any other entity.

(10) "Processor" means any person that purchases agricultural crops from a producer and cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes those crops in any manner for eventual resale. A person who solely cleans, sorts, grades, and packages a farm product for sale without altering the natural condition of the product is not a processor. A person processing any portion of a crop is a processor.

(11) "Producer" means a person engaged in the production of agricultural products as a farmer or planter, including a grower or farmer furnishing inputs, production management, or facilities for growing or raising agricultural products. A producer who is also a handler shall be considered a handler under this chapter.

(12) "Qualified commodity" means agricultural products as defined in subsection (3) of this section.

Sec. 2. RCW 15.83.020 and 1989 c 355 s 3 are each amended to read as follows:

(1) An association of producers may file an application with the director:

(a) Requesting accreditation to serve as the exclusive negotiating agent on behalf of its producer members who are within a proposed negotiating unit with respect to any qualified commodity;

(b) Describing geographical boundaries of the proposed negotiating unit;

(c) Specifying the number of producers and the quantity of products included within the proposed negotiating unit;

(d) Specifying the number and location of the producers and the quantity of products represented by the association; ~~((and))~~

(e) Agreeing to reimburse the department for all anticipated and uncovered costs incurred by the department for actions necessary to carry out the provisions of this chapter; and

(f) Supplying any other information required by the director.

(2) Within a reasonable time after receiving an application under subsection (1) of this section, the director shall approve or disapprove the application in accordance with this section.

(a) The director shall approve the initial application or renewal if the director determines that:

(i) The association is owned and controlled by producers under the charter documents or bylaws of the association;

(ii) The association has valid and binding contracts with its members empowering the association to sell or negotiate terms of sale of its members' products or to negotiate for compensation for products produced under contract by its members;

(iii) The association represents a sufficient percentage of producers or that its members produce a sufficient percentage of agricultural products to enable it to function as an effective agent for producers in negotiating with a given handler as defined in rules promulgated by the department. In making this finding, the director shall exclude any quantity of the agricultural products contracted by producers with producer-owned and controlled processing cooperatives with its members and any quantity of these products produced by handlers;

(iv) One of the association's functions is to act as principal or agent for its members in negotiations with handlers for prices and other terms of trade with respect to the production, sale, and marketing of the products of its members, or for compensation for products produced by its members under contract; ~~((and))~~

(v) Sufficient resources, including public funds and any funds to be provided by the applicant under reimbursement agreements, will be available to cover department costs for services provided by the department in carrying out the provisions of this chapter, including department costs to defend a decision made by the department under this chapter if such a decision is appealed; and

(vi) Accreditation would not be contrary to the policies established in RCW 15.83.005.

(b) If the director does not approve the application under (a) of this subsection, then the association of producers may file an amended application with the director. The director, within a reasonable time, shall approve the amended application if it meets the requirements set out in (a) of this subsection.

(3) The department shall provide the association an estimate of expenses that may be incurred prior to the department's provision of services.

(4) At the discretion of the director, or upon submission of a timely filed petition by an affected handler or an affected association of producers, the association of producers accredited under this section may be required by the director to renew the application for accreditation by providing the information required under subsection (1) of this section.

Sec. 3. RCW 15.83.030 and 1989 c 355 s 4 are each amended to read as follows:

It shall be unlawful for any handler to engage, or permit any employee or agent to engage, in the following practices:

(1) To refuse to negotiate with an association of producers accredited under RCW 15.83.020 with respect to any qualified commodity: PROVIDED, That the obligation to negotiate does not require either party to agree to a proposal, to make a concession, or to enter into a contract;

(2) To coerce any producer in the exercise of his or her right to contract with, join, refrain from contracting with or joining, belong to an association of producers, or refuse to deal with any producer because of the exercise of that

producer's right to contract with, join, or belong to an association or because of that producer's promotion of legislation on behalf of an association of producers;

(3) To discriminate against any producer with respect to price, quantity, quality, or other terms of purchase, acquisition, or other handling of agricultural products because of that producer's membership in or contract with an association of producers or because of that producer's promotion of legislation on behalf of an association of producers;

(4) To coerce or intimidate any producer to enter into, maintain, breach, cancel, or terminate a membership agreement or marketing contract with an association of producers or a contract with a handler;

(5) To pay or loan money, give anything of value, or offer any other inducement or reward to a producer for refusing or ceasing to belong to an association of producers;

(6) To make knowingly false reports about the finances, management, or activities of associations of producers or handlers; ~~((or))~~

(7) To conspire, agree, or arrange with any other person to do, aid, or abet any act made unlawful by this chapter; or

(8) To refuse, in the event that an acceptable price cannot be agreed to between a producer and a processor, to meet with a mutually agreed upon third-party mediator to resolve the price dispute. Any fees associated with the third-party mediation must be borne by the producer.

Passed by the House March 7, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 177

[Engrossed Substitute House Bill 2535]

PAST DUE RENT--TENANT GRACE PERIOD

AN ACT Relating to providing for a grace period before late fees may be imposed for past due rent; and amending RCW 59.18.170 and 59.18.230.

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

Sec. 1. RCW 59.18.170 and 1973 1st ex.s. c 207 s 17 are each amended to read as follows:

(1) If at any time during the tenancy the tenant fails to carry out the duties required by RCW 59.18.130 or 59.18.140, the landlord may, in addition to pursuit of remedies otherwise provided by law, give written notice to the tenant of said failure, which notice shall specify the nature of the failure.

(2) The landlord may not charge a late fee for rent that is paid within five days following its due date. If rent is more than five days past due, the landlord may charge late fees commencing from the first day after the due date until paid. Nothing in this subsection prohibits a landlord from serving a notice to pay or vacate at any time after the rent becomes due.

(3) When late fees may be assessed after rent becomes due, the tenant may propose that the date rent is due in the rental agreement be altered to a different due date of the month. The landlord shall agree to such a proposal if it is submitted in writing and the tenant can demonstrate that his or her primary

source of income is a regular, monthly source of governmental assistance that is not received until after the date rent is due in the rental agreement. The proposed rent due date may not be more than five days after the date the rent is due in the rental agreement. Nothing in this subsection shall be construed to prevent a tenant from making a request for reasonable accommodation under federal, state, or local law.

Sec. 2. RCW 59.18.230 and 2011 c 132 s 11 are each amended to read as follows:

(1) Any provision of a lease or other agreement, whether oral or written, whereby any section or subsection of this chapter is waived except as provided in RCW 59.18.360 and shall be deemed against public policy and shall be unenforceable. Such unenforceability shall not affect other provisions of the agreement which can be given effect without them.

(2) No rental agreement may provide that the tenant:

(a) Agrees to waive or to forgo rights or remedies under this chapter; or

(b) Authorizes any person to confess judgment on a claim arising out of the rental agreement; or

(c) Agrees to pay the landlord's attorneys' fees, except as authorized in this chapter; or

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith; or

(e) And landlord have agreed to a particular arbitrator at the time the rental agreement is entered into; or

(f) Agrees to pay late fees for rent that is paid within five days following its due date. If rent is more than five days past due, the landlord may charge late fees commencing from the first day after the due date until paid. Nothing in this subsection prohibits a landlord from serving a notice to pay or vacate at any time after the rent becomes due.

(3) A provision prohibited by subsection (2) of this section included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing provisions known by him or her to be prohibited, the tenant may recover actual damages sustained by him or her, statutory damages not to exceed five hundred dollars, costs of suit, and reasonable attorneys' fees.

(4) The common law right of the landlord of distress for rent is hereby abolished for property covered by this chapter. Any provision in a rental agreement creating a lien upon the personal property of the tenant or authorizing a distress for rent is null and void and of no force and effect. Any landlord who takes or detains the personal property of a tenant without the specific written consent of the tenant to such incident of taking or detention, and who, after written demand by the tenant for the return of his or her personal property, refuses to return the same promptly shall be liable to the tenant for the value of the property retained, actual damages, and if the refusal is intentional, may also be liable for damages of up to five hundred dollars per day but not to exceed five thousand dollars, for each day or part of a day that the tenant is deprived of his or her property. The prevailing party may recover his or her costs of suit and a reasonable attorneys' fee.

In any action, including actions pursuant to chapters 7.64 or 12.28 RCW, brought by a tenant or other person to recover possession of his or her personal

property taken or detained by a landlord in violation of this section, the court, upon motion and after notice to the opposing parties, may waive or reduce any bond requirements where it appears to be to the satisfaction of the court that the moving party is proceeding in good faith and has, prima facie, a meritorious claim for immediate delivery or redelivery of said property.

Passed by the House March 7, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 178

[Substitute House Bill 2544]

VETERANS--PERIOD OF WAR--DEFINITION

AN ACT Relating to the definition of veteran; amending RCW 41.04.005; and creating a new section.

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

Sec. 1. RCW 41.04.005 and 2018 c 61 s 1 are each amended to read as follows:

(1) As used in this section and RCW (~~(41.04.005,)~~) 41.16.220, 41.20.050, and 41.40.170 "veteran" includes every person, who at the time he or she seeks the benefits of this section and RCW (~~(41.04.005,)~~) 41.16.220, 41.20.050, or 41.40.170 has received an honorable discharge, is actively serving honorably, or received a discharge for physical reasons with an honorable record and who meets at least one of the following criteria:

(a) The person has served between World War I and World War II or during any period of war, as defined in subsection (2) of this section, as either:

(i) A member in any branch of the armed forces of the United States;

(ii) A member of the women's air forces service pilots;

(iii) A U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration, the office of defense transportation, or their agents, from December 7, 1941, through December 31, 1946; or

(iv) 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; or

(b) The person has received the armed forces expeditionary medal, or marine corps and navy expeditionary medal, for opposed action on foreign soil, for service:

(i) In any branch of the armed forces of the United States; or

(ii) As a member of the women's air forces service pilots.

(2) A "period of war" includes:

(a) World War I;

(b) World War II;

(c) The Korean conflict;

(d) The Vietnam era, which means:

(i) The period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period;

(ii) The period beginning August 5, 1964, and ending on May 7, 1975;

(e) The Persian Gulf War, which was the period beginning August 2, 1990, and ending on February 28, 1991, or ending on November 30, 1995, if the participant was awarded a campaign badge or medal for such period;

(f) The period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress; and

(g) ~~((The following))~~ Any armed conflicts, if the participant was awarded the respective campaign badge or medal, or if the service was such that a campaign badge or medal would have been awarded, except that the member already received a campaign badge or medal for a prior deployment during that same conflict ~~((: The crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; Bosnia, Operation Joint Endeavor; Operation Noble Eagle; southern or central Asia, Operation Enduring Freedom; Persian Gulf, Operation Iraqi Freedom; Iraq and Syria, Operation Inherent Resolve; and Afghanistan, Operation Freedom's Sentinel))~~.

NEW SECTION. Sec. 2. (1) The select committee on pension policy and the law enforcement officers' and firefighters' plan 2 retirement board, with the assistance of the office of the state actuary, the department of retirement systems, the Washington state military department, and the Washington state department of veterans affairs shall study the provision of interruptive military service credit to members of the Washington state retirement systems. The study shall examine the current and projected eligibility of members and retirees for military service credit, and associated costs. In particular, the study must examine the difference in service credit and cost that would be generated by expanding free military service credit to all members who received an expeditionary medal, but not a campaign medal.

(2) The department of retirement systems, the office of the state actuary, the Washington state military department, and the Washington state department of veterans' affairs must provide information or conduct research as needed by the select committee on pension policy or the law enforcement officers' and firefighters' plan 2 retirement board.

(3) To encourage consistency among the treatment of military service among the Washington state retirement systems, the select committee on pension policy and the law enforcement officers' and firefighters' plan 2 retirement board must communicate their preliminary recommendations to each other prior to October 30, 2020, and, considering the preliminary recommendations of the other body, issue final reports containing recommendations and analysis of the potential cost of those recommendations to the appropriate committees of the legislature by January 2, 2021.

Passed by the House February 13, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 179

[Engrossed Substitute House Bill 2588]

SPECIAL PURPOSE DISTRICTS--AUDITS

AN ACT Relating to improving openness, accountability, and transparency of special purpose districts; amending RCW 43.09.230, 36.96.010, 36.96.030, and 36.96.070; adding a new section to chapter 36.96 RCW; and adding a new section to chapter 84.55 RCW.

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

Sec. 1. RCW 43.09.230 and 1995 c 301 s 12 are each amended to read as follows:

(1) As used in this section:

(a) "Special purpose district" means every municipal and quasi-municipal corporation other than counties, cities, and towns. Such special purpose districts include, but are not limited to, water-sewer districts, fire protection districts, port districts, public utility districts, special districts as defined in RCW 85.38.010, lake and beach management districts, conservation districts, and irrigation districts.

(b) "Unauditable" means a special purpose district that the state auditor has determined to be incapable of being audited because the special purpose district has improperly maintained, failed to maintain, or failed to submit adequate accounts, records, files, or reports for an audit to be completed.

(2) The state auditor shall require from every local government financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by the state auditor, which shall be uniform for all accounts of the same class.

Such reports shall be prepared, certified, and filed with the state auditor within one hundred fifty days after the close of each fiscal year.

The reports shall contain accurate statements, in summarized form, of all collections made, or receipts received, by the officers from all sources; all accounts due the public treasury, but not collected; and all expenditures for every purpose, and by what authority authorized; and also: ~~((1))~~ (a) A statement of all costs of ownership and operation, and of all income, of each and every public service industry owned and operated by a local government; ~~((2))~~ (b) a statement of the entire public debt of every local government, to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, and the provisions made for the payment thereof; ~~((3))~~ (c) a classified statement of all receipts and expenditures by any public institution; and ~~((4))~~ (d) a statement of all expenditures for labor relations consultants, with the identification of each consultant, compensation, and the terms and conditions of each agreement or arrangement; together with such other information as may be required by the state auditor.

The reports shall be certified as to their correctness by the state auditor, the state auditor's deputies, or other person legally authorized to make such certification.

Their substance shall be published in an annual volume of comparative statistics at the expense of the state as a public document.

(3)(a)(i) On or before December 31, 2020, and on or before December 31st of each year thereafter, the state auditor must search available records and notify

the legislative authority of a county if any special purpose districts, located wholly or partially within the county, have been determined to be unauditabile. If the boundaries of the special purpose district are located within more than one county, the state auditor must notify all legislative authorities of the counties within which the boundaries of the special purpose district lie.

(ii) If a county has been notified as provided in (a)(i) of this subsection (3), the special purpose district and the county auditor, acting on behalf of the special purpose district, are prohibited from issuing any warrants against the funds of the special purpose district until the district has had its report certified by the state auditor.

(iii) Notwithstanding (a)(ii) of this subsection (3), a county may authorize the special purpose district and the county auditor to issue warrants against the funds of the special purpose district:

(A) In order to prevent the discontinuation or interruption of any district services:

(B) For emergency or public health purposes; or

(C) To allow the district to carry out any district duties or responsibilities.

(b)(i) On or before December 31, 2020, and on or before December 31st of each year thereafter, the state auditor must search available records and notify the state treasurer if any special purpose districts have been determined to be unauditabile.

(ii) If the state treasurer has been notified as provided in (b)(i) of this subsection (3), the state treasurer may not distribute any local sales and use taxes imposed by a special purpose district to the district until the district has had its report certified by the state auditor.

Sec. 2. RCW 36.96.010 and 1999 c 153 s 50 are each amended to read as follows:

~~((As used in this chapter,))~~ The definitions in this section apply throughout this chapter unless the context requires otherwise:

(1) "Special purpose district" means every municipal and quasi-municipal corporation other than counties, cities, and towns. Such special purpose districts shall include, but are not limited to, water-sewer districts, fire protection districts, port districts, public utility districts, county park and recreation service areas, flood control zone districts, diking districts, drainage improvement districts, and solid waste collection districts, but shall not include industrial development districts created by port districts, and shall not include local improvement districts, utility local improvement districts, and road improvement districts;

(2) "Governing authority" means the commission, council, or other body which directs the affairs of a special purpose district;

(3) "Inactive" means that a special purpose district~~((, other than a public utility district,))~~ is characterized by ~~((either))~~ any of the following criteria:

(a) Has not carried out any of the special purposes or functions for which it was formed within the preceding consecutive five-year period; ~~((or))~~

(b) No election has been held for the purpose of electing a member of the governing body within the preceding consecutive seven-year period or, in those instances where members of the governing body are appointed and not elected, where no member of the governing body has been appointed within the preceding seven-year period; or

(c) The special purpose district has been determined to be unauditible by the state auditor;

(4) "Unauditible" means a special purpose district that the state auditor has determined to be incapable of being audited because the special purpose district has improperly maintained, failed to maintain, or failed to submit adequate accounts, records, files, or reports for an audit to be completed.

~~((A public utility district is inactive when it is characterized by both criteria (a) and (b) of this subsection.))~~

Sec. 3. RCW 36.96.030 and 1979 ex.s. c 5 s 3 are each amended to read as follows:

(1) Upon receipt of notice from the county auditor as provided in RCW 36.96.020, the county legislative authority within whose boundaries all or the greatest portion of such special purpose district lies shall hold one or more public hearings on or before September 1st of the same year to determine whether or not such special purpose district or districts meet ~~((either))~~ any of the criteria for being "inactive" as provided in RCW 36.96.010~~((= PROVIDED, That if such a special purpose district is a public utility district, the county legislative authority shall determine whether or not the public utility district meets both criteria of being "inactive" as provided in RCW 36.96.010))~~). In addition, at any time a county legislative authority may hold hearings on the dissolution of any special purpose district that appears to meet the criteria of being "inactive" and dissolve such a district pursuant to the proceedings provided for in RCW 36.96.030 through 36.96.080.

(2) Notice of such public hearings shall be given by publication at least once each week for not less than three successive weeks in a newspaper that is in general circulation within the boundaries of the special purpose district or districts. Notice of such hearings shall also be mailed to each member of the governing authority of such special purpose districts, if such members are known, and to all persons known to have claims against any of the special purpose districts. Notice of such public hearings shall be posted in at least three conspicuous places within the boundaries of each special purpose district that is a subject of such hearings. Whenever a county legislative authority that is conducting such a public hearing on the dissolution of one or more of a particular kind of special purpose district is aware of the existence of an association of such special purpose districts, it shall also mail notice of the hearing to the association. In addition, whenever a special purpose district that lies in more than one county is a subject of such a public hearing, notice shall also be mailed to the legislative authorities of all other counties within whose boundaries the special purpose district lies. All notices shall state the purpose, time, and place of such hearings, and that all interested persons may appear and be heard.

Sec. 4. RCW 36.96.070 and 2001 c 299 s 13 are each amended to read as follows:

Any moneys or funds of the dissolved special purpose district and any moneys or funds received by the board of trustees from the sale or other disposition of any property of the dissolved special purpose district shall be used, to the extent necessary, for the payment or settlement of any outstanding obligations of the dissolved special purpose district. Any remaining moneys or

funds shall be used to pay the county legislative authority for all costs and expenses incurred in the dissolution and liquidation of the dissolved special purpose district. Thereafter, any remaining moneys, funds, or property shall become that of the county in which the dissolved special purpose district was located. However, if the territory of the dissolved special purpose district was located within more than one county, the remaining moneys, funds, and personal property shall be apportioned and distributed to each county in the proportion that the geographical area of the dissolved special purpose district within the county bears to the total geographical area of the dissolved special purpose district, and any remaining real property or improvements to real property shall be transferred to the county within whose boundaries it lies. A county to which real property or improvements to real property are transferred under this section may, but does not have an obligation to use the property or improvements for the purposes for which the dissolved special purpose district used the property or improvements and the county does not assume the obligations or liabilities of the dissolved special purpose district as a result of the transfer unless the county expressly assumes such obligations or liabilities through the adoption of a resolution.

NEW SECTION. Sec. 5. A new section is added to chapter 36.96 RCW to read as follows:

A county that dissolves a special purpose district under this chapter may impose a separate regular property tax levy or a special assessment as provided in section 6 of this act if that county assumes responsibility of the services previously provided by the special purpose district.

NEW SECTION. Sec. 6. A new section is added to chapter 84.55 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, if a county dissolves a special purpose district under chapter 36.96 RCW, the county may impose a separate property tax levy or special assessment on the property lying within the former boundaries of the dissolved special purpose district beginning in the first calendar year following dissolution if:

(a) The county assumes responsibility of the services previously provided by the special purpose district; and

(b) The property tax levy or special assessment does not exceed any legally authorized property tax levy rate or special assessment for the dissolved special purpose district.

(2) If a county discontinues providing the services of a dissolved special purpose district for which the county imposed a separate property tax levy or special assessment as provided in subsection (1) of this section, the county must cease imposing that property tax levy or special assessment beginning in the first calendar year after the discontinuation of the provision of services by the county.

(3) For purposes of RCW 84.52.010 and 84.52.043, a property tax levy authorized by a county under this section is subject to the same provisions as the county's general property tax levy.

(4) The limitation in RCW 84.55.010 does not apply to the first property tax levy imposed under this section.

(5) For purposes of this section, "special assessment" means any special assessment, benefit assessment, or rates and charges imposed by a special purpose district.

Passed by the House March 7, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 180

[House Bill 2624]

DEPARTMENT OF AGRICULTURE--EXAMINATIONS

AN ACT Relating to the authority of the director of the department of agriculture with respect to certain examinations and examination fees; and amending RCW 15.58.040, 15.58.240, 17.21.030, and 17.21.134.

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

Sec. 1. RCW 15.58.040 and 2003 c 212 s 2 are each amended to read as follows:

(1) The director shall administer and enforce the provisions of this chapter and rules adopted under this chapter. All the authority and requirements provided for in chapter 34.05 RCW (Administrative Procedure Act) and chapter 42.30 RCW shall apply to this chapter in the adoption of rules including those requiring due notice and a hearing for the adoption of permanent rules.

(2) The director is authorized to adopt appropriate rules for carrying out the purpose and provisions of this chapter, including but not limited to rules providing for:

(a) Declaring as a pest any form of plant or animal life or virus which is injurious to plants, people, animals (domestic or otherwise), land, articles, or substances;

(b) Determining that certain pesticides are highly toxic to people. For the purpose of this chapter, highly toxic pesticide means any pesticide that conforms to the criteria in 40 C.F.R. Sec. 156.10 for toxicity category I due to oral inhalation or dermal toxicity. The director shall publish a list of all pesticides, determined to be highly toxic, by their common or generic name and their trade or brand name if practical. Such list shall be kept current and shall, upon request, be made available to any interested party;

(c) Determining standards for denaturing pesticides by color, taste, odor, or form;

(d) The collection and examination of samples of pesticides or devices;

(e) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;

(f) Restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These restrictions may apply to type of construction, strength, and/or size to alleviate danger of spillage, breakage, misuse, or any other hazard to the public. The director shall be guided by federal regulations concerning pesticide containers;

(g) Procedures in making of pesticide recommendations;

(h) Adopting a list of restricted use pesticides for the state or for designated areas within the state if the director determines that such pesticides may require rules restricting or prohibiting their distribution or use. The director may include in the rule the time and conditions of distribution or use of such restricted use pesticides and may, if it is found necessary to carry out the purpose and provisions of this chapter, require that any or all restricted use pesticides shall be purchased, possessed, or used only under permit of the director and under the director's direct supervision in certain areas and/or under certain conditions or in certain quantities or concentrations. The director may require all persons issued such permits to maintain records as to the use of all the restricted use pesticides;

(i) Label requirements of all pesticides required to be registered under provisions of this chapter;

(j) Regulating the labeling of devices;

(k) The establishment of criteria governing the conduct of a structural pest inspection;

(l) Declaring crops, when grown to produce seed specifically for crop reproduction purposes, to be nonfood and/or nonfeed sites of pesticide application. The director may include in the rule any restrictions or conditions regarding: (i) The application of pesticides to the designated crops; and (ii) the disposition of any portion of the treated crop;

(m) Governing the fixing and collecting of examination fees; and

(n) Requiring individuals to earn recertification credits in the classifications in which they are licensed.

(3) For the purpose of uniformity and to avoid confusion endangering the public health and welfare the director may adopt rules in conformity with the primary pesticide standards, particularly as to labeling, established by the United States environmental protection agency or any other federal agency.

Sec. 2. RCW 15.58.240 and 1989 c 380 s 20 are each amended to read as follows:

The director may classify licenses to be issued under the provisions of this chapter. Such classifications may include but not be limited to agricultural crops, ornamentals, or noncrop land herbicides. If the licensee has a classified license the licensee shall be limited to practicing within these classifications. Each such classification shall be subject to separate testing procedures and requirements: PROVIDED, That no person shall be required to pay an additional license fee if the person desires to be licensed in one or all of the license classifications provided for by the director under the authority of this section. The director may charge ~~((an))~~ examination fees established by the director by rule ~~((when an examination is necessary, before a license may be issued or when application for a license and examination is made at other than a regularly scheduled examination date))~~. The director may administer or contract with a public or private third-party entity to administer any or all parts of either the examination or the collection of examination fees, or both. Examinations administered by third-party entities must be the same as the examination that would otherwise be administered by the department. The department may direct that the applicant pay the fees to the third-party entity in accordance with department rules governing third-party examinations and fees. The director may renew any applicant's license under the classification for which the applicant is licensed, subject to reexamination or other recertification standards as determined by the

director when deemed necessary because new knowledge or new classifications are required to carry out the responsibilities of the licensee.

Sec. 3. RCW 17.21.030 and 1994 c 283 s 2 are each amended to read as follows:

The director shall administer and enforce the provisions of this chapter and rules adopted under this chapter.

(1) The director may adopt rules:

(a) Governing the loading, mixing, application and use, or prohibiting the loading, mixing, application, or use of any pesticide;

(b) Governing the time when, and the conditions under which restricted use pesticides shall or shall not be used in different areas as prescribed by the director in the state;

(c) Providing that any or all restricted use pesticides shall be purchased, possessed or used only under permit of the director and under the director's direct supervision in certain areas and/or under certain conditions or in certain quantities of concentrations; however, any person licensed to sell such pesticides may purchase and possess such pesticides without a permit;

(d) Establishing recordkeeping requirements for licensees, permittees, and certified applicators;

(e) Governing the fixing and collecting of examination fees (~~(and)~~);

Fixing and collecting fees for recertification course sponsorship;

~~((f))~~ (g) Establishing testing procedures, licensing classifications, and requirements for licenses and permits, and criteria for assigning recertification credit to and procedures for department approval of courses as provided by this chapter;

~~((g))~~ (h) Concerning training by employers for employees who mix and load pesticides;

~~((h))~~ (i) Concerning minimum performance standards for spray boom and nozzles used in pesticide applications to minimize spray drift and establishing a list of approved spray nozzles that meet these standards; and

~~((i))~~ (j) Fixing and collecting permit fees.

(2) The director may adopt any other rules necessary to carry out the purpose and provisions of this chapter.

Sec. 4. RCW 17.21.134 and 1994 c 283 s 17 are each amended to read as follows:

(1) The director shall not issue a commercial pesticide applicator license until the applicant, if he or she is the sole owner and manager of the business has passed examinations in all classifications that the business operates. If there is more than one owner or the owner does not participate in the pesticide application activities, the person managing the pesticide application activities of the business shall be licensed in all classifications that the business operates. The director shall not issue a commercial pesticide operator, public operator, private commercial applicator, or demonstration and research applicator license until the applicant has passed an examination demonstrating knowledge of:

(a) How to apply pesticides under the classification for which he or she has applied, manually or with the various apparatuses that he or she may operate;

(b) The nature and effect of pesticides he or she may apply under such classifications; and

(c) Any other matter the director determines to be a necessary subject for examination.

(2) The director ~~((shall))~~ may charge ~~((an))~~ examination fees ~~((established by rule when an examination is necessary before a license may be issued or when application for such license and examination is made at other than a regularly scheduled examination date))~~ established by the director by rule. The director may administer or contract with a public or private third-party entity to administer any or all parts of either the examination or the collection of examination fees, or both. Examinations administered by third-party entities must be the same as the examination that would otherwise be administered by the department. The department may direct that the applicant pay the fees to the third-party entity in accordance with department rules governing third-party examinations and fees.

(3) The director may prescribe separate testing procedures and requirements for each license.

Passed by the House February 13, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 181

[House Bill 2641]

PASSENGER-ONLY FERRY SERVICE--CITIES

AN ACT Relating to authorizing cities to provide passenger-only ferry service; and adding a new chapter to Title 35 RCW.

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

NEW SECTION. Sec. 1. (1) Any city having a boundary located on Puget Sound or Lake Washington may establish, finance, and provide passenger-only ferry service, including associated services to support and augment passenger-only ferry service operation, within its boundaries. For the purposes of this chapter, Puget Sound has the same meaning as described in RCW 36.57A.200.

(2) Before a city may provide passenger-only ferry service, it must develop a passenger-only ferry investment plan, which must include elements regarding operating or contracting for the operation of passenger-only ferry services; the purchase, lease, or rental of ferry vessels and dock facilities for the provision of transit service; consultation with potentially affected federally recognized Indian treaty fishing tribes and other federally recognized treaty tribes with potentially affected interests to ensure impacts to tribal fishing are minimized; and identifying other activities necessary to implement the plan. The passenger-only ferry investment plan must also set forth terminal locations to be served, consistency with any study developed through the Puget Sound regional council for regional service, projected costs of providing services, and revenues to be generated from tolls, locally collected tax revenues, and other revenue sources. The passenger-only ferry investment plan may recommend additional revenue authority that has not yet been authorized under state law.

(3) The passenger-only ferry investment plan must ensure that services provided under the plan are for the benefit of the residents of the city. The city

may use any of its powers to carry out this purpose, unless otherwise prohibited by law. In addition, the city may enter into contracts and agreements to operate passenger-only ferry service, as well as appropriate public-private partnerships including, but not limited to, design-build, general contractor/construction management, or other alternative procurement processes substantially consistent with chapter 39.10 RCW.

(4) The passenger-only ferry investment plan must show design and funding considerations for propulsion types and technologies that meet low, ultra-low, and zero emission targets in relation to any operations and business plan to ensure a viable route. Considerations should include vessel design, electrification, as well as shoreline infrastructure. The investment plan must also show best management practices and technologies available and considered to reduce impacts to water quality, prevention of strikes, and underwater noise that impact the southern resident killer whale population, other marine mammals, and aquatic life.

NEW SECTION. Sec. 2. Section 1 of this act constitutes a new chapter in Title 35 RCW.

Passed by the House March 9, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 182

[Engrossed Substitute House Bill 2676]

AUTONOMOUS VEHICLE TESTING

AN ACT Relating to establishing minimum requirements for the testing of autonomous vehicles; adding a new section to chapter 46.30 RCW; adding a new chapter to Title 46 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.30 RCW to read as follows:

(1) No entity may test an autonomous motor vehicle on any public roadway under the department's autonomous vehicle self-certification testing pilot program unless:

(a) The entity holds an umbrella liability insurance policy that covers the entity in an amount not less than five million dollars per occurrence for damages by reason of bodily injury or death or property damage, caused by the operation of an autonomous motor vehicle for which information is provided under the autonomous vehicle self-certification testing pilot program; and

(b) The entity maintains proof of this policy with the department in a form and manner specified by the department.

(2) Requirements related to proof of motor vehicle insurance under RCW 46.30.020 and penalties for providing false evidence of motor vehicle insurance under RCW 46.30.040 are applicable to this section.

NEW SECTION. Sec. 2. (1) In order to test an autonomous motor vehicle on any public roadway under the department's autonomous vehicle self-

certification testing pilot program, the following information must be provided by the self-certifying entity testing the autonomous motor vehicle:

- (a) Contact information specified by the department;
- (b) Local jurisdictions where testing is planned;
- (c) The vehicle identification numbers of the autonomous vehicles being tested, provided that one is required by state or federal law; and
- (d) Proof of an insurance policy that meets the requirements of section 1 of this act.

(2) Any autonomous motor vehicle to which subsection (1) of this section is applicable and that does not have a vehicle identification number and is not otherwise required under state or federal law to have a vehicle identification number assigned to it must be assigned a unique identification number that is provided to the department and that is displayed in the vehicle in a manner similar to the display of vehicle identification numbers in motor vehicles.

(3)(a) The self-certifying entity testing the autonomous motor vehicle on any public roadway must notify the department of:

(i) Any collisions that are required to be reported to law enforcement under RCW 46.52.030, involving an autonomous motor vehicle during testing on any public roadway; and

(ii) Any moving violations, as defined in administrative rule as authorized under RCW 46.20.2891, for which a citation or infraction was issued, involving an autonomous motor vehicle during testing on any public roadway.

(b) By February 1st of each year, the self-certifying entity must submit a report to the department covering reportable events from the prior calendar year.

(c) The self-certifying entity shall provide the information required by the department under (a) of this subsection. The information provided must include whether the autonomous driving system was operating the vehicle at the time of or immediately prior to the collision or moving violation, and in the case of a collision, details regarding the collision, including any loss of life, injury, or property damage that resulted from the collision.

(d) The provisions of this section are supplemental to all other rights and duties under law applicable in the event of a motor vehicle collision.

(4) The self-certifying entity testing the autonomous motor vehicle on public roadways under the department's autonomous vehicle self-certification testing pilot program must provide written notice in advance of testing to local and state law enforcement agencies with jurisdiction over any of the public roadways on which testing will occur that includes the expected period of time during which testing will occur in the applicable jurisdictions, including city police departments within city limits where testing will occur, county sheriff departments outside of city limits in counties where testing will occur, and the Washington state patrol when testing will occur on limited access highways, as defined in RCW 47.52.010. However, for testing primarily on limited access highways that travels through multiple local jurisdictions, which may include the limited incidental use of other roadways, the self-certifying entity must only provide written notice as specified in this subsection to the Washington state patrol. Written notice provided under this subsection must: (a) Be provided not less than fourteen and not more than sixty days in advance of testing; (b) include contact information where the law enforcement agency can communicate with the self-certifying entity testing the autonomous vehicle regarding the testing

planned in that jurisdiction; and (c) provide the physical description of the motor vehicle or vehicles being tested, including make, model, color, and license plate number.

(5) The department may adopt a fee to be charged by the department for self-certification in an amount sufficient to offset administration by the department of the self-certification testing pilot program.

(6) The department shall provide public access to the information self-certifying entities provide to it, and shall provide an annual report to the house and senate transportation committees of the legislature summarizing the information reported by self-certifying entities under this section.

(7) An autonomous motor vehicle may not be operated on any public roadway for the purposes of testing in Washington state until the department is provided with the information required under subsection (1) of this section.

NEW SECTION. Sec. 3. Section 2 of this act constitutes a new chapter in Title 46 RCW.

NEW SECTION. Sec. 4. Section 2 of this act takes effect October 1, 2021.

Passed by the House March 10, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 183

[House Bill 2677]

HEALTH CARE AUTHORITY--HEALTH INSURANCE INFORMATION SHARING-- COORDINATION OF BENEFITS

AN ACT Relating to sharing health insurance information to improve the coordination of benefits between health insurers and the health care authority; and amending RCW 74.09A.020.

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

Sec. 1. RCW 74.09A.020 and 2011 1st sp.s. c 15 s 119 are each amended to read as follows:

(1) ~~((The authority shall provide routine and periodic computerized information to))~~ Health insurers ~~((regarding client eligibility and coverage information. Health insurers))~~ shall share all beneficiary eligibility and coverage information with the authority for the purpose of identifying joint beneficiaries. The authority shall use this information to identify joint beneficiaries. ~~((Identification of joint beneficiaries shall be transmitted to the authority.))~~ The authority shall use this information to improve accuracy and currency of health insurance coverage and to promote improved coordination of benefits.

(2) To the maximum extent possible, necessary data elements and a compatible database shall be developed by affected health insurers and the authority. The authority shall establish a representative group of health insurers and state agency representatives to develop necessary technical and file specifications to promote a standardized database. The database shall include elements essential to the authority and its population's health insurance coverage information.

(3) If the state and health insurers enter into other agreements regarding the use of common computer standards, the database identified in this section shall be replaced by the new common computer standards.

(4) The information provided will be of sufficient detail to promote reliable and accurate benefit coordination and identification of individuals who are also eligible for authority programs.

(5) The frequency of updates will be mutually agreed to by each health insurer and the authority based on frequency of change and operational limitations. ~~((In no event shall the computerized data be provided less than semiannually.))~~

(6) The health insurers and the authority shall safeguard and properly use the information to protect records as provided by law, including but not limited to chapters 42.48, 74.09, 74.04, 70.02, and 42.56 RCW, and 42 U.S.C. Sec. 1396a and 42 C.F.R. Sec. 43 et seq. The purpose of this exchange of information is to improve coordination and administration of benefits and ensure that medical insurance benefits are properly utilized.

(7) The authority shall target implementation of this section to those health insurers with the highest probability of joint beneficiaries.

Passed by the House February 16, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 184

[Substitute House Bill 2794]

JUVENILE RECORD SEALING--VARIOUS PROVISIONS

AN ACT Relating to juvenile record sealing; amending RCW 13.50.260 and 10.97.050; creating new sections; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 13.50.260 and 2015 c 265 s 3 are each amended to read as follows:

(1)(a) The court shall hold regular sealing hearings. During these regular sealing hearings, the court shall administratively seal an individual's juvenile record pursuant to the requirements of this subsection ~~((unless the court receives an objection to sealing or the court notes a compelling reason not to seal, in which case, the court shall set a contested hearing to be conducted on the record to address sealing)).~~ Although the juvenile record shall be sealed, the social file may be available to any juvenile justice or care agency when an investigation or case involving the juvenile subject of the records is being prosecuted by the juvenile justice or care agency or when the juvenile justice or care agency is assigned the responsibility of supervising the juvenile. ~~((The contested hearing shall be set no sooner than eighteen days after notice of the hearing and the opportunity to object has been sent to the juvenile, the victim, and juvenile's attorney.))~~ The juvenile respondent's presence is not required at ~~((a))~~ any administrative sealing hearing ((pursuant to this subsection)).

(b) At the disposition hearing of a juvenile offender, the court shall schedule an administrative sealing hearing to take place during the first regularly scheduled sealing hearing after the latest of the following events that apply:

(i) The respondent's eighteenth birthday;

(ii) Anticipated ~~((completion))~~ end date of a respondent's probation, if ordered;

(iii) Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.

(c) ~~((A court shall enter a written order sealing an individual's juvenile court record pursuant to this subsection if:~~

~~((+))~~ The court shall not schedule an administrative sealing hearing at the disposition and no administrative sealing hearing shall occur if one of the offenses for which the court has entered a disposition is ~~((not))~~ at the time of commission of the offense:

~~((A))~~ (i) A most serious offense, as defined in RCW 9.94A.030;

~~((B))~~ (ii) A sex offense under chapter 9A.44 RCW; or

~~((C))~~ (iii) A drug offense, as defined in RCW 9.94A.030~~((; and))~~.

~~((+))~~ (d) At the time of the scheduled administrative sealing hearing, the court shall enter a written order sealing the respondent's juvenile court record pursuant to this subsection if the court finds by a preponderance of the evidence that the respondent ~~((has completed the terms and conditions of disposition, including affirmative conditions))~~ is no longer on supervision for the case being considered for sealing and has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any ~~((insurance provider authorized under Title 48 RCW))~~ public or private entity providing insurance coverage or health care coverage. In determining whether the respondent is on supervision or owes restitution, the court shall take judicial notice of court records, including records of the county clerk, and, if necessary, sworn testimony from a representative of the juvenile department.

~~((d) Following a contested sealing hearing on the record after an objection is made pursuant to (a) of this subsection, the court shall enter a written order sealing the juvenile court record unless the court determines that sealing is not appropriate.))~~ (e) At the time of the administrative sealing hearing, if the court finds the respondent remains on supervision for the case being considered for sealing, then the court shall continue the administrative sealing hearing to a date within thirty days following the anticipated end date of the respondent's supervision. At the next administrative sealing hearing, the court shall again determine the respondent's eligibility for sealing his or her juvenile court record pursuant to (d) of this subsection, and, if necessary, continue the hearing again as provided in this subsection.

~~((d) Following a contested sealing hearing on the record after an objection is made pursuant to (a) of this subsection, the court shall enter a written order sealing the juvenile court record unless the court determines that sealing is not appropriate.))~~ (e) At the time of the administrative sealing hearing, if the court finds the respondent remains on supervision for the case being considered for sealing, then the court shall continue the administrative sealing hearing to a date within thirty days following the anticipated end date of the respondent's supervision. At the next administrative sealing hearing, the court shall again determine the respondent's eligibility for sealing his or her juvenile court record pursuant to (d) of this subsection, and, if necessary, continue the hearing again as provided in this subsection.

(f)(i) During the administrative sealing hearing, if the court finds the respondent is no longer on supervision for the case being considered for sealing, but the respondent has not paid the full amount of restitution owing to the individual victim named in the restitution order, excluding any public or private entity providing insurance coverage or health care coverage, the court shall deny sealing the juvenile court record in a written order that: (A) Specifies the amount of restitution that remains unpaid to the original victim, excluding any public or private entity providing insurance coverage or health care coverage; and (B)

provides direction to the respondent on how to pursue the sealing of records associated with this cause of action.

(ii) Within five business days of the entry of the written order denying the request to seal a juvenile court record, the juvenile court department staff shall notify the respondent of the denial by providing a copy of the order of denial to the respondent in person or in writing mailed to the respondent's last known address in the department of licensing database or the respondent's address provided to the court, whichever is more recent.

(iii) At any time following entry of the written order denying the request to seal a juvenile court record, the respondent may contact the juvenile court department, provide proof of payment of the remaining unpaid restitution to the original victim, excluding any public or private entity providing insurance coverage or health care coverage, and request an administrative sealing hearing. Upon verification of the satisfaction of the restitution payment, the juvenile court department staff shall circulate for signature an order sealing the file, and file the signed order with the clerk's office, who shall seal the record.

(iv) The administrative office of the courts must ensure that sealed juvenile records remain private in case of an appeal and are either not posted or redacted from any clerks papers that are posted online with the appellate record, as well as taking any other prudent steps necessary to avoid exposing sealed juvenile records to the public.

(2) Except for dismissal of a deferred disposition under RCW 13.40.127, the court shall enter a written order immediately sealing the official juvenile court record upon the acquittal after a fact finding or upon the dismissal of charges with prejudice, subject to the state's right, if any, to appeal the dismissal.

(3) If a juvenile court record has not already been sealed pursuant to this section, in any case in which information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any((;); resolve the status of any debts owing; and, subject to RCW 13.50.050(13), order the sealing of the official juvenile court record, the social file, and records of the court and of any other agency in the case, with the exception of identifying information under RCW 13.50.050(13).

(4)(a) The court shall grant any motion to seal records for class A offenses made pursuant to subsection (3) of this section if:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense;

(v) The person has not been convicted of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion; and

(vi) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any ~~((insurance provider authorized under Title 48 RCW))~~ public or private entity providing insurance coverage or health care coverage.

(b) The court shall grant any motion to seal records for class B, class C, gross misdemeanor, and misdemeanor offenses and diversions made under subsection (3) of this section if:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense; and

(v) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(c) Notwithstanding the requirements in (a) or (b) of this subsection, the court shall grant any motion to seal records of any deferred disposition vacated under RCW 13.40.127(9) prior to June 7, 2012, if restitution has been paid and the person is eighteen years of age or older at the time of the motion.

(5) The person making a motion pursuant to subsection (3) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose records are sought to be sealed.

(6)(a) If the court enters a written order sealing the juvenile court record pursuant to this section, it shall, subject to RCW 13.50.050(13), order sealed the official juvenile court record, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(c) Effective July 1, 2019, the department of licensing may release information related to records the court has ordered sealed only to the extent necessary to comply with federal law and regulation.

(7) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and 13.50.050(13).

(8)(a) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying a sealing order; however, the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria under this section and the court record has not previously been resealed.

(b) Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order.

(c) The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(d) The Washington state patrol shall ensure that the Washington state identification system provides Washington state criminal justice agencies access to sealed juvenile records information.

(9) If the juvenile court record has been sealed pursuant to this section, the record of an employee is not admissible in an action for liability against the employer based on the former juvenile offender's conduct to show that the employer knew or should have known of the juvenile record of the employee. The record may be admissible, however, if a background check conducted or authorized by the employer contained the information in the sealed record.

(10) County clerks may interact or correspond with the respondent, his or her parents, restitution recipients, and any holders of potential assets or wages of the respondent for the purposes of collecting an outstanding legal financial obligation after juvenile court records have been sealed pursuant to this section.

(11) Persons and agencies that obtain sealed juvenile records information pursuant to this section may communicate about this information with the respondent, but may not disseminate or be compelled to release the information to any person or agency not specifically granted access to sealed juvenile records in this section.

(12) All criminal justice agencies must not disclose confidential information or sealed records accessed through the Washington state identification system or other means, and no information can be given to third parties other than Washington state criminal justice agencies about the existence or nonexistence of confidential or sealed records concerning an individual.

Sec. 2. RCW 10.97.050 and 2012 c 125 s 2 are each amended to read as follows:

(1) Conviction records may be disseminated without restriction.

(2) Any criminal history record information which pertains to an incident that occurred within the last twelve months for which a person is currently being processed by the criminal justice system, including the entire period of correctional supervision extending through final discharge from parole, when applicable, may be disseminated without restriction.

(3) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to another criminal justice agency for any purpose associated with the administration of criminal justice, or in connection with the employment of the subject of the record by a criminal justice or juvenile justice agency, except as provided under RCW 13.50.260. A criminal justice agency may respond to any inquiry from another criminal justice agency without any obligation to ascertain the purpose for which the information is to be used by the agency making the inquiry.

(4) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to records of arrest, charges, or allegations of criminal conduct or other nonconviction data and authorizes or directs that it be available or accessible for a specific purpose.

(5) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies pursuant to a contract with a criminal justice agency to provide services related to the administration of criminal justice. Such contract must specifically authorize access to criminal history record information, but need not specifically state that access to nonconviction data is included. The agreement must limit the use of the criminal history record information to stated purposes and insure the confidentiality and security of the information consistent with state law and any applicable federal statutes and regulations.

(6) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. Such agreement must authorize the access to nonconviction data, limit the use of that information which identifies specific individuals to research, evaluative, or statistical purposes, and contain provisions giving notice to the person or organization to which the records are disseminated that the use of information obtained therefrom and further dissemination of such information are subject to the provisions of this chapter and applicable federal statutes and regulations, which shall be cited with express reference to the penalties provided for a violation thereof.

(7) Every criminal justice agency that maintains and disseminates criminal history record information must maintain information pertaining to every dissemination of criminal history record information except a dissemination to the effect that the agency has no record concerning an individual. Information pertaining to disseminations shall include:

- (a) An indication of to whom (agency or person) criminal history record information was disseminated;
- (b) The date on which the information was disseminated;
- (c) The individual to whom the information relates; and
- (d) A brief description of the information disseminated.

The information pertaining to dissemination required to be maintained shall be retained for a period of not less than one year.

(8) In addition to the other provisions in this section allowing dissemination of criminal history record information, RCW 4.24.550 governs dissemination of information concerning offenders who commit sex offenses as defined by RCW

9.94A.030. Criminal justice agencies, their employees, and officials shall be immune from civil liability for dissemination on criminal history record information concerning sex offenders as provided in RCW 4.24.550.

NEW SECTION. Sec. 3. (1) The department of children, youth, and families and the office of the superintendent of public instruction shall develop policies and procedures that prevent any information from being included on a student transcript indicating that a student received credit while confined in a detention facility as defined under RCW 13.40.020, institution as defined under RCW 13.40.020, juvenile correctional facility under alternative administration operated by a consortium of counties under RCW 13.04.035, community facility as defined under RCW 72.05.020, or correctional facility as defined under RCW 70.48.020.

(2) By November 1, 2020, and in compliance with RCW 43.01.036, the department of children, youth, and families and the office of the superintendent of public instruction shall provide a report to the appropriate committees of the legislature and the governor describing the actions, policies, and procedures in place to prevent information from being included on a student transcript indicating that a student received credit while confined in a detention facility as defined under RCW 13.40.020, institution as defined under RCW 13.40.020, juvenile correctional facility under alternative administration operated by a consortium of counties under RCW 13.04.035, community facility as defined under RCW 72.05.020, or correctional facility as defined under RCW 70.48.020.

(3) This section expires June 30, 2021.

NEW SECTION. Sec. 4. This act applies to all juvenile record sealing hearings commenced on or after the effective date of this section, regardless of when the underlying hearing was scheduled or the underlying record was created. To this extent, this act applies retroactively, but in all other respects it applies prospectively.

NEW SECTION. Sec. 5. Sections 1, 2, and 4 of this act take effect January 1, 2021.

Passed by the House March 9, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 185

[Substitute House Bill 2883]

ADOLESCENT BEHAVIORAL HEALTH CARE--FAMILY-INITIATED TREATMENT

AN ACT Relating to implementing policies related to expanding adolescent behavioral health care access as reviewed and recommended by the children's mental health work group; amending RCW 71.34.010, 71.34.610, 71.34.630, and 71.34.730; reenacting and amending RCW 71.34.020, 71.34.750, and 71.34.750; adding a new section to chapter 71.34 RCW; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 71.34.010 and 2019 c 381 s 1 are each amended to read as follows:

It is the purpose of this chapter to assure that minors in need of mental health care and treatment receive an appropriate continuum of culturally relevant care and treatment, including prevention and early intervention, self-directed care, parent-directed care, and involuntary treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the authority and the department that provide mental health services to minors shall jointly plan and deliver those services.

It is also the purpose of this chapter to protect the rights of adolescents to confidentiality and to independently seek services for mental health and substance use disorders. Mental health and ~~((chemical dependency))~~ substance use disorder professionals shall guard against needless hospitalization and deprivations of liberty, enable treatment decisions to be made in response to clinical needs in accordance with sound professional judgment, and encourage the use of voluntary services. Mental health and ~~((chemical dependency))~~ substance use disorder professionals shall, whenever clinically appropriate, offer less restrictive alternatives to inpatient treatment. Additionally, all mental health care and treatment providers shall assure that minors' parents are given an opportunity to participate in the treatment decisions for their minor children. The mental health care and treatment providers shall, to the extent possible, offer services that involve minors' parents or family.

It is also the purpose of this chapter to assure the ability of parents to exercise reasonable, compassionate care and control of their minor children when there is a medical necessity for treatment and without the requirement of filing a petition under this chapter, including the ability to request and receive medically necessary treatment for their adolescent children without the consent of the adolescent.

Sec. 2. RCW 71.34.020 and 2019 c 446 s 24, 2019 c 444 s 17, 2019 c 381 s 2, and 2019 c 325 s 2001 are each reenacted and amended to read as follows:

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

(1) "Adolescent" means a minor thirteen years of age or older.

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(3) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(4) "Authority" means the Washington state health care authority.

(5) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(6) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(7) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(8) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

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

(11) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(12) "Director" means the director of the authority.

(13) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(14) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(15) "Gravely disabled minor" means a minor who, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals, is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(16)(a) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure withdrawal management and stabilization facility for minors, or approved substance use disorder treatment program for minors.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "inpatient treatment" has the meaning included in (a) of this subsection and any other residential treatment facility licensed under chapter 71.12 RCW.

(17) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(18) "Kinship caregiver" has the same meaning as in RCW 74.13.031(19)(a).

(19) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

(20) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

(21) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

(22) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a mental disorder or substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a handicap, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(23) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(24) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, social worker, and such other mental health professionals as defined by rules adopted by the secretary of the department of health under this chapter.

(25) "Minor" means any person under the age of eighteen years.

(26) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified behavioral health agencies as identified by RCW 71.24.025.

(27)(a) "Parent" has the same meaning as defined in RCW 26.26A.010, including either parent if custody is shared under a joint custody agreement, or a person or agency judicially appointed as legal guardian or custodian of the child.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person to whom a parent defined in (a) of this subsection has given a signed authorization to make health care decisions for the adolescent, a stepparent who is involved in caring for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or another relative who is responsible for the health care of the adolescent, who

may be required to provide a declaration under penalty of perjury stating that he or she is a relative responsible for the health care of the adolescent pursuant to ((RCW 9A.72.085)) chapter 5.50 RCW. If a dispute arises between individuals authorized to act as a parent for the purpose of RCW 71.34.600 through 71.34.670, the disagreement must be resolved according to the priority established under RCW 7.70.065(2)(a).

(28) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

(29) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(30) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(31) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(32) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(33) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(34) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(35) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(36) "Secretary" means the secretary of the department or secretary's designee.

(37) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health.

(38) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(39) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(40) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(41) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW, or a person certified as a ~~((chemical dependency))~~ substance use disorder professional trainee under RCW 18.205.095 working under the direct supervision of a certified ~~((chemical dependency))~~ substance use disorder professional.

Sec. 3. RCW 71.34.610 and 2019 c 381 s 8 are each amended to read as follows:

(1) The authority shall assure that, for any adolescent admitted to inpatient treatment under RCW 71.34.600, a review is conducted by a physician or other mental health professional who is employed by the authority, or an agency under contract with the authority, and who neither has a financial interest in continued inpatient treatment of the adolescent nor is affiliated with the facility providing the treatment. ~~((The))~~

(a) For adolescents receiving inpatient treatment, the physician or other mental health professional shall conduct the review not less than seven nor more than fourteen days following the date the adolescent was brought to the facility under RCW 71.34.600 to determine whether it is a medical necessity to continue the adolescent's treatment on an inpatient basis.

(b) For adolescents receiving inpatient treatment in a residential treatment facility, the physician or other mental health professional shall conduct an

additional medical necessity review every thirty days after the initial review while the adolescent remains in treatment under RCW 71.34.600.

(2) In making a determination under subsection (1) of this section, the authority shall consider the opinion of the treatment provider, the safety of the adolescent, and the likelihood the adolescent's mental health will deteriorate if released from inpatient treatment. The authority shall consult with the parent in advance of making its determination.

(3) If, after any review conducted by the authority under this section, the authority determines it is no longer a medical necessity for an adolescent to receive inpatient treatment, the authority shall immediately notify the parents and the facility. The facility shall release the adolescent to the parents within twenty-four hours of receiving notice. If the professional person in charge and the parent believe that it is a medical necessity for the adolescent to remain in inpatient treatment, the adolescent shall be released to the parent on the second judicial day following the authority's determination in order to allow the parent time to file an at-risk youth petition under chapter 13.32A RCW. If the authority determines it is a medical necessity for the adolescent to receive outpatient treatment and the adolescent declines to obtain such treatment, such refusal shall be grounds for the parent to file an at-risk youth petition.

(4) If the evaluation conducted under RCW 71.34.600 is done by the authority, the reviews required by subsection (1) of this section shall be done by contract with an independent agency.

(5) The authority may, subject to available funds, contract with other governmental agencies to conduct the reviews under this section. The authority may seek reimbursement from the parents, their insurance, or medicaid for the expense of any review conducted by an agency under contract.

(6) In addition to the review required under this section, the authority may periodically determine and redetermine the medical necessity of treatment for purposes of payment with public funds.

(7) The authority shall communicate review findings under this section with the appropriate medicaid managed care organization contracted by the authority.

(8) Nothing in this section prohibits a managed care organization from conducting medical necessity reviews according to appropriate guidelines based on the level of care being referred to and consistent with the billing guide from the authority.

Sec. 4. RCW 71.34.630 and 2019 c 381 s 10 are each amended to read as follows:

(1) If the adolescent is receiving inpatient treatment in a hospital setting and is not released as a result of the petition filed under RCW 71.34.620, he or she shall be released not later than thirty days following the later of: (((+))) (a) The date of the authority's determination under RCW 71.34.610(2); or (((-))) (b) the filing of a petition for judicial review under RCW 71.34.620, unless a professional person or the designated crisis responder initiates proceedings under this chapter.

(2) If the adolescent receiving treatment in a residential treatment facility is not released as a result of the petition filed under RCW 71.34.620, he or she may remain in a residential treatment facility so long as it continues to be a medical necessity for the adolescent to receive such treatment.

Sec. 5. RCW 71.34.730 and 2019 c 446 s 36 are each amended to read as follows:

(1) The professional person in charge of an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program where a minor has been admitted involuntarily for the initial seventy-two hour treatment period under this chapter may petition to have a minor committed to an evaluation and treatment facility or, in the case of a minor with a substance use disorder, to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program for fourteen-day diagnosis, evaluation, and treatment.

If the professional person in charge of the facility does not petition to have the minor committed, the parent who has custody of the minor may seek review of that decision in court. The parent shall file notice with the court and provide a copy of the treatment and evaluation facility's report.

(2) A petition for commitment of a minor under this section shall be filed with the superior court in the county where the minor is residing or being detained.

(a) A petition for a fourteen-day commitment shall be signed by:

(i) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(ii) One physician, physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional.

(b) If the petition is for substance use disorder treatment, the petition may be signed by a (~~chemical dependency~~) substance use disorder professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner. The person signing the petition must have examined the minor, and the petition must contain the following:

(i) The name and address of the petitioner;

(ii) The name of the minor alleged to meet the criteria for fourteen-day commitment;

(iii) The name, telephone number, and address if known of every person believed by the petitioner to be legally responsible for the minor;

(iv) A statement that the petitioner has examined the minor and finds that the minor's condition meets required criteria for fourteen-day commitment and the supporting facts therefor;

(v) A statement that the minor has been advised of the need for voluntary treatment but has been unwilling or unable to consent to necessary treatment;

(vi) If the petition is for mental health treatment, a statement that the minor has been advised of the loss of firearm rights if involuntarily committed;

(vii) A statement recommending the appropriate facility or facilities to provide the necessary treatment; and

(viii) A statement concerning whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(c) A copy of the petition shall be personally delivered to the minor by the petitioner or petitioner's designee. A copy of the petition shall be sent to the minor's attorney and the minor's parent.

Sec. 6. RCW 71.34.750 and 2019 c 446 s 39 and 2019 c 325 s 2008 are each reenacted and amended to read as follows:

(1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;

(c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program responsible for the treatment of the minor;

(d) The date of the fourteen-day commitment order; and

(e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by: (a) Two examining physicians, one of whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner. If the petition is for substance use disorder treatment, the petition may be signed by a ~~((chemical dependency))~~ substance use disorder professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner; or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist, a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment:

(a) The court must find by clear, cogent, and convincing evidence that the minor:

- (i) Is suffering from a mental disorder or substance use disorder;
- (ii) Presents a likelihood of serious harm or is gravely disabled; and
- (iii) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(b) If commitment is for a substance use disorder, the court must find that there is an available approved substance use disorder treatment program that has adequate space for the minor.

(7) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed to the custody of the director for further inpatient mental health treatment, to an approved substance use disorder treatment program for further substance use disorder treatment, or to a private treatment and evaluation facility for inpatient mental health or substance use disorder treatment if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

(8) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least five days prior to the expiration of the previous one hundred eighty-day commitment order.

Sec. 7. RCW 71.34.750 and 2019 c 446 s 40 and 2019 c 325 s 2009 are each reenacted and amended to read as follows:

(1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

- (a) The name and address of the petitioner or petitioners;
- (b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;
- (c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program responsible for the treatment of the minor;
- (d) The date of the fourteen-day commitment order; and
- (e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by:
(a) Two examining physicians, one of whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner. If

the petition is for substance use disorder treatment, the petition may be signed by a ~~((chemical dependency))~~ substance use disorder professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner; or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist, a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment, the court must find by clear, cogent, and convincing evidence that the minor:

- (a) Is suffering from a mental disorder or substance use disorder;
- (b) Presents a likelihood of serious harm or is gravely disabled; and
- (c) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(7) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed to the custody of the director for further inpatient mental health treatment, to an approved substance use disorder treatment program for further substance use disorder treatment, or to a private treatment and evaluation facility for inpatient mental health or substance use disorder treatment if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

(8) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least five days prior to the expiration of the previous one hundred eighty-day commitment order.

NEW SECTION, Sec. 8. A new section is added to chapter 71.34 RCW to read as follows:

The authority shall develop and operate a data collection and tracking system for adolescents receiving family-initiated treatment under RCW 71.34.600 through 71.34.670. In implementing this data collection and tracking system, the authority shall, in collaboration with the department of health, collect information from facilities serving adolescents receiving family-initiated treatment under RCW 71.34.600 through 71.34.670 including, if possible, the following information:

- (1) The names of facilities serving adolescents receiving family-initiated treatment under RCW 71.34.600 through 71.34.670;
- (2) The number of adolescents receiving family-initiated treatment under RCW 71.34.600 through 71.34.670 who are defined as dependent children under chapter 13.34 RCW;
- (3) Demographic information about the adolescents receiving family-initiated treatment under RCW 71.34.600 through 71.34.670;
- (4) The diagnosis upon entry for adolescents receiving family-initiated treatment under RCW 71.34.600 through 71.34.670;
- (5) Length of stay for adolescents receiving family-initiated treatment under RCW 71.34.600 through 71.34.670; and
- (6) Information related to the discharge summary for adolescents receiving family-initiated treatment under RCW 71.34.600 through 71.34.670.

NEW SECTION. Sec. 9. Section 6 of this act expires July 1, 2026.

NEW SECTION. Sec. 10. Section 7 of this act takes effect July 1, 2026.

Passed by the House February 14, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 186

[Engrossed Substitute Senate Bill 5006]

DOMESTIC WINERIES, BREWERIES, AND MICROBREWERIES--ON-PREMISES CONSUMPTION ENDORSEMENT

AN ACT Relating to creating a new on-premises endorsement for domestic wineries, domestic breweries, and microbreweries; and adding a new section to chapter 66.24 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 66.24 RCW to read as follows:

- (1) There is an on-premises endorsement available to any:
 - (a) Licensed domestic winery to sell beer, produced in Washington, by the single serving for on-premises consumption; and
 - (b) Licensed domestic brewery or microbrewery to sell wine, produced in Washington, by the single serving for on-premises consumption.
- (2) The holder of the endorsement is limited to three offerings of beer for a domestic winery and three offerings of wine for a domestic brewery or microbrewery.
- (3) The annual fee for the endorsement is two hundred dollars for each retail location.

Passed by the Senate January 24, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 187

[Engrossed Senate Bill 5282]

PELVIC EXAMS--INFORMED CONSENT

AN ACT Relating to informed consent for pelvic exams; amending RCW 18.130.180; adding a new section to chapter 18.130 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.130 RCW to read as follows:

(1) A health care provider licensed under this title may not knowingly perform or authorize a student practicing under their authority to perform a pelvic examination on a patient who is anesthetized or unconscious unless:

(a) The patient or a person authorized to make health care decisions for the patient gave specific informed consent to the examination;

(b) The examination is necessary for diagnostic or treatment purposes; or

(c) Sexual assault is suspected, evidence may be collected if the patient is not capable of informed consent due to longer term medical condition, or if evidence will be lost.

(2) A licensed health care provider who violates subsection (1) of this section is subject to discipline pursuant to this chapter, the uniform disciplinary act.

Sec. 2. RCW 18.130.180 and 2019 c 427 s 17 are each amended to read as follows:

The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional

conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) Except when authorized by RCW 18.130.345, the possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers, documents, records, or other items;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW or a pattern of violations of RCW 48.49.020 or 48.49.030;

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards;

(26) Violation of RCW 18.130.420;

(27) Performing conversion therapy on a patient under age eighteen;

(28) Violation of section 1 of this act.

Passed by the Senate March 10, 2020.

Passed by the House February 27, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 188

[Engrossed Substitute Senate Bill 5395]

SEXUAL HEALTH EDUCATION

AN ACT Relating to requiring comprehensive sexual health education that is consistent with the Washington state health and physical education K-12 learning standards and that requires affirmative consent curriculum; and amending RCW 28A.300.475.

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

Sec. 1. RCW 28A.300.475 and 2007 c 265 s 2 are each amended to read as follows:

(1) ~~((By September 1, 2008,))~~ (a)(i) In accordance with the requirements of this section, every public school ((that offers)) shall provide comprehensive sexual health education ((must assure that)) to each student by the 2022-23 school year. The curriculum, instruction, and materials used to provide the comprehensive sexual health education ((is)) must be medically and scientifically accurate, age-appropriate, ((appropriate for students regardless of gender, race, disability status, or sexual orientation)) and inclusive of all students, regardless of their protected class status under chapter 49.60 RCW, and

must include((s)) information about abstinence and other methods of preventing unintended pregnancy and sexually transmitted diseases. ((All sexual health information, instruction, and materials must be medically and scientifically accurate.)) Abstinence may not be taught to the exclusion of other materials and instruction on contraceptives and disease prevention.

(ii)(A) Beginning in the 2020-21 school year, any public school that provides comprehensive sexual health education must ensure that the curriculum, instruction, and materials include information about affirmative consent and bystander training.

(B) The school district boards of directors of one or more public schools that are not providing comprehensive sexual health education in either the 2019-20 school year, the 2020-21 school year, or both, must prepare for incorporating information about affirmative consent and bystander training into the comprehensive sexual health education curriculum, instruction, and materials required by this section. In satisfying the requirements of this subsection (1)(a)(ii)(B), school district boards of directors must also, no later than the 2020-21 school year, consult with parents and guardians of students, local communities, and the Washington state school directors' association.

(b) A public school may choose to use separate, outside speakers or prepared curriculum to teach different content areas or units within ((the)) its comprehensive sexual health education program ((as long as)) if all speakers, curriculum, and materials used are in compliance with this section.

(c) Comprehensive sexual health education must be consistent with the Washington state health and physical education K-12 learning standards and the January 2005 guidelines for sexual health information and disease prevention developed by the department of health and the office of the superintendent of public instruction.

((As used in chapter 265, Laws of 2007, "medically and scientifically accurate" means information that is verified or supported by research in compliance with scientific methods, is published in peer review journals, where appropriate, and is recognized as accurate and objective by professional organizations and agencies with expertise in the field of sexual health including but not limited to the American college of obstetricians and gynecologists, the Washington state department of health, and the federal centers for disease control and prevention.)) (a) Beginning in the 2021-22 school year, comprehensive sexual health education must be provided to all public school students in grades six through twelve.

(b) Beginning in the 2022-23 school year, comprehensive sexual health education must be provided to all public school students.

(c) The provision of comprehensive sexual health education to public school students as required by (a) and (b) of this subsection (2) must be provided no less than:

(i) Once to students in kindergarten through grade three;

(ii) Once to students in grades four through five;

(iii) Twice to students in grades six through eight; and

(iv) Twice to students in grades nine through twelve.

(3) The office of the superintendent of public instruction and the department of health shall make the Washington state health and physical education K-12 learning standards and the January 2005 guidelines for sexual health information

and disease prevention available to public schools (~~((districts))~~), teachers, and guest speakers on their web sites. Within available resources, the office of the superintendent of public instruction and the department of health shall also, and to the extent permitted by applicable federal law, make any related information, model policies, curricula, or other resources available (~~((as well))~~) on their web sites.

(4) The office of the superintendent of public instruction, in consultation with the department of health, shall develop a list of comprehensive sexual health education curricula that are consistent with the 2005 guidelines for sexual health information and disease prevention, the Washington state health and physical education K-12 learning standards, and this section. This list (~~((shall be intended to))~~), which may serve as a resource for schools, teachers, or any other organization or community group, ((and shall)) must be updated (~~((no less frequently than))~~) at least annually, and must be made available on the web sites of the office of the superintendent of public instruction and the department of health.

(5) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall periodically review and revise, as necessary, training materials, which may be in an electronic format, for classroom teachers and principals to implement the applicable requirements of this section. The initial review required by this subsection (5) must be completed by March 1, 2021.

(6)(a) Public schools (~~((that offer sexual health education))~~) are encouraged to review their comprehensive sexual health education curricula and choose a curriculum from the list developed under subsection (4) of this section. Any public school (~~((that offers sexual health education))~~) may identify, choose, or develop any other curriculum(~~(s)~~) if (~~((the curriculum chosen or developed))~~) it complies with the requirements of this section.

(b) If a public school chooses a curriculum that is not from the list developed under subsection (4) of this section, the public school or applicable school district, in consultation with the office of the superintendent of public instruction, must conduct a review of the selected or developed curriculum to ensure compliance with the requirements of this section using a comprehensive sexual health education curriculum analysis tool of the office of the superintendent of public instruction.

(c) The office of the superintendent of public instruction shall provide technical assistance to public schools and school districts that is consistent with the curricula review, selection, and development provisions in (a) and (b) of this subsection (6).

~~((6))~~ (7)(a) Any parent or legal guardian who wishes to have his or her child excused from any planned instruction in comprehensive sexual health education may do so upon filing a written request with the school district board of directors or its designee, or the principal of the school his or her child attends, or the principal's designee. The person or entity to whom the request is directed must grant the written request to have the student excused from this instruction in accordance with this subsection. In addition, any parent or legal guardian may review the comprehensive sexual health education curriculum ((offered)) provided in his or her child's school by filing a written request with the school

district board of directors, the principal of the school his or her child attends, or the principal's designee.

~~((7) The office of the superintendent of public instruction shall, through its Washington state school health profiles survey or other existing reporting mechanism, ask public))~~ (b) At the beginning of the 2021-22 school year, each school providing comprehensive sexual health education must notify parents and guardians, in writing or in accordance with the methods the school finds most effective in communicating with parents, that the school will be providing comprehensive sexual health education during the school year. The notice must include, or provide a means for electronic access to, all course materials, by grade, that will be used at the school during the instruction.

(8)(a) Public schools ~~((to))~~ shall annually, by September 1st, identify to the office of the superintendent of public instruction any curricula used by the school to provide comprehensive sexual health education~~((, and shall report the results of this inquiry to the legislature on a biennial basis, beginning with the 2008-09 school year))~~ as required by this section. Materials provided by schools under this subsection (8)(a) must also describe how the provided classroom instruction aligns with the requirements of this section.

(b) The office of the superintendent of public instruction shall summarize and, in accordance with RCW 43.01.036, report the results provided under (a) of this subsection (8) to the education committees of the house of representatives and the senate biennially, beginning after the 2022-23 school year.

~~((8) The requirement))~~ (9) RCW 28A.600.480(2), which encourages school employees, students, and volunteers to report harassment, intimidation, or bullying ~~((under RCW 28A.600.480(2)))~~, applies to this section.

(10) Nothing in this section expresses legislative intent to require that comprehensive sexual health education, or components of comprehensive sexual health education, be integrated into curriculum, materials, or instruction in unrelated subject matters or courses.

(11) For the purposes of this section:

(a) "Affirmative consent" means a conscious and voluntary agreement to engage in sexual activity as a requirement before sexual activity;

(b) "Comprehensive sexual health education" means recurring instruction in human development and reproduction that is age-appropriate and inclusive of all students, regardless of their protected class status under chapter 49.60 RCW. All curriculum, instruction, and materials used in providing comprehensive sexual health education must be medically and scientifically accurate and must use language and strategies that recognize all members of protected classes under chapter 49.60 RCW. Comprehensive sexual health education for students in kindergarten through grade three must be instruction in social-emotional learning that is consistent with learning standards and benchmarks adopted by the office of the superintendent of public instruction under RCW 28A.300.478. Comprehensive sexual health education for students in grades four through twelve must include information about:

(i) The physiological, psychological, and sociological developmental processes experienced by an individual;

(ii) The development of intrapersonal and interpersonal skills to communicate, respectfully and effectively, to reduce health risks, and choose

healthy behaviors and relationships that are based on mutual respect and affection, and are free from violence, coercion, and intimidation;

(iii) Health care and prevention resources;

(iv) The development of meaningful relationships and avoidance of exploitative relationships;

(v) Understanding the influences of family, peers, community, and the media throughout life on healthy sexual relationships; and

(vi) Affirmative consent and recognizing and responding safely and effectively when violence, or a risk of violence, is or may be present with strategies that include bystander training;

(c) "Medically and scientifically accurate" means information that is verified or supported by research in compliance with scientific methods, is published in peer-reviewed journals, where appropriate, and is recognized as accurate and objective by professional organizations and agencies with expertise in the field of sexual health including but not limited to the American college of obstetricians and gynecologists, the Washington state department of health, and the federal centers for disease control and prevention; and

(d) "Public schools" has the same meaning as in RCW 28A.150.010.

Passed by the Senate March 7, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 189

[Engrossed Substitute Senate Bill 5434]

POSSESSION OF WEAPONS--CHILD CARE

AN ACT Relating to restricting possession of weapons in certain locations; adding a new section to chapter 9.41 RCW; adding new sections to chapter 43.216 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 9.41 RCW to read as follows:

(1) It is unlawful for a person to carry onto, or to possess on, licensed child care center premises, child care center-provided transportation, or areas of facilities while being used exclusively by a child care center:

(a) Any firearm;

(b) Any other dangerous weapon as described in RCW 9.41.250;

(c) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas; or

(d)(i) Any portable device manufactured to function as a weapon and which is commonly known as a stun gun, including a projectile stun gun that projects wired probes that are attached to the device that emit an electrical charge designed to administer to a person or an animal an electric shock, charge, or impulse; or

(ii) Any device, object, or instrument that is used or intended to be used as a weapon with the intent to injure a person by an electric shock, charge, or impulse.

(2) A person who violates subsection (1) of this section is guilty of a gross misdemeanor. If a person is convicted of a violation of subsection (1)(a) of this section, the person shall have his or her concealed pistol license, if any, revoked for a period of three years. Anyone convicted under subsection (1)(a) of this section is prohibited from applying for a concealed pistol license for a period of three years from the date of conviction. The court shall order the person to immediately surrender any concealed pistol license, and within three business days notify the department of licensing in writing of the required revocation of any concealed pistol license held by the person. Upon receipt of the notification by the court, the department of licensing shall determine if the person has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of the notification, shall immediately revoke the license.

(3) Subsection (1) of this section does not apply to:

(a) Family day care provider homes as defined in RCW 43.216.010;

(b) Any person in possession of a pistol who has been issued a license under RCW 9.41.070, or is exempt from the licensing requirement by RCW 9.41.060, while picking up or dropping off a child at the child care center;

(c) Any person at least eighteen years of age legally in possession of a firearm or dangerous weapon that is secured within an attended vehicle or concealed from view within a locked unattended vehicle while conducting legitimate business at the child care center; or

(d) Any law enforcement officer of a federal, state, or local government agency.

(4) Child care centers must post "GUN-FREE ZONE" signs giving warning of the prohibition of the possession of firearms on center premises.

(5) A child care center that is located on public or private elementary or secondary school premises is subject to the requirements of RCW 9.41.280.

(6) For the purposes of this section, child care center has the same meaning as "child day care center" as defined in RCW 43.216.010.

NEW SECTION. Sec. 2. A new section is added to chapter 43.216 RCW to read as follows:

(1) Every child day care center and early childhood education and assistance program provider is subject to section 1 of this act.

(2)(a) A family day care provider must store any firearm, ammunition, or other dangerous weapon as described in RCW 9.41.250 in a secure area when children for whom the family day care provider is licensed to provide care are present on the premises.

(b) The secure area must be inaccessible to children and must consist of a locked gun safe or a locked room. If stored in a locked room, each firearm must be stored unloaded and with a trigger lock or other disabling feature.

(3) The department may deny, suspend, revoke, modify or not renew the license of a child care provider in violation of this section.

NEW SECTION. Sec. 3. A new section is added to chapter 43.216 RCW to read as follows:

The department must adopt rules to implement sections 1 and 2 of this act.

Passed by the Senate March 9, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 190

[Engrossed Substitute Senate Bill 5473]

UNEMPLOYMENT INSURANCE--LEAVING WORK VOLUNTARILY--STUDY

AN ACT Relating to studying exceptions to provisions disqualifying individuals from receiving unemployment benefits for leaving work voluntarily without good cause; creating new sections; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) As a result of major demographic shifts, adults' obligations to provide unpaid care to elderly, frail, ill, or family members with a disability have sharply increased in the United States over the last two decades. In addition, the increasing unavailability of child care creates a problem for parents with young children. These situations appear to disproportionately affect women workers who are single parents. These trends often force employees to choose between providing care to a family member and keeping their job. Another factor for a parent leaving a job may be to relocate to be closer to a minor child. Additionally, workers are finding themselves in situations where the hours or responsibilities are being substantially increased without a commensurate increase in pay. Unemployment insurance was created to ease the burden of involuntary unemployment upon individual employees and the economy as a whole. Our current framework places unnecessary barriers to this insurance benefit in the way of workers, frequently low-wage employees, who must rely on caregiving or provide it themselves, sometimes forcing them to leave the workforce and leaving employers with a smaller labor pool. It is the intent of the legislature to ensure that Washington's unemployment insurance system remains responsive to the needs of employees with caregiving and other responsibilities and taking into account changes at the workplace.

(2) Several senate bills in the 2020 legislative session would have amended the unemployment insurance laws to provide that an individual is not disqualified from unemployment insurance benefits when:

(a) The separation was necessary because care for a child or a vulnerable adult in the claimant's care is inaccessible, so long as the claimant made reasonable efforts to preserve the employment status by requesting a leave of absence or changes in working conditions or work schedule that would accommodate the caregiving inaccessibility, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment;

(b) The employer, without a commensurate change in pay:

(i) Substantially increases the individual's job duties; or

(ii) Significantly changes the individual's working conditions; and

(c) The individual left work to relocate outside the existing labor market because of the geographical location of or proximity to and the separation from a minor child.

(3) The legislature intends to have the employment security department study the impacts to Washington's unemployment insurance trust fund and the contribution rates of employers if the law was amended to allow unemployment insurance benefits for individuals who leave work voluntarily for the reasons described in subsection (2) of this section.

NEW SECTION. Sec. 2. (1) The employment security department must study the impacts to:

(a) Washington's unemployment insurance trust fund and the contribution rates of employers if the law was amended to allow unemployment insurance benefits for individuals who leave work voluntarily for the reasons described in section 1(2) of this act; and

(b) Washington's unemployment insurance trust fund if the law was amended to allow unemployment insurance benefits for individuals who leave work voluntarily for the reasons described in section 1(2) of this act, and the benefits were not charged to the employers' experience rating accounts.

(2) The employment security department may consider:

(a) The existing and prior Washington laws, rules, and case law governing the disqualification of individuals from receiving unemployment benefits for leaving work voluntarily without good cause;

(b) The laws and regulations of other states governing the disqualification of individuals from receiving unemployment benefits for leaving work voluntarily without good cause; and

(c) Any other information the employment security department deems relevant.

(3) By November 6, 2020, and in compliance with RCW 43.01.036, the employment security department must report to the governor and the appropriate committees of the legislature providing:

(a) The impacts described in subsection (1) of this section, broken down by each of the reasons described in section 1(2) of this act;

(b) Any recommendations for how the statutes and rules may be amended to address the circumstances described in section 1(2) of this act, as fully as practicable, while limiting adverse impacts to the unemployment trust fund and the contribution rates of employers.

(4) While the employment security department is conducting the study, the department must meet at least three times with a representative of the largest business association and a representative from an organization which provides low-cost representation or free advice and counsel to people regarding their unemployment benefits to discuss the information gathered by the department.

(5) This section expires December 31, 2020.

Passed by the Senate March 10, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 191

[Substitute Senate Bill 5640]

YOUTH COURTS--VARIOUS PROVISIONS

AN ACT Relating to youth courts; amending RCW 3.72.005, 3.72.010, 3.72.020, and 3.72.040; and reenacting and amending RCW 13.40.250.

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

Sec. 1. RCW 3.72.005 and 2017 c 9 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) "Court" when used without further qualification means the district court under chapter 3.30 RCW, the municipal department under chapter 3.46 RCW, or the municipal court under chapter 3.50 or 35.20 RCW.

(2) "Traffic infraction" means those acts defined as traffic infractions by RCW 46.63.020.

(3) "Transit infraction" means an infraction issued by a transit authority as defined in RCW 9.91.025(2)(c), including those infractions authorized under RCW 35.58.580, 36.57A.230, and 81.112.220.

(4) "Youth court" means an alternative method of hearing and disposing of traffic infractions, transit infractions, or civil infractions for juveniles age sixteen or seventeen.

Sec. 2. RCW 3.72.010 and 2017 c 9 s 2 are each amended to read as follows:

(1) A court created under chapter 3.30, 3.46, 3.50, or 35.20 RCW may create a youth court. The youth court shall have jurisdiction over civil, traffic, and transit infractions alleged to have been committed by juveniles age sixteen or seventeen. The court may refer a juvenile to the youth court upon request of any party or upon its own motion. However, a juvenile shall not be required under this section to have his or her civil, traffic, or transit infraction referred to or disposed of by a youth court.

(2) To be referred to a youth court pursuant to this chapter, a juvenile:

(a) ~~((May not have had a prior traffic or transit infraction referred to a youth court;~~

~~(b)))~~ May not be under the jurisdiction of any court for a civil infraction or for a violation of any provision of Title 46 RCW or for unlawful transit conduct under RCW 9.91.025;

~~((c)))~~ ~~(b)~~ May not have any convictions for a violation of any provision of Title 46 RCW or for unlawful transit conduct under RCW 9.91.025; and

~~((d)))~~ ~~(c)~~ Must acknowledge that there is a high likelihood that he or she would be found to have committed the civil, traffic, or transit infraction.

(3)(a) Nothing in this chapter shall interfere with the ability of juvenile courts to refer matters to youth courts that have been established to provide a diversion for matters involving juvenile offenders who are eligible for diversion pursuant to RCW 13.40.070 (6) and (8) and who agree, along with a parent, guardian, or legal custodian, to comply with the provisions of RCW 13.40.600.

(b) Nothing in this chapter shall interfere with the ability of student courts to work with students who violate school rules and policies pursuant to RCW 28A.300.420.

(4) A youth court under this chapter may accept referrals of traffic infractions, transit infractions, and civil infractions committed by juveniles age twelve through fifteen from a juvenile court diversion unit under RCW 13.40.250(5), provided that the youth court follows all conditions of RCW 13.40.250(5). In this circumstance, the youth court shall maintain concurrent jurisdiction with the juvenile court only for the purpose of supervision of the diversion agreement.

Sec. 3. RCW 3.72.020 and 2017 c 9 s 3 are each amended to read as follows:

(1) A youth court agreement shall be a contract between a juvenile accused of a traffic ~~((or))~~ infraction, transit infraction, or civil infraction and a court whereby the juvenile agrees to fulfill certain conditions imposed by a youth court in lieu of a determination that ~~((a traffic or transit))~~ the infraction occurred. Such agreements may be entered into only after the law enforcement authority has determined that probable cause exists to believe that a traffic ~~((or))~~ infraction, transit infraction, or civil infraction has been committed and that the juvenile committed it. A youth court agreement shall be reduced to writing and signed by the court and the youth accepting the terms of the agreement. Such agreements shall be entered into as expeditiously as possible.

(2) Conditions imposed on a juvenile by a youth court shall be limited to one or more of the following:

(a) Community service not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Attendance at defensive driving school or driver improvement education classes or, in the discretion of the court, a like means of fulfilling this condition. The state shall not be liable for costs resulting from the youth court or the conditions imposed upon the juvenile by the youth court;

(c) A monetary penalty, not to exceed one hundred dollars. All monetary penalties assessed and collected under this section shall be deposited and distributed in the same manner as costs, fines, forfeitures, and penalties are assessed and collected under RCW 2.68.040, 3.46.120, 3.50.100, 3.62.020, 3.62.040, 35.20.220, and 46.63.110(7), regardless of the juvenile's successful or unsuccessful completion of the youth court agreement;

(d) Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas;

(e) Participating in law-related education classes;

(f) Providing periodic reports to the youth court or the court;

(g) Participating in mentoring programs;

(h) Serving as a participant in future youth court proceedings;

(i) Writing apology letters; or

(j) Writing essays.

(3) Youth courts may require that the youth pay any costs associated with conditions imposed upon the youth by the youth court.

(a) A youth court disposition shall be completed within one hundred eighty days from the date of referral.

(b) The court, as specified in RCW 3.72.010, shall monitor the successful or unsuccessful completion of the disposition.

(4) A youth court agreement may extend beyond the eighteenth birthday of the youth.

(5) Any juvenile who is, or may be, referred to a youth court shall be afforded due process in all contacts with the youth court regardless of whether the juvenile is accepted by the youth court or whether the youth court program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written agreement shall be executed stating all conditions in clearly understandable language and the action that will be taken by the court upon successful or unsuccessful completion of the agreement;

(b) Violation of the terms of the agreement shall be the only grounds for termination.

(6) The youth court shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during youth court hearings or negotiations.

(7) The court shall be responsible for advising a juvenile of his or her rights as provided in this chapter.

(8) When a juvenile enters into a youth court agreement, the court may receive only the following information for dispositional purposes:

(a) The fact that a traffic ~~((or))~~ infraction, transit infraction, or civil infraction was alleged to have been committed;

(b) The fact that a youth court agreement was entered into;

(c) The juvenile's obligations under such agreement;

(d) Whether the juvenile performed his or her obligations under such agreement; and

(e) The facts of the alleged ~~((traffic or transit))~~ infraction.

(9) A court may refuse to enter into a youth court agreement with a juvenile. When a court refuses to enter a youth court agreement with a juvenile, it shall set the matter for hearing in accordance with all applicable court rules and statutory provisions governing the hearing and disposition of traffic ~~((and))~~ infractions, transit infractions, and civil infractions.

(10) If a monetary penalty required by a youth court agreement cannot reasonably be paid due to a lack of financial resources of the youth, the court may convert any or all of the monetary penalty into community service. The modification of the youth court agreement shall be in writing and signed by the juvenile and the court. The number of hours of community service in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

Sec. 4. RCW 3.72.040 and 2017 c 9 s 5 are each amended to read as follows:

The administrative office of the courts shall encourage the courts to work with cities, counties, and schools to implement, expand, or use youth court programs for juveniles who commit traffic ~~((or))~~ infractions, transit infractions, or civil infractions. Program operations of youth court programs may be funded by government and private grants. Youth court programs are limited to those that:

(1) Are developed using the guidelines for creating and operating youth court programs developed by nationally recognized experts in youth court projects;

(2) Target youth ~~((ages sixteen and seventeen))~~ who are alleged to have committed a traffic ~~((or))~~ infraction, transit infraction, or civil infraction; and

(3) Emphasize the following principles:

- (a) Youth must be held accountable for their problem behavior;
- (b) Youth must be educated about the impact their actions have on themselves and others including their victims, their families, and their community;
- (c) Youth must develop skills to resolve problems with their peers more effectively; and
- (d) Youth should be provided a meaningful forum to practice and enhance newly developed skills.

Sec. 5. RCW 13.40.250 and 2002 c 237 s 19 and 2002 c 175 s 28 are each reenacted and amended to read as follows:

A traffic infraction, transit infraction, or civil infraction case involving a juvenile under the age of sixteen may be diverted in accordance with the provisions of this chapter or filed in juvenile court.

(1) If a notice of a traffic infraction, transit infraction, or civil infraction is filed in juvenile court, the juvenile named in the notice shall be afforded the same due process afforded to adult defendants in traffic infraction cases.

(2) A monetary penalty imposed upon a juvenile under the age of sixteen who is found to have committed a traffic infraction, transit infraction, or civil infraction may not exceed one hundred dollars. At the juvenile's request, the court may order performance of a number of hours of community restitution in lieu of a monetary penalty, at the rate of the prevailing state minimum wage per hour.

(3) A diversion agreement entered into by a juvenile referred pursuant to this section shall be limited to thirty hours of community restitution, or educational or informational sessions.

(4) Traffic infractions, transit infractions, or civil infractions referred to a youth court pursuant to this section are subject to the conditions imposed by RCW 13.40.630.

~~(5) (If a case involving the commission of a traffic or civil infraction or offense by a juvenile under the age of sixteen has been referred to a diversion unit, an abstract of the action taken by the diversion unit may be forwarded to the department of licensing in the manner provided for in RCW 46.20.270(2).))~~ Δ diversion agreement entered into by a juvenile referred pursuant to this section may include a requirement that the juvenile participate in a district or municipal youth court program under chapter 3.72 RCW, provided the youth court program accepts the referral and only subject to the following conditions:

(a) Upon entering the diversion agreement, the juvenile shall be referred to the youth court program, the completion of which shall be the only condition of the diversion agreement;

(b) The juvenile shall not serve more than thirty hours of participation in the youth court program;

(c) Other than filing a petition for termination of the diversion agreement in juvenile court, nothing concerning the juvenile's participation in the youth court program shall be filed in any public court file concerning the juvenile's participation or presence in the youth court program. The only written record of participation shall be the diversion agreement entered into with the juvenile court, subject to confidentiality under chapter 13.50 RCW. No court cause number shall be assigned to the case against the juvenile while he or she

participates in the youth court program. The proceedings in the youth court program shall be on open record and may be recorded if necessary;

(d) Nothing concerning the alleged offense or the diversion shall be reported to the department of licensing;

(e) The youth court program may refer the juvenile back to the juvenile diversion unit for termination of the diversion agreement due to noncompliance at any time prior to completion; and

(f) The juvenile court diversion unit shall maintain primary jurisdiction over supervision of the juvenile during his or her participation in the youth court program. The youth court shall notify the diversion unit upon completion of the youth court program and the diversion agreement shall be complete.

Passed by the Senate March 9, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 192

[Senate Bill 5792]

CULTURAL ACCESS PROGRAMS--COUNTY UNIFORMITY

AN ACT Relating to making statutory requirements and policies for cultural access programs the same in all counties of the state; and amending RCW 36.160.020, 36.160.100, and 36.160.110.

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

Sec. 1. RCW 36.160.020 and 2015 3rd sp.s. c 24 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) "Administrative costs" means all operating, administrative, and maintenance expenses for a program(~~(-- a designated public agency,))~~ or a designated entity.

(2) "Attendance" means the total number of visits by persons in physical attendance during a year at cultural organization facilities located or cultural organization programs provided within the county creating a program, including attendance for which admission was paid, discounted, or free, consistent with and verifiable under guidelines adopted by the appropriate program.

(3) "Cultural organization" means a nonprofit corporation incorporated under the laws of the state of Washington and recognized by the internal revenue service as described in section 501(c)(3) of the internal revenue code of 1986, as amended, with its principal location or locations and conducting a majority of its activities within the state, not including: Any agency of the state or any of its political subdivisions; any municipal corporation; any organization that raises funds for redistribution to multiple cultural organizations; or any radio or television broadcasting network or station, cable communications system, internet-based communications venture or service, newspaper, or magazine. The primary purpose of the organization must be the advancement and preservation of science or technology, the visual or performing arts, zoology, botany, anthropology, heritage, or natural history and any organization must directly provide programming or experiences available to the general public. Any

organization with the primary purpose of advancing and preserving zoology such as zoos and aquariums must be or support a facility that is accredited by the association of zoos and aquariums or its functional successor. A state-related cultural organization may be a cultural organization.

(4) "Designated entity" means the entity designated by the legislative authority of a county creating the program, as required under RCW 36.160.110~~((1)(d))~~ (4). The entity may be a public agency, including the state arts commission established under chapter 43.46 RCW, or a Washington nonprofit corporation that is not a cultural organization eligible for funding under this chapter.

(5) ~~("Designated public agency" means the public agency designated by the legislative authority of a county creating the program, as required under RCW 36.160.110(2)(h).~~

~~(6))~~ "Program" means a cultural access program established by a county by ordinance.

~~((7))~~ (6) "Revenues" means revenues from all sources generated by a cultural organization, consistent with generally accepted accounting practices and any program guidelines, excluding: (a) Revenues associated with capital projects other than major maintenance projects including, but not limited to, capital campaign expenses; (b) funds provided under this chapter; (c) revenue that would be considered unrelated business taxable income under the internal revenue code of 1986, as amended; and (d) with respect to a state-related cultural organization, state funding received by it or for the institution it supports. Revenues include transfers from an organization's endowment or reserves and may include the value of in-kind goods and services to the extent permitted under any program guidelines.

~~((8))~~ (7) "State-related cultural organization" means an organization incorporated as a nonprofit corporation under the laws of the state of Washington and recognized by the internal revenue service as described in section 501(c)(3) of the internal revenue code of 1986, as amended, with a primary purpose and directly providing programming or experiences available to the general public consistent with the requirements for recognition as a cultural organization under this chapter operating in a facility owned and supported by the state, a state agency, or state educational institution.

Sec. 2. RCW 36.160.100 and 2015 3rd sp.s. c 24 s 502 are each amended to read as follows:

~~((1))~~ A program created under this chapter must develop and provide a public school cultural access program, as provided in RCW 36.160.110.

~~((2) To the extent practicable consistent with available resources, the public school cultural access element of a program of a county described in RCW 36.160.110(2) must include the following attributes:~~

~~(a) Provide benefits designed to increase public school student access to the programming offered and facilities operated by regional and community-based cultural organizations receiving funding under this chapter, giving priority to the activities in the order described in (c) of this subsection;~~

~~(b) Offer benefits to every public school in the county while scaling the range of benefits available to and the frequency of opportunities to participate by any particular school to coincide with the relative percentage of students~~

attending the school who participate in the national free or reduced-price school meals program;

(e) Benefits provided under the public school cultural access program must include, without limitation:

(i) Providing directly or otherwise funding and arranging for transportation for all public school students at participating schools to attend and participate annually in the age appropriate programs and activities offered by such organizations;

(ii) Should funding available under this program for student transportation be inadequate in any one year due to more demand for student transportation than can be funded, increasing the subsequent annual percentage allocation to the public school cultural access program up to two percent so as to provide sufficient funds to ensure adequate funding of student transportation;

(iii) Establishing and operating, within funding provided to support the public school cultural access program under this subsection, of a centralized service available to regional and community-based cultural organizations receiving funding under this chapter and public schools in the county to coordinate opportunities for public school student access to the programs and activities offered by the organizations both at the facilities and venues operated by the organizations and through programs and experiences provided by the organizations at schools and elsewhere;

(iv) In consultation with cultural organizations located within the county, preparing and maintaining a readily accessible and current guide cataloging access opportunities and facilitating scheduling;

(v) Coordinating closely with cultural organizations to maximize student utilization of available opportunities in a cost efficient manner including possible scheduling on a single day opportunities for different grade levels at any one school and participation in multiple programs or activities in the same general area for which program funded transportation is provided;

(vi) Supporting the development of tools, materials, and media by cultural organizations to ensure that school access programs and activities correlate with school curricula and extend the reach of access programs and activities for classroom use with or without direct on site participation, to the extent practicable;

(vii) Building meaningful partnerships with public schools and cultural organizations in order to maximize participation in school access programs and activities and ensure their relevance and effectiveness;

(d) When a program determines that its program element required under (e)(i) through (vii) of this subsection has achieved sufficient scale and participation among public schools located within its boundaries and that it has resources remaining to devote to additional public school cultural access programs without diminishing such participation, the county may develop and financially support other public school cultural access activities in conjunction with cultural organizations receiving funds under this chapter; public school districts; and other public or nonprofit organizations that support cultural access. Any funding for development and support of such activities provided to cultural organizations receiving funds under this subsection must only be used to supplement the public benefits provided by such organizations as required under

~~this chapter and may not be used by such organizations to replace or diminish funding for such required public benefits;~~

~~(e) Preparation of an annual public school cultural access plan for review and adoption prior to implementation; and~~

~~(f) Compilation of an annual report documenting the reach and evaluating the effectiveness of program-funded public school cultural access efforts, including information about the numbers and types of students who participated in the program and recommendations to the county for improvements.)~~

Sec. 3. RCW 36.160.110 and 2015 3rd sp.s. c 24 s 601 are each amended to read as follows:

~~((+))~~ A program in a county ~~((with a population of less than one million five hundred thousand))~~ must allocate the proceeds of taxes authorized under RCW 82.14.525 and 84.52.821 as follows:

~~((+))~~ (1) If any start-up funding has been provided to the program under RCW 36.160.040 with the expectation that the funding will be repaid, the program must annually reserve from total funds available funding sufficient to provide for repayment of such start-up funding until any such start-up funding has been fully repaid;

~~((b))~~ (2) The funding determined by the county forming such a program to be reserved for program costs, including direct administrative costs, and repaying any start-up funding provided under RCW 36.160.040. Information disclosing the amount of funding to be reserved for program administrative costs must be included in any proposition submitted to voters under RCW 82.14.525 or 84.52.821;

~~((e))~~ (3) The county must determine the percentage of total funds available annually to be reserved for a public school cultural access program established and managed by the county to increase access to cultural activities and programming for public school students resident in the county. A public school cultural access program must provide every school in the county a list of appropriate off-site cultural experiences and a list of appropriate on-site cultural experiences for each grade level, every year. Information notifying schools of available transportation funding must be included in the list of off-site cultural experiences. The activities and programming need not be located or provided within the county. In developing its program, the county may consider ~~((the attributes prescribed for a public school cultural access program required to be undertaken under RCW 36.160.100(2) and may also consider))~~ providing funding for music and arts education in public schools that is in addition to that provided for in the program of basic education funding. A public school cultural access program must provide transportation to off-site cultural experiences for all students at all schools in the county that are located within a school district in which at least forty percent of the district's students are eligible for the federal free and reduced-price school meals program. The county may limit its spending on the transportation benefit to no more than five percent of funds collected each year under RCW 36.160.080;

~~((d))~~ (4) Remaining funds available annually, including all funds not initially reserved under ~~((a), (b), and (c) of this subsection))~~ subsections (1), (2), and (3) of this section as well as funds not distributed by the county from the reserved funds, must be distributed by the county to the entity designated by the

legislative authority of the county creating the program. The county must determine:

~~((#))~~ (a) Guidelines, consistent with the requirements of this chapter, it deems necessary or appropriate for determining the eligibility of cultural organizations to receive funding under this chapter;

~~((##))~~ (b) Criteria for the award of funds to eligible cultural organizations, including the public benefits to be derived from projects submitted for funding;

~~((###))~~ (c) The amount of funding to be allocated to support designated entity administrative costs;

~~((##+))~~ (d) Criteria for the identification by the county or, if so directed by the county, by the designated entity of any cultural organization or organizations that would receive annual distributions of funds in such amounts determined by the county or, if so directed by the county, the designated entity; ~~((and))~~

~~((++))~~ (e) Procedures to be used by the designated entity in awarding funding to other cultural organizations that may, but are not required to include a periodic competitive process for awarding funds for particular purposes or projects proposed by eligible cultural organizations; and

(f) Procedures to be used by the designated entity in considering the award of funding to community preservation and development authorities formed under chapter 43.167 RCW, if any exist within the county. The procedures must ensure the eligibility of and consider support for the projects and programs identified in the strategic preservation and development plans, adopted pursuant to RCW 43.167.030, of each community preservation and development authority within the county;

~~((#))~~ (5) In evaluating requests for funding authorized under this chapter, the designated entity responsible for the distribution of the funds must consider the public benefits that any cultural organizations represented will be derived from proposed projects. At the conclusion of a project approved for funding, such organization is required to report to the designated entity on the public benefits realized;

~~((#))~~ (6) Funds distributed to cultural organizations may be used to support cultural and educational activities, programs, and initiatives; public benefits and communications; and basic operations. Funds may also be used for: ~~((#))~~ (a) Capital expenditures or acquisitions including, but not limited to, the acquisition of or construction of improvements to real property; and ~~((##))~~ (b) technology, equipment, and supplies reasonably related to or necessary for a project otherwise eligible for funding under this chapter. Program guidelines may also determine the circumstances under which funds may be used to fund start-up expenses of new community-based cultural organizations;

~~((#))~~ (7) If the county or designated entity determine the eligibility of a cultural organization to receive funding or the relative magnitude of the funding it receives on the basis of its budget, revenues, or expenses, any determination with respect to a qualifying state-related cultural organization must exclude any state funding received by the organization or for the institution it supports.

~~((2)) A county with a population of more than one million five hundred thousand must allocate the proceeds of the taxes authorized under RCW 82.14.525 as follows:~~

~~(a) If any start-up funding has been provided to the program under RCW 36.160.040 with the expectation that the funding will be repaid, the program~~

~~must annually reserve from total funds available annually funding sufficient to provide for repayment of such start-up funding until any such start-up funding has been fully repaid;~~

~~(b) After allocating any funds as required in (a) of this subsection, up to one and one fourth percent of total funds available annually may be used for program administrative costs;~~

~~(c) After allocating funds as required in (a) and (b) of this subsection, ten percent of remaining funds available annually must be used to fund a public school cultural access program to be administered by the program, subject to RCW 36.160.100(2);~~

~~(d) Seventy percent of total remaining funds available annually excluding funds initially reserved under (a), (b), and (c) of this subsection must be reserved for distribution by the program to regional cultural organizations that are cultural organizations that own, operate, or support cultural facilities or provide performances, exhibits, educational programs, experiences, or entertainment that widely benefit and are broadly attended by the public, subject to further definition under guidelines adopted by the program. A regional cultural organization may also generally be characterized under program guidelines as a financially stable, substantial organization with full-time support and program staff, maintaining a broad-based membership, having year round or enduring seasonal operations, being a substantial financial contributor to the development, operation, and maintenance of the organization's principal venue or venues, and providing substantial public benefits. The funding must be provided only to those regional cultural organizations that the program determines, on an annual basis, to have met the following guidelines:~~

~~(i) For at least the preceding three years, the organization has been continuously in good standing as a nonprofit corporation under the laws of the state of Washington;~~

~~(ii) The organization has its principal location or locations and conducts the majority of its activities within the county area primarily for the benefit of county residents;~~

~~(iii) The organization has not declared bankruptcy or suspended or substantially curtailed operations for a period longer than six months during the preceding two years;~~

~~(iv) The organization provided to the program audited annual financial statements for at least its two most recent fiscal years;~~

~~(v) Over the three preceding years, the organization has minimum average annual revenues of at least one million two hundred fifty thousand dollars. The program must annually and cumulatively adjust the minimum revenues by the annual percentage change in the consumer price index for the prior year for the Seattle-Tacoma-Bellevue, Washington metropolitan statistical area for all urban consumer, all goods, as published by the United States department of labor, bureau of labor statistics. The minimum revenues requirement, adjusted for inflation as provided in this section, remains effective through the date on which the initial tax authorized by the voters under RCW 82.14.525 or 84.52.821 expires. Thereafter, the program must, at the beginning of each subsequent period of funding as approved by the voters, establish initial minimum average annual revenues of not less than the amount of the minimum revenues required during the final year of the immediately preceding period of funding;~~

~~(vi) For purposes of determining the eligibility of a regional organization to receive funding or the relative magnitude of the funding it receives on the basis of its revenues, any determination with respect to a qualifying state-related cultural organization must exclude any state funding received by the organization or for the institution it supports; and~~

~~(vii) Any additional guidelines, consistent with RCW 36.160.020 and this section, as the program deems necessary or appropriate for determining the eligibility of prospective regional cultural organizations to receive funding under this section and for establishing the amount of funding any organization may receive;~~

~~(e) Funds available under (d) of this subsection must be distributed among eligible regional cultural organizations based on an annual ranking of eligible organizations by the combined size of their average annual revenues and their average annual attendance, both over the three preceding years. However, an organization's attendance must have twice the weight of the organization's revenues in determining its relative ranking. Available funds must be distributed proportionally among eligible organizations, consistent with the ranking, such that the organization with the largest combined revenues and weighted attendance would receive the most funding and the organization with the smallest combined revenues and weighted attendance would receive the least funding. However, no organization may receive funds in excess of fifteen percent of its average annual revenues over the three preceding years;~~

~~(f) Funds distributed to regional cultural organizations under (d) of this subsection must be used to support cultural and educational activities, programs and initiatives, public benefits and communications, and basic operations.~~

~~(i) At least twenty percent of funds distributed to any regional cultural organizations under (d) of this subsection must be used to participate in the program's public school cultural access program required under RCW 36.160.100. The regional cultural organizations must provide or continue to provide public benefits under this section in addition to participating in the public school cultural access program.~~

~~(ii) No funds distributed to regional cultural organizations under (d) of this subsection may be used for capital expenditures or acquisitions including, but not limited to, the acquisition of or the construction of improvements to real property;~~

~~(g) Prior to December 31st of each year, each regional cultural organization receiving funds authorized under this chapter pursuant to a program allocation formula must provide a report to the program, including:~~

~~(i) A preview of the public benefits the organization plans to provide or continue to provide in the following year;~~

~~(ii) A preview of the organization's public school cultural access program participation in the following year; and~~

~~(iii) A report on public benefits it provided, and its participation in the public school cultural access program, during the current year;~~

~~(h) Remaining funds available annually, including funds not initially reserved under (a) through (d) of this subsection as well as funds not distributed by the program from the reserved funds must be distributed by the program to the public agency designated by the legislative authority of the county creating such a program;~~

~~(i) Funds distributed by the designated public agencies under (h) of this subsection must be applied as follows:~~

~~(i) Not more than eight percent of such funds must be used for administrative costs of the public agency designated by a county creating the program; and-~~

~~(ii) The balance must be used to fund community-based cultural organizations that are cultural organizations or a community preservation and development authority formed under chapter 43.167 RCW prior to January 1, 2011, that primarily function, focus their activities, and are supported or patronized within a local community and are not a regional cultural organization, subject to further definition under guidelines adopted by the designated public agency. Designated public agencies must adopt:~~

~~(A) Guidelines, consistent with the requirements of this chapter, it deems necessary or appropriate for determining the eligibility of community-based cultural organizations to receive funding under this chapter and for establishing the amount of funding any organization may receive;~~

~~(B) Criteria for the award of funds to eligible community-based cultural organizations, including the public benefits to be derived from projects submitted for funding; and~~

~~(C) Procedures for conducting, at least annually, a competitive process for the award of available funding;~~

~~(j) Funds distributed to community-based cultural organizations may be used to support cultural and educational activities, programs, and initiatives; public benefits and communications; and basic operations. Funds may also be used for: (i) Capital expenditures or acquisitions including, but not limited to, the acquisition of or construction of improvements to real property; and (ii) technology, equipment, and supplies reasonably related to or necessary for a project otherwise eligible for funding under this chapter. Program guidelines may also determine the circumstances under which funds may be used to fund start-up expenses of new community-based cultural organizations.)~~

Passed by the Senate March 9, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 193

[Second Engrossed Senate Bill 5887]

HEALTH CARRIER PRIOR AUTHORIZATION--VARIOUS PROVISIONS

AN ACT Relating to health carrier requirements for prior authorization standards; amending RCW 48.43.016; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature intends to facilitate patient access to appropriate therapies for newly diagnosed health conditions while recognizing the necessity for health carriers to employ reasonable utilization management techniques.

Sec. 2. RCW 48.43.016 and 2019 c 308 s 22 are each amended to read as follows:

(1) A health carrier or its contracted entity that imposes different prior authorization standards and criteria for a covered service among tiers of contracting providers of the same licensed profession in the same health plan shall inform an enrollee which tier an individual provider or group of providers is in by posting the information on its web site in a manner accessible to both enrollees and providers.

(2)(a) A health carrier or its contracted entity may not require utilization management or review of any kind including, but not limited to, prior, concurrent, or postservice authorization for an initial evaluation and management visit and up to six ~~((consecutive))~~ treatment visits with a contracting provider in a new episode of care ~~((of chiropractic))~~ for each of the following: Chiropractic, physical therapy, occupational therapy, acupuncture and Eastern medicine, massage therapy, or speech and hearing therapies ((that meet the standards of medical necessity and)). Visits for which utilization management or review is prohibited under this section are subject to quantitative treatment limits of the health plan. Notwithstanding RCW 48.43.515(5) this section may not be interpreted to limit the ability of a health plan to require a referral or prescription for the therapies listed in this section.

(b) For visits for which utilization management or review is prohibited under this section, a health carrier or its contracted entity may not:

(i) Deny or limit coverage on the basis of medical necessity or appropriateness; or

(ii) Retroactively deny care or refuse payment for the visits.

(3) A health carrier shall post on its web site and provide upon the request of a covered person or contracting provider any prior authorization standards, criteria, or information the carrier uses for medical necessity decisions.

(4) A health care provider with whom a health carrier consults regarding a decision to deny, limit, or terminate a person's covered health care services must hold a license, certification, or registration, in good standing and must be in the same or related health field as the health care provider being reviewed or of a specialty whose practice entails the same or similar covered health care service.

(5) A health carrier may not require a provider to provide a discount from usual and customary rates for health care services not covered under a health plan, policy, or other agreement, to which the provider is a party.

(6) Nothing in this section prevents a health carrier from denying coverage based on insurance fraud.

(7) For purposes of this section:

(a) "New episode of care" means treatment for a new ~~((or recurrent))~~ condition or diagnosis for which the enrollee has not been treated by ~~((the))~~ a provider of the same licensed profession within the previous ninety days and is not currently undergoing any active treatment.

(b) "Contracting provider" does not include providers employed within an integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW.

Passed by the Senate March 9, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 194

[Substitute Senate Bill 6037]

BUSINESS CORPORATIONS--VARIOUS PROVISIONS

AN ACT Relating to business corporations; amending RCW 23B.02.020, 23B.02.060, 23B.01.200, 23B.06.010, 23B.06.240, 23B.08.030, 23B.08.735, 23B.09.020, 23B.10.060, 23B.11.010, 23B.11.020, 23B.07.210, 23B.06.030, and 23B.07.040; adding a new section to chapter 23B.08 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 23B.08 RCW to read as follows:

(1) Beginning no later than January 1, 2022, each public company must have a gender-diverse board of directors or that public company must comply with the requirements in subsection (2) of this section. For purposes of this section, a public company is deemed to have a gender-diverse board of directors if, for at least two hundred seventy days of the fiscal year preceding the applicable annual meeting of shareholders, individuals who self-identify as women comprised at least twenty-five percent of the directors serving on the board of directors.

(2) If a public company does not have a gender-diverse board of directors as specified in subsection (1) of this section for at least two hundred seventy days of the fiscal year preceding the applicable annual meeting of shareholders, the public company must deliver to its shareholders a board diversity discussion and analysis, which meets the requirements of subsection (3) of this section. This information must be delivered to all shareholders entitled to vote at that annual meeting of shareholders no fewer than ten nor more than sixty days before the date of that meeting.

(3) If a public company is required under subsection (2) of this section to deliver to its shareholders a board diversity discussion and analysis, the discussion and analysis must include information regarding the public company's approach to developing and maintaining diversity on its board of directors. At a minimum, this discussion and analysis should include the following information:

(a) A discussion regarding how the board of directors, or an appropriate committee thereof, considered the representation of any diverse groups in identifying and nominating candidates for election as directors in connection with the last annual meeting of shareholders, and if the board of directors, or an appropriate committee thereof, did not consider the representation of any diverse groups, the discussion should explain the reasons it did not;

(b) A discussion regarding any policy adopted by the board of directors, or an appropriate committee thereof, relating to identifying and nominating members of any diverse groups for election as directors, and if the board of directors, or an appropriate committee thereof, has not adopted such a policy, the discussion should explain the reasons it has not; and

(c) A discussion of the public company's use of mechanisms of refreshment of the board of directors, such as term limits and mandatory retirement age policies for its directors, and if the public company does not use any such mechanisms, the discussion should explain the reasons it does not.

(4) The requirements of subsection (2) of this section are satisfied if a public company:

(a) Posts the information required by subsection (3) of this section on the public company's principal internet web site address or another electronic network (either separate from, or in combination or as part of, any other materials the public company has posted on the electronic network in compliance with applicable federal law); or

(b) Includes the information required by subsection (3) of this section in a proxy statement filed in accordance with 17 C.F.R. Sec. 240.14a-1 through 17 C.F.R. Sec. 240.14a-101, or in an information statement filed in accordance with 17 C.F.R. Sec. 240.14c-1 through 17 C.F.R. Sec. 240.14c-101.

(5) This section does not apply to any public company:

(a) That does not have outstanding shares of any class or series listed on a United States national securities exchange;

(b) That is an "emerging growth company" or a "smaller reporting company" as defined in 17 C.F.R. Sec. 240.12b-2;

(c) Of which voting shares entitled to cast votes comprising more than fifty percent of the voting power of the public company are held by a person or group of persons;

(d) Of which its articles of incorporation authorize the election of all or a specified number of directors by one or more separate voting groups in accordance with RCW 23B.08.040; or

(e) That is not required by this chapter or the rules of any United States national securities exchange to hold an annual meeting of shareholders.

(6) The failure of a public company to comply with this section does not affect the validity of any corporate action. Nothing in this section alters the general standards for any director of a public company.

(7) The exclusive remedy for any failure of a public company to comply with this section is that any shareholder of that public company entitled to vote in the election of directors at an annual meeting, after notice to the public company, may apply to the superior court of the county in which the public company's registered office is located for an order to deliver to shareholders the information required by subsection (3) of this section if the public company fails to furnish that information in accordance with this section, in which case the court, after notice to the public company, may summarily order the public company to furnish to shareholders that information.

(8) For the purposes of this section:

(a) "Diverse groups" means women, racial minorities, and historically underrepresented groups.

(b) "Voting power" means the total number of votes entitled to be cast by all of the outstanding voting shares of a public company.

(c) "Voting shares" means shares of all classes of a public company entitled to vote generally in the election of directors.

Sec. 2. RCW 23B.02.020 and 2019 c 141 s 1 are each amended to read as follows:

(1) The articles of incorporation must ~~((set forth))~~ include:

(a) A corporate name for the corporation that satisfies the requirements of Article 3 of chapter 23.95 RCW;

(b) The number of shares the corporation is authorized to issue in accordance with RCW 23B.06.010 and 23B.06.020;

(c) The name and address of ~~((its))~~ the corporation's initial registered agent designated in accordance with Article 4 of chapter 23.95 RCW; and

(d) The name and address of each incorporator in accordance with RCW 23B.02.010.

~~(2) ((The articles of incorporation or bylaws must either specify the number of directors or specify the process by which the number of directors will be fixed, unless the articles of incorporation dispense with a board of directors pursuant to RCW 23B.08.010.~~

~~(3) Unless its articles of incorporation provide otherwise, a corporation is governed by the following provisions:~~

~~(a) The board of directors may adopt bylaws to be effective only in an emergency as provided by RCW 23B.02.070;~~

~~(b) A corporation has the purpose of engaging in any lawful business under RCW 23B.03.010;~~

~~(c) A corporation has perpetual existence and succession in its corporate name under RCW 23B.03.020;~~

~~(d) A corporation has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including itemized powers under RCW 23B.03.020;~~

~~(e) All shares are of one class and one series, have unlimited voting rights, and are entitled to receive the net assets of the corporation upon dissolution under RCW 23B.06.010 and 23B.06.020;~~

~~(f) If more than one class of shares is authorized, all shares of a class must have preferences, limitations, and relative rights identical to those of other shares of the same class under RCW 23B.06.010;~~

~~(g) If the board of directors is authorized to designate the number of shares in a series, the board may, after the issuance of shares in that series, reduce the number of authorized shares of that series under RCW 23B.06.020;~~

~~(h) The board of directors must approve any issuance of shares under RCW 23B.06.210;~~

~~(i) Shares may be issued pro rata and without consideration to shareholders under RCW 23B.06.230;~~

~~(j) Shares of one class or series may not be issued as a share dividend with respect to another class or series, unless there are no outstanding shares of the class or series to be issued, or a majority of votes entitled to be cast by such class or series approve as provided in RCW 23B.06.230;~~

~~(k) A corporation may issue rights, options, or warrants for the purchase of shares of the corporation under RCW 23B.06.240;~~

~~(l) A shareholder of a corporation formed on or after January 1, 2020, has no preemptive right to acquire the corporation's unissued shares, and a shareholder of a corporation formed before January 1, 2020, has, and may waive, a preemptive right to acquire the corporation's unissued shares as provided in RCW 23B.06.300;~~

~~(m) Shares of a corporation acquired by it may be reissued under RCW 23B.06.310;~~

~~(n) The board may authorize and the corporation may make distributions not prohibited by statute under RCW 23B.06.400;~~

~~(e) The preferential rights upon dissolution of certain shareholders will be considered a liability for purposes of determining the validity of a distribution under RCW 23B.06.400;~~

~~(p) Corporate action may be approved by shareholders by unanimous consent of all shareholders entitled to vote on the corporate action, unless the approval of a lesser number of shareholders is permitted as provided in RCW 23B.07.040, which shareholder consent shall be in the form of a record;~~

~~(q) Unless this title requires otherwise, the corporation is required to give notice only to shareholders entitled to vote at a meeting and the notice for an annual meeting need not include the purpose for which the meeting is called under RCW 23B.07.050;~~

~~(r) A corporation that is a public company shall hold a special meeting of shareholders if the holders of at least ten percent of the votes entitled to be cast on any issue proposed to be considered at the meeting demand a meeting under RCW 23B.07.020;~~

~~(s) Subject to statutory exceptions, each outstanding share, regardless of class, is entitled to one vote on each matter voted on at a shareholders' meeting under RCW 23B.07.210;~~

~~(t) A majority of the votes entitled to be cast on a matter by a voting group constitutes a quorum, unless the title provides otherwise under RCW 23B.07.250 and 23B.07.270;~~

~~(u) Corporate action on a matter, other than election of directors, by a voting group is approved if the votes cast within the voting group favoring the corporate action exceed the votes cast opposing the corporate action, unless this title requires a greater number of affirmative votes under RCW 23B.07.250;~~

~~(v) All shares of one or more classes or series that are entitled to vote will be counted together collectively on any matter at a meeting of shareholders under RCW 23B.07.260;~~

~~(w) Shareholders of a corporation formed on or after January 1, 2020, do not have a right to cumulate their votes for directors, and shareholders of a corporation formed before January 1, 2020, have a right to cumulate their votes for directors under RCW 23B.07.280;~~

~~(x) Directors are elected by a plurality of votes cast by shares entitled to vote under RCW 23B.07.280, except as otherwise provided in the articles of incorporation or a bylaw adopted pursuant to RCW 23B.10.205;~~

~~(y) A corporation must have a board of directors under RCW 23B.08.010;~~

~~(z) All corporate powers must be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors under RCW 23B.08.010;~~

~~(aa) The shareholders may remove one or more directors with or without cause under RCW 23B.08.080;~~

~~(bb) A vacancy on the board of directors may be filled by the shareholders or the board of directors under RCW 23B.08.100;~~

~~(cc) A corporation shall indemnify a director who was wholly successful in the defense of any proceeding to which the director was a party because the director is or was a director of the corporation against reasonable expenses incurred by the director in connection with the proceeding under RCW 23B.08.520;~~

~~(dd) A director of a corporation who is a party to a proceeding may apply for indemnification of reasonable expenses incurred by the director in connection with the proceeding to the court conducting the proceeding or to another court of competent jurisdiction under RCW 23B.08.540;~~

~~(ee) An officer of the corporation who is not a director is entitled to mandatory indemnification under RCW 23B.08.520, and is entitled to apply for court-ordered indemnification under RCW 23B.08.540, in each case to the same extent as a director under RCW 23B.08.570;~~

~~(ff) The corporation may indemnify and advance expenses to an officer, employee, or agent of the corporation who is not a director to the same extent as to a director under RCW 23B.08.570;~~

~~(gg) A corporation may indemnify and advance expenses to an officer, employee, or agent who is not a director to the extent, consistent with law, that may be provided by its articles of incorporation, bylaws, general or specific approval of its board of directors, or contract under RCW 23B.08.570;~~

~~(hh) A corporation's board of directors may adopt certain amendments to the corporation's articles of incorporation without shareholder approval under RCW 23B.10.020;~~

~~(ii) Unless this title or the board of directors requires a greater vote or a vote by voting groups, an amendment to the corporation's articles of incorporation must be approved by each voting group entitled to vote on the proposed amendment by two-thirds, or, in the case of a public company, a majority, of all the votes entitled to be cast by that voting group under RCW 23B.10.030;~~

~~(jj) A corporation's board of directors may amend or repeal the corporation's bylaws unless this title reserves this power exclusively to the shareholders in whole or in part, or unless the shareholders in amending or repealing a bylaw provide expressly that the board of directors may not amend or repeal that bylaw under RCW 23B.10.200;~~

~~(kk) Unless this title or the board of directors require a greater vote or a vote by voting groups, a plan of merger or share exchange must be approved by each voting group entitled to vote on the merger or share exchange by two-thirds of all the votes entitled to be cast by that voting group under RCW 23B.11.030;~~

~~(ll) Approval by the shareholders of the sale, lease, exchange, or other disposition of all, or substantially all, the corporation's property in the usual and regular course of business is not required under RCW 23B.12.010;~~

~~(mm) Approval by the shareholders of the mortgage, pledge, dedication to the repayment of indebtedness, or other encumbrance of any or all of the corporation's property, whether or not in the usual and regular course of business, is not required under RCW 23B.12.010;~~

~~(nn) Unless the board of directors requires a greater vote or a vote by voting groups, a sale, lease, exchange, or other disposition of all or substantially all of the corporation's property, other than in the usual and regular course of business, must be approved by each voting group entitled to vote on such transaction by two-thirds of all votes entitled to be cast by that voting group under RCW 23B.12.020; and~~

~~(oo) Unless the board of directors requires a greater vote or a vote by voting groups, a proposal to dissolve must be approved by each voting group entitled to vote on the dissolution by two-thirds of all votes entitled to be cast by that voting group under RCW 23B.14.020.~~

~~(4) Unless its articles of incorporation or its bylaws provide otherwise, a corporation is governed by the following provisions:~~

~~(a) The board of directors may approve the issuance of some or all of the shares of any or all of the corporation's classes or series without certificates under RCW 23B.06.260;~~

~~(b) A corporation that is not a public company shall hold a special meeting of shareholders if the holders of at least ten percent of the votes entitled to be cast on any issue proposed to be considered at the meeting demand a meeting under RCW 23B.07.020;~~

~~(c) A director need not be a resident of this state or a shareholder of the corporation under RCW 23B.08.020;~~

~~(d) The board of directors may fix the compensation of directors under RCW 23B.08.110;~~

~~(e) Members of the board of directors may participate in a meeting of the board by any means of similar communication by which all directors participating can hear each other during the meeting under RCW 23B.08.200;~~

~~(f) Corporate action permitted or required by this title to be taken at a board of directors' meeting may be approved without a meeting if approved by all members of the board under RCW 23B.08.210;~~

~~(g) Regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting under RCW 23B.08.220;~~

~~(h) Special meetings of the board of directors must be preceded by at least two days' notice of the date, time, and place of the meeting, and the notice need not describe the purpose of the special meeting under RCW 23B.08.220;~~

~~(i) A quorum of a board of directors consists of a majority of the number of directors under RCW 23B.08.240;~~

~~(j) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors under RCW 23B.08.240;~~

~~(k) A board of directors may create one or more committees and appoint members of the board of directors to serve on them under RCW 23B.08.250; and~~

~~(l) Unless approved by the shareholders, a corporation may indemnify, or make advances to, a director for reasonable expenses incurred in the defense of any proceeding to which the director was a party because of being a director only to the extent such action is consistent with RCW 23B.08.500 through 23B.08.580.~~

~~(5)) The articles of incorporation may ((contain the following provisions)) include:~~

~~(a) The names and addresses of the individuals who are to serve as initial directors;~~

~~(b) The par value of any authorized shares or classes of shares;~~

~~(c) Provisions not inconsistent with law ((related to the management of)) regarding:~~

~~(i) The purpose or purposes for which the corporation is organized;~~

~~(ii) Managing the business and ((the regulation of)) regulating the affairs of the corporation; or~~

~~(iii) Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;~~

(d) Any provision that under this title is required or permitted to be set forth in the bylaws;

~~(e) (Provisions not inconsistent with law defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;~~

~~(f) Provisions authorizing corporate action to be approved by consent of less than all of the shareholders entitled to vote on the corporate action, in accordance with RCW 23B.07.040;~~

~~(g) If the articles of incorporation authorize dividing shares into classes, the election of all or a specified number of directors may be effected by the holders of one or more authorized classes of shares under RCW 23B.08.040;~~

~~(h) The terms of directors may be staggered under RCW 23B.08.060;~~

~~(i) Shares may be redeemable or convertible (i) at the option of the corporation, the shareholder, or another person, or upon the occurrence of a designated event; (ii) for cash, indebtedness, securities, or other property; or (iii) in a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events under RCW 23B.06.010;~~

~~(j) A director's personal liability to the corporation or its shareholders for monetary damages for conduct as a director may be eliminated or limited under RCW 23B.08.320)) A provision eliminating or limiting a director's personal liability to the corporation or its shareholders for monetary damages for conduct as a director in accordance with RCW 23B.08.320;~~

~~(f) A provision permitting or making obligatory indemnification of a director made a party to a proceeding, or advancement or reimbursement of expenses incurred by a director in a proceeding to the extent permitted by RCW 23B.08.560; and~~

~~((~~(k)~~)) (g) A provision limiting or eliminating any duty of a director or any other person to offer the corporation the right to have or participate in any, or one or more classes or categories of, business opportunities, prior to the pursuit or taking of the opportunity by the director or other person in accordance with RCW 23B.08.735(1)(b). ((However, if such provision applies to an officer or related person (as such term is defined in RCW 23B.08.700) of an officer, the board of directors, by action of qualified directors taken in compliance with the same procedures as are set forth in RCW 23B.08.720 and taken subsequent to the inclusion of such provision in the articles of incorporation, (i) must approve the application of such provision to an officer or a related person of that officer, and (ii) may condition the application of such provision to such officer or related person of that officer on any basis.~~

~~(6)) (3) The articles of incorporation ((or the bylaws may contain the following provisions:~~

~~(a) A restriction on the transfer or registration of transfer of the corporation's shares under RCW 23B.06.270;~~

~~(b) Shareholders may participate in a meeting of shareholders by any means of communication by which all persons participating in the meeting can hear each other under RCW 23B.07.080;~~

~~(c) A quorum of the board of directors may consist of as few as one-third of the number of directors under RCW 23B.08.240;~~

~~(d) If the corporation is registered as an investment company under the investment company act of 1940, a provision limiting the requirement to hold an annual meeting of shareholders as provided in RCW 23B.07.010(2); and~~

~~(e) If the corporation is registered as an investment company under the investment company act of 1940, a provision establishing terms of directors which terms may be longer than one year as provided in RCW 23B.05.050.~~

~~(7) The articles of incorporation need not set forth any of the corporate powers enumerated in this title)) need not set forth any of the corporate powers enumerated in this title.~~

~~(4) Provisions in the articles of incorporation may be made dependent on facts objectively ascertainable outside the articles of incorporation in accordance with RCW 23B.01.200(3).~~

Sec. 3. RCW 23B.02.060 and 2011 c 328 s 1 are each amended to read as follows:

(1) The incorporators or board of directors of a corporation (~~shall~~) must adopt initial bylaws for the corporation.

~~(2) ((The articles of incorporation or bylaws must either specify the number of directors or specify the process by which the number of directors will be fixed, unless the articles of incorporation dispense with a board of directors pursuant to RCW 23B.08.010.~~

(3) Unless its articles of incorporation or its bylaws provide otherwise, a corporation is governed by the following provisions:

~~(a) The board of directors may approve the issuance of some or all of the shares of any or all of the corporation's classes or series without certificates under RCW 23B.06.260;~~

~~(b) A corporation that is not a public company shall hold a special meeting of shareholders if the holders of at least ten percent of the votes entitled to be cast on any issue proposed to be considered at the meeting demand a meeting under RCW 23B.07.020;~~

~~(c) A director need not be a resident of this state or a shareholder of the corporation under RCW 23B.08.020;~~

~~(d) The board of directors may fix the compensation of directors under RCW 23B.08.110;~~

~~(e) Members of the board of directors may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200;~~

~~(f) Corporate action permitted or required by this title to be approved at a board of directors' meeting may be approved without a meeting if the corporate action is approved by all members of the board under RCW 23B.08.210;~~

~~(g) Regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting under RCW 23B.08.220;~~

~~(h) Special meetings of the board of directors must be preceded by at least two days' notice of the date, time, and place of the meeting, and the notice need not describe the purpose of the special meeting under RCW 23B.08.220;~~

~~(i) A quorum of a board of directors consists of a majority of the number of directors under RCW 23B.08.240;~~

~~(j) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors under RCW 23B.08.240;~~

~~(k) A board of directors may create one or more committees and appoint members of the board of directors to serve on them under RCW 23B.08.250; and~~

~~(l) Unless approved by shareholders, a corporation may indemnify, or make advances to, a director only for reasonable expenses incurred in the defense of any proceeding to which the director was a party because of being a director to the extent such action is consistent with RCW 23B.08.500 through 23B.08.580 under RCW 23B.08.500.~~

(4)) The bylaws of a corporation may contain any provision for managing the business and regulating the affairs of the corporation to the extent the provision does not infringe upon or limit the exclusive authority of the board of directors under RCW 23B.08.010(2)(b) or otherwise conflict with this title or any other law, the articles of incorporation, or a shareholders' agreement authorized by RCW 23B.07.320.

Sec. 4. RCW 23B.01.200 and 2015 c 176 s 2101 are each amended to read as follows:

(1) A ~~((record))~~ document required or permitted by this title to be filed in the office of the secretary of state must satisfy the requirements of Article 2 of chapter 23.95 RCW, this section, and any other section that adds to or varies from these requirements, to be entitled to filing by the secretary of state.

(2) Unless otherwise indicated in this title, all ~~((records))~~ documents delivered to the secretary of state for filing must be executed:

(a) By the chairperson of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(3) Whenever a provision of this title permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following provisions apply:

(a) The manner in which the facts will operate upon the terms of the plan or filed document must be included in the plan or filed document.

(b) The facts may include:

(i) Any of the following that is available in a nationally recognized news or information medium, either in print or electronically: Statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;

(ii) A determination or action by any person or body, including the corporation, its board of directors, an officer, an employee, or an agent of the corporation, or any other party to a plan or filed document; or

(iii) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

(c) As used in this subsection (3):

(i) "Filed document" means a document filed by the secretary of state under any provision of this title, except chapter 23B.15 RCW or RCW 23.95.255 with respect to business corporations.

(ii) "Plan" means a plan of conversion, merger, or share exchange.

(d) The following provisions of a plan or filed document may not be made dependent on facts outside the plan or filed document:

(i) The name and address of any person required in a filed document;
(ii) The registered agent of any entity required in a filed document;
(iii) The duration of the corporation's existence, if less than perpetual;
(iv) The number of authorized shares and designation of each class or series of shares;

(v) The effective date of a filed document; and

(vi) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

(e) If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document and that fact is not ascertainable by reference to a source described in (b)(i) of this subsection or another publicly available or accessible document, then the corporation must either (i) notify the affected shareholders of the fact, or (ii) file with the secretary of state articles of amendment to the filed document stating the fact, in either case promptly after the time when the fact is first ascertainable or thereafter changes.

(f) Unless the articles of incorporation, a bylaw, or a resolution adopted or approved by the board of directors or shareholders provide otherwise, articles of amendment under (e) of this subsection are deemed to be adopted or approved by the adoption or approval of the original filed document to which they relate and may be filed by the corporation without further adoption or approval by the board of directors or the shareholders.

Sec. 5. RCW 23B.06.010 and 1998 c 104 s 1 are each amended to read as follows:

(1) The articles of incorporation must prescribe the classes of shares and the number of shares of each class that the corporation is authorized to issue.

(a) If more than one class of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class, and, prior to the issuance of shares of a class, the preferences, limitations, voting powers, and relative rights of that class must be described in the articles of incorporation.

(b) Preferences, limitations, voting powers, or relative rights of or on any class or series of shares or the holders thereof may be made dependent upon facts objectively ascertainable outside the articles of incorporation (~~if the manner in which such facts shall operate on the preferences, limitations, voting powers, or relative rights of such class or series of shares or the holders thereof is set forth in the articles of incorporation. "Facts ascertainable outside the articles of incorporation" includes, but is not limited to, the existence of any condition or the occurrence of any event, including, without limitation, a determination or action by any person or body, including the corporation, its board of directors, or an officer, employee, or agent of the corporation~~) in accordance with RCW 23B.01.200(3).

(c) All shares of a class must have preferences, limitations, voting powers, and relative rights identical with those of other shares of the same class except to the extent otherwise permitted by (b) of this subsection or RCW 23B.06.020.

(2) The articles of incorporation must authorize (a) one or more classes of shares that together have unlimited voting rights, and (b) one or more classes of shares, which may be the same class or classes as those with voting rights, that together are entitled to receive the net assets of the corporation upon dissolution.

(3) The articles of incorporation may authorize one or more classes of shares that:

(a) Have special, conditional, or limited voting rights, or no right to vote, except to the extent prohibited by this title;

(b) Are redeemable or convertible as specified in the articles of incorporation (i) at the option of the corporation, the shareholder, or another person or upon the occurrence of a designated event, (ii) for cash, indebtedness, securities, or other property, (iii) in a designated amount or in an amount determined in accordance with a designated formula (~~or by reference to extrinsic data or events~~);

(c) Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative; or

(d) Have preference over any other class of shares with respect to distributions, including dividends and distributions upon the dissolution of the corporation.

(4) Terms of shares may be made dependent on facts objectively ascertainable outside the articles of incorporation in accordance with RCW 23B.01.200(3).

(5) The description of the designations, preferences, limitations, and relative rights of share classes in subsection (3) of this section is not exhaustive.

Sec. 6. RCW 23B.06.240 and 1998 c 104 s 3 are each amended to read as follows:

(1) Unless the articles of incorporation provide otherwise, a corporation may issue rights, options, or warrants for the purchase of shares of the corporation. The board of directors shall determine the terms upon which the rights, options, or warrants are issued, their form and content, and the terms and conditions relating to their exercise, including the time or times, the conditions precedent, and the consideration for which and the holders by whom the rights, options, or warrants may be exercised.

(2) The terms of rights, options, or warrants, including the time or times, the conditions precedent, and the consideration for which and the holders by whom the rights, options, or warrants may be exercised, as well as their duration (a) may preclude or limit the exercise, transfer, or receipt of such rights, options, or warrants or invalidate or void any rights, options, or warrants and (b) may be made dependent upon facts ascertainable outside the documents evidencing them or outside the resolution or resolutions adopted by the board of directors creating such rights, options, or warrants if the manner in which those facts operate on the rights, options, or warrants or the holders thereof is clearly set forth in the documents or the resolutions. (~~"Facts~~) For purposes of this section, "facts ascertainable outside the documents evidencing them or outside the resolution or resolutions adopted by the board of directors creating such rights, options, or warrants" includes, but is not limited to, the existence of any condition or the occurrence of any event, including, without limitation, a determination or action by any person or body, including the corporation, its board of directors, or an officer, employee, or agent of the corporation.

Sec. 7. RCW 23B.08.030 and 2009 c 189 s 23 are each amended to read as follows:

(1) A board of directors must consist of one or more individuals (~~(-with the number specified in or fixed in accordance with the articles of incorporation or bylaws)).~~

(2) Unless the articles of incorporation under RCW 23B.08.010 or an agreement among the shareholders under RCW 23B.07.320 dispense with a board of directors, the articles of incorporation or bylaws must either specify the number of directors or specify the process by which the number of directors will be fixed.

(3) Directors are elected at the first annual shareholders' meeting and at each annual meeting thereafter unless (a) their terms are staggered under RCW 23B.08.060, or (b) their terms are otherwise governed by RCW 23B.05.050. Directors also may be elected by execution of a shareholder consent under RCW 23B.07.040.

Sec. 8. RCW 23B.08.735 and 2015 c 20 s 5 are each amended to read as follows:

(1) If a director or officer or related person of either pursues or takes advantage, directly or indirectly, of a business opportunity, that action may not be enjoined or set aside, or give rise to an award of damages or other sanctions, in a proceeding by a shareholder or by or in the right of the corporation on the ground that such opportunity should have first been offered to the corporation, if:

(a) Before the director, officer, or related person becomes legally obligated respecting the opportunity, the director or officer brings it to the attention of the corporation, and: (~~and~~)

(i) Action by qualified directors disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures (~~(set forth)~~) stated in RCW 23B.08.720, as if the decision being made concerned a director's conflicting interest transaction; or

(ii) Shareholders' action disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures (~~(set forth)~~) stated in RCW 23B.08.730, as if the decision being made concerned a director's conflicting interest transaction;

except that, in the case of both (a)(i) and (ii) of this subsection, rather than making "required disclosure" as defined in RCW 23B.08.700(4), in each case the director or officer must have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity that are then known to the director or officer; or

(b) The duty to offer the corporation the right to have or participate in the particular business opportunity or the class or category in to which that particular business opportunity falls has been limited or eliminated pursuant to a provision of the articles of incorporation (~~((and in the case of officers and their related persons, made effective by action of qualified directors))~~) in accordance with RCW 23B.02.020(5)(k)). However, if such provision applies to an officer or related person of that officer, the board of directors, by action of qualified directors taken in compliance with the same procedures under RCW 23B.08.720 and taken subsequent to the inclusion of such provision in the articles of incorporation, (i) must approve the application of such provision to an officer or a related person of that officer, and (ii) may condition the application of such provision to such officer or related person of that officer on any basis.

(2) In any proceeding seeking equitable relief or other remedies based upon an alleged improper pursuit or taking advantage of a business opportunity by a director or officer, the fact that the director or officer did not employ the procedure described in subsection (1)(a)(i) or (ii) of this section before taking advantage of the opportunity does not create an inference that the opportunity should have been first presented to the corporation or alter the burden of proof otherwise applicable to establish that the director or officer breached a duty to the corporation in the circumstances.

Sec. 9. RCW 23B.09.020 and 2014 c 83 s 10 are each amended to read as follows:

(1) A plan of entity conversion must ~~((be in a record and must))~~ include:
~~((+))~~ (a) The name of the domestic corporation before conversion;
~~((+))~~ (b) The name and form of the surviving entity after conversion;
~~((+))~~ (c) The terms and conditions of the conversion, including the manner and basis for converting interests in the domestic corporation into any combination of the interests, shares, obligations, or other securities of the surviving entity or any other entity or into cash or other property in whole or part; and
~~((+))~~ (d) The organic documents of the surviving entity as they will be in effect immediately after consummation of the conversion.

(2) The terms of a plan of conversion may be made dependent on facts objectively ascertainable outside the plan in accordance with RCW 23B.01.200(3).

Sec. 10. RCW 23B.10.060 and 2009 c 189 s 32 are each amended to read as follows:

A corporation amending its articles of incorporation ~~((shall))~~ must deliver to the secretary of state for filing articles of amendment ~~((setting forth))~~ stating:

- (1) The name of the corporation;
- (2) The text of each amendment adopted;
- (3) If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself;
- (4) The date of each amendment's adoption;
- (5) If an amendment was adopted by the incorporators or board of directors without shareholder approval, a statement to that effect and that shareholder approval was not required; ~~((and))~~

(6) If shareholder approval was required, a statement that the amendment was duly approved by the shareholders in accordance with the provisions of RCW 23B.10.030 and 23B.10.040; and

(7) If an amendment is being filed pursuant to RCW 23B.01.200(3)(e), a statement to that effect.

Sec. 11. RCW 23B.11.010 and 1989 c 165 s 131 are each amended to read as follows:

(1) One or more corporations may merge into another corporation if the board of directors of each corporation adopts and its shareholders, if required by RCW 23B.11.030, approve a plan of merger.

(2) The plan of merger must ~~((set forth))~~ include:

(a) The name of each corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge;

(b) The terms and conditions of the merger; and

(c) The manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property in whole or part.

(3) The plan of merger may (~~(set forth)~~) include:

(a) Amendments to the articles of incorporation of the surviving corporation; and

(b) Other provisions relating to the merger.

(4) The terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with RCW 23B.01.200(3).

Sec. 12. RCW 23B.11.020 and 1989 c 165 s 132 are each amended to read as follows:

(1) A corporation may acquire all of the outstanding shares of one or more classes or series of another corporation if the board of directors of each corporation adopts and its shareholders, if required by RCW 23B.11.030, approve the exchange.

(2) The plan of exchange must (~~(set forth)~~) include:

(a) The name of the corporation whose shares will be acquired and the name of the acquiring corporation;

(b) The terms and conditions of the exchange; and

(c) The manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring or any other corporation or for cash or other property in whole or part.

(3) The plan of exchange may (~~(set forth)~~) include other provisions relating to the exchange.

(4) Terms of a plan of share exchange may be made dependent on facts objectively ascertainable outside the plan in accordance with RCW 23B.01.200(3).

(5) This section does not limit the power of a corporation to acquire all or part of the shares of one or more classes or series of another corporation through a voluntary exchange or otherwise.

Sec. 13. RCW 23B.07.210 and 1989 c 165 s 69 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class or series, is entitled to one vote on each matter voted on at a shareholders' meeting. Only shares are entitled to vote.

(2) (~~(The shares)~~) Shares of a corporation are not entitled to vote if they are owned by or otherwise belong to the corporation, directly or indirectly, or by a second corporation, domestic or foreign, and the first corporation owns, through an entity of which a majority of the voting power is held directly or indirectly (~~(; a majority of the shares entitled to vote for directors of the second corporation))~~ by the corporation or which is otherwise controlled by the corporation.

(3) (~~(Subsection (2) of this section does not limit the power of a corporation to vote any shares, including its own shares, held by it in a fiduciary capacity.))~~

Shares held by the corporation in a fiduciary capacity for the benefit of any person are entitled to vote unless they are held for the benefit of, or otherwise belong to, the corporation directly or indirectly through an entity of which a majority of the voting power is held directly or indirectly by the corporation or which is otherwise controlled by the corporation.

(4) Redeemable shares are not entitled to vote after delivery of written notice of redemption is effective and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

Sec. 14. RCW 23B.06.030 and 2002 c 297 s 17 are each amended to read as follows:

(1) A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued are outstanding shares until they are reacquired, redeemed, converted, or canceled.

(2) The reacquisition, redemption, or conversion of outstanding shares is subject to the limitations of subsection ~~((4))~~ (3) of this section and to RCW 23B.06.400.

~~(3) ((Redeemable shares are deemed to have been redeemed and not entitled to vote after notice of redemption is delivered to the holders in compliance with RCW 23B.01.410 and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.~~

~~(4))~~ At all times that shares of the corporation are outstanding, one or more shares that together have unlimited voting rights and one or more shares that together are entitled to receive the net assets of the corporation upon dissolution must be outstanding.

Sec. 15. RCW 23B.07.040 and 2009 c 189 s 14 are each amended to read as follows:

(1)(a) Corporate action required or permitted by this title to be approved by a shareholder vote at a meeting may be approved without a meeting or a vote if either:

(i) The corporate action is approved by all shareholders entitled to vote on the corporate action; or

(ii) The corporate action is approved by shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes that would be necessary to approve such corporate action at a meeting at which all shares entitled to vote on the corporate action were present and voted, and at the time the corporate action is approved the corporation ~~((is not a public company and))~~ is authorized to approve such corporate action under this subsection (1)(a)(ii) by a general or limited authorization contained in its articles of incorporation, except that if a corporation's articles of incorporation authorize shareholders to cumulate their votes when electing directors pursuant to RCW 23B.07.280, shareholders may not elect directors by less than unanimous written consent.

(b) Corporate action may be approved by shareholders without a meeting or a vote ~~((by means of execution of a single consent or multiple counterpart consents by))~~ if the approval is evidenced by one or more written consents:

(i) Executed by shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes necessary under (a)(i) or (ii) of this subsection (~~(- Any such shareholder consent must: (i) Be in the form of an executed record);~~);

(ii) (~~(indicate)~~) Indicating the date of execution (~~(of the consent by each shareholder who executes it)~~), which date must be on or after the applicable record date determined in accordance with subsection (2) of this section;

(iii) (~~(describe)~~) Describing the corporate action being approved; and

(iv) (~~(when)~~) Delivered to the corporation for filing by the corporation with the minutes or corporate records in accordance with subsection (4) of this section. When delivered to each shareholder for execution, the consent must include or be accompanied by the same material that would have been required by this title to be delivered to shareholders in or accompanying a notice of meeting at which the proposed corporate action would have been submitted for shareholder approval(~~(; and (v) be delivered to the corporation for inclusion in the minutes or filing with the corporate records in accordance with subsection (4) of this section)~~). A shareholder may withdraw an executed shareholder consent by delivering a written notice of withdrawal (~~(in the form of an executed record)~~) to the corporation prior to the time when shareholder consents sufficient to approve the corporate action have been delivered to the corporation.

(c) A written consent in the form of an electronic transmission must contain or be accompanied by information from which the corporation can determine that the electronic transmission was transmitted by the shareholder and the date on which the shareholder transmitted the electronic transmission.

(2) The record date for determining shareholders entitled to approve a corporate action without a meeting may be fixed under RCW 23B.07.030 or 23B.07.070, but if not so fixed shall be the date of execution indicated on the earliest dated shareholder consent executed under subsection (1) of this section, even though such shareholder consent may not have been delivered to the corporation on that date.

(3)(a) Notice that shareholder consents are being sought under subsection (1)(a) of this section (~~(shall)~~) must be given, by the corporation or by another person soliciting such consents, on or promptly after the record date, to all shareholders entitled to vote on the record date who have not yet executed the shareholder consent and, if this title would otherwise require that notice of a meeting of shareholders to consider the proposed corporate action be given to nonvoting shareholders, to all nonvoting shareholders as of the record date. Notice given under this subsection (3)(a) (~~(shall)~~) must include or be accompanied by the same information required to be included in or to accompany the shareholder consent under subsection (1)(b)(iii) and (iv) of this section.

(b) Notice that sufficient (~~(shareholder)~~) written consents have been executed to approve the proposed corporate action under either of subsection (1)(a)(i) or (ii) of this section (~~(shall)~~) must be given by the corporation, promptly after delivery to the corporation of (~~(shareholder)~~) written consents sufficient to approve the corporate action in accordance with subsection (4) of this section, to all shareholders entitled to vote on the record date and, if this title would otherwise require that notice of a meeting of shareholders to consider the

proposed corporate action be given to nonvoting shareholders, to all nonvoting shareholders as of the record date.

(4) Unless the consent executed by shareholders specifies a later time as the time at which the approval of the corporate action is to be effective (~~((date))~~), shareholder approval obtained under this section is effective when:

(a) Executed shareholder consents sufficient to approve the proposed corporate action have been delivered to the corporation (~~((either at an address designated by the corporation for delivery of such shareholder consents or at the corporation's registered office, or to such electronic address, location, or system as the corporation may have designated for delivery of such shareholder consents))~~) in any manner authorized by RCW 23B.01.410; and

(b) (~~((any))~~) Any period of advance notice required by the corporation's articles of incorporation to be given to any nonconsenting shareholders has been satisfied. (~~((Executed shareholder consents are not))~~) No written consent is effective to approve a proposed corporate action unless, within sixty days after the earliest date (~~((of the earliest dated shareholder))~~) on which a consent delivered to the corporation as required by this section was executed, written consents executed by a sufficient number of shareholders to approve the corporate action are delivered to the corporation.

(5) Approval of corporate action by (~~((execution of shareholder))~~) written consents under this section has the effect of a meeting vote and may be described as such in any (~~((record))~~) document, except that, if the corporate action requires the filing of a certificate under any other section of this title, the certificate so filed shall state, in lieu of any statement required by that section concerning any vote of shareholders, that shareholder approval has been obtained in accordance with this section and that notice to any nonconsenting shareholders has been given to the extent required by this section.

(6) The notice requirements in subsection (3)(a) and (b) of this section will not delay the effectiveness of approval of corporate action by written consents, and failure to comply with those notice requirements will not invalidate approval of corporate action by written consents; except that this subsection is not intended to limit judicial power to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give such notice in accordance with those subsections.

NEW SECTION. Sec. 16. Section 1 of this act may be known and cited as the women on corporate boards act.

Passed by the Senate January 24, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 195

[Senate Bill 6049]

INSURANCE FRAUD PROGRAM--FUNDING

AN ACT Relating to funding the commissioner's criminal investigation unit by creating the insurance commissioner's fraud account; amending RCW 48.02.190 and 48.14.040; creating a new section; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that insurance fraud is not a victimless crime. The national insurance crime bureau has recognized as much as seven hundred dollars per year may be added to the average Washington household's insurance premium costs due to fraudulent insurance claims. For the 2017-2019 biennium, the insurance commissioner's insurance fraud program, known as its criminal investigations unit, reviewed over four thousand five hundred referrals from over one hundred fifty companies. The adjudicated cases from this review resulted in almost two million dollars of restitution and projected insurance claim savings.

The legislature finds it is critical to continue protecting Washington state insurance consumers from the cost of insurance fraud by funding the insurance fraud program through an insurance fraud surcharge and creating the insurance commissioner's fraud account to better manage the accountability of the funds.

Sec. 2. RCW 48.02.190 and 2011 c 47 s 3 are each amended to read as follows:

(1) As used in this section:

(a) "Insurance fraud surcharge" means the fees imposed by subsection (2)(b) of this section.

(b) "Organization" means every insurer, as defined in RCW 48.01.050, having a certificate of authority to do business in this state, every health care service contractor, as defined in RCW 48.44.010, every health maintenance organization, as defined in RCW 48.46.020, or self-funded multiple employer welfare arrangement, as defined in RCW 48.125.010, registered to do business in this state. "Class one" organizations consist of all insurers as defined in RCW 48.01.050. "Class two" organizations consist of all organizations registered under provisions of chapters 48.44 and 48.46 RCW. "Class three" organizations consist of self-funded multiple employer welfare arrangements as defined in RCW 48.125.010.

~~((b))~~ (c)(i) "Receipts" means (A) net direct premiums consisting of direct gross premiums, as defined in RCW 48.18.170, paid for insurance written or renewed upon risks or property resident, situated, or to be performed in this state, less return premiums and premiums on policies not taken, dividends paid or credited to policyholders on direct business, and premiums received from policies or contracts issued in connection with qualified plans as defined in RCW 48.14.021, and (B) prepayments to health care service contractors, as defined in RCW 48.44.010, health maintenance organizations, as defined in RCW 48.46.020, or participant contributions to self-funded multiple employer welfare arrangements, as defined in RCW 48.125.010, less experience rating credits, dividends, prepayments returned to subscribers, and payments for contracts not taken.

(ii) Participant contributions, under chapter 48.125 RCW, used to determine the receipts in this state under this section are determined in the same manner as premiums taxable in this state are determined under RCW 48.14.090.

~~((c))~~ (d) "Regulatory surcharge" means the fees imposed by subsection (2)(a) of this section.

(2) The annual cost of operating the office of the insurance commissioner is determined by legislative appropriation.

(a) A pro rata share of the cost, except for the cost of the insurance fraud program, is charged to all organizations as a regulatory surcharge. Each class of organization must contribute a sufficient amount to the insurance commissioner's regulatory account to pay the reasonable costs, including overhead, of regulating that class of organization.

(b) The annual cost of operating the insurance fraud program is charged to all organizations as an insurance fraud surcharge. Each class of organization must contribute a sufficient amount to the insurance commissioner's fraud account to pay the reasonable costs of the program, including overhead.

(3)(a) The regulatory surcharge is calculated separately for each class of organization. The regulatory surcharge collected from each organization is that portion of the cost of operating the insurance commissioner's office, except for the cost of operating the insurance fraud program, for that class of organization, for the ensuing fiscal year that is represented by the organization's portion of the receipts collected or received by all organizations within that class on business in this state during the previous calendar year. However, the regulatory surcharge must not exceed one-eighth of one percent of receipts and the minimum regulatory surcharge is one thousand dollars.

(b) The insurance fraud surcharge collected from each organization is the cost of operating the insurance fraud program for the ensuing fiscal year that is represented by the organization's portion of the receipts collected or received on business in this state during the previous calendar year. However, the insurance fraud surcharge may not exceed one one-hundredths of one percent of receipts and the minimum insurance fraud surcharge is one hundred dollars.

(4) The commissioner must annually, on or before July 1st, calculate and bill each organization for the amount of the regulatory and insurance fraud surcharges. The ~~((regulatory))~~ surcharges ~~((is))~~ are due and payable no later than July 15th of each year. However, if the necessary financial records are not available or if the amount of the legislative appropriation is not determined in time to carry out such calculations and bill ~~((such regulatory))~~ the surcharges within the time specified, the commissioner may use the ~~((regulatory))~~ surcharge factors for the prior year as the basis for the ~~((regulatory))~~ surcharges and, if necessary, the commissioner may impose supplemental fees to fully and properly charge the organizations. Any organization failing to pay the ~~((regulatory))~~ surcharges by July 31st must pay the same penalties as the penalties for failure to pay taxes when due under RCW 48.14.060. The ~~((regulatory))~~ surcharges required by this section ~~((is))~~ are in addition to all other taxes and fees now imposed or that may be subsequently imposed.

(5)(a) All moneys collected for the regulatory surcharge must be deposited in the insurance commissioner's regulatory account in the state treasury which is hereby created.

(b) All moneys collected for the insurance fraud surcharge must be deposited in the insurance commissioner's fraud account in the state treasury which is hereby created.

(6) Unexpended funds in the insurance commissioner's regulatory and fraud accounts at the close of a fiscal year are carried forward ~~((in the insurance commissioner's regulatory account))~~ to the succeeding fiscal year and are used to reduce future regulatory and insurance fraud surcharges.

(7)(a) Each insurer may annually collect regulatory and insurance fraud surcharges remitted in preceding years by means of a policyholder surcharge on premiums charged for all kinds of insurance. The recoupment is at a uniform rate reasonably calculated to collect the regulatory and insurance fraud surcharges remitted by the insurer.

(b) If an insurer fails to collect the entire amount of the recoupment in the first year under this section, it may repeat the recoupment procedure provided for in this subsection (7) in succeeding years until the regulatory and insurance fraud surcharges ~~((is))~~ are fully collected or a de minimis amount remains uncollected. Any such de minimis amount may be collected as provided in (d) of this subsection.

(c) The amount and nature of any recoupment must be separately stated on either a billing or policy declaration sent to an insured. The amount of the recoupment must not be considered a premium for any purpose, including the premium tax or agents' commissions.

(d) An insurer may elect not to collect the regulatory and insurance fraud surcharges from its insured. In such a case, the insurer may recoup the regulatory and insurance fraud surcharges through its rates, if the following requirements are met:

(i) The insurer remits the amount of the surcharges not collected by election under this subsection; and

(ii) The surcharges ~~((is))~~ are not considered a premium for any purpose, including the premium tax or agents' commission.

Sec. 3. RCW 48.14.040 and 2008 c 217 s 7 are each amended to read as follows:

(1) If pursuant to the laws of any other state or country, any taxes, licenses, fees, deposits, or other obligations or prohibitions, in the aggregate, or additional to or at a net rate in excess of any such taxes, licenses, fees, deposits or other obligations or prohibitions imposed by the laws of this state upon like foreign or alien insurers and their appointed insurance producers or title insurance agents, are imposed on insurers of this state and their appointed insurance producers or title insurance agents doing business in such other state or country, a like rate, obligation or prohibition may be imposed by the commissioner, as to any item or combination of items involved, upon all insurers of such other state or country and their appointed insurance producers or title insurance agents doing business in this state, so long as such laws remain in force or are so applied.

(2) For the purposes of this section, an alien insurer may be deemed to be domiciled in the state wherein it has established its principal office or agency in the United States. If no such office or agency has been established, the domicile of the alien insurer shall be deemed to be the country under the laws of which it is formed.

(3) For the purposes of this section, the regulatory and insurance fraud surcharges imposed by RCW 48.02.190 shall not be included in the calculation of any retaliatory taxes, licenses, fees, deposits, or other obligations or prohibitions imposed under this section.

NEW SECTION. Sec. 4. This act takes effect July 1, 2020.

Passed by the Senate February 19, 2020.

Passed by the House March 7, 2020.

Approved by the Governor March 27, 2020.
Filed in Office of Secretary of State March 27, 2020.

CHAPTER 196

[Substitute Senate Bill 6051]

HEALTH INSURANCE--SUPPLEMENTAL PRESCRIPTION DRUG COVERAGE-- EXEMPTION

AN ACT Relating to health coverage that is supplemental to the coverage provided under an employer or union-sponsored prescription drug coverage that supplements medicare part D provided through an employer group waiver plan authorized under federal law; reenacting and amending RCW 48.43.005; and declaring an emergency.

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

Sec. 1. RCW 48.43.005 and 2019 c 427 s 2, 2019 c 56 s 2, and 2019 c 33 s 1 are each reenacted and amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Adverse benefit determination" means a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit, including a denial, reduction, termination, or failure to provide or make payment that is based on a determination of an enrollee's or applicant's eligibility to participate in a plan, and including, with respect to group health plans, a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit resulting from the application of any utilization review, as well as a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(3) "Allowed amount" means the maximum portion of a billed charge a health carrier will pay, including any applicable enrollee cost-sharing responsibility, for a covered health care service or item rendered by a participating provider or facility or by a nonparticipating provider or facility.

(4) "Applicant" means a person who applies for enrollment in an individual health plan as the subscriber or an enrollee, or the dependent or spouse of a subscriber or enrollee.

(5) "Balance bill" means a bill sent to an enrollee by an out-of-network provider or facility for health care services provided to the enrollee after the provider or facility's billed amount is not fully reimbursed by the carrier, exclusive of permitted cost-sharing.

(6) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(7) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(8) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered,

that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(9) "Board" means the governing board of the Washington health benefit exchange established in chapter 43.71 RCW.

(10)(a) For grandfathered health benefit plans issued before January 1, 2014, and renewed thereafter, "catastrophic health plan" means:

(i) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(ii) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least six thousand dollars, both amounts to be adjusted annually by the insurance commissioner.

(b) In July 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. For a plan year beginning in 2014, the out-of-pocket limits must be adjusted as specified in section 1302(c)(1) of P.L. 111-148 of 2010, as amended. The adjusted amount shall apply on the following January 1st.

(c) For health benefit plans issued on or after January 1, 2014, "catastrophic health plan" means:

(i) A health benefit plan that meets the definition of catastrophic plan set forth in section 1302(e) of P.L. 111-148 of 2010, as amended; or

(ii) A health benefit plan offered outside the exchange marketplace that requires a calendar year deductible or out-of-pocket expenses under the plan, other than for premiums, for covered benefits, that meets or exceeds the commissioner's annual adjustment under (b) of this subsection.

(11) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(12) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(13) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(14) "Dependent" means, at a minimum, the enrollee's legal spouse and dependent children who qualify for coverage under the enrollee's health benefit plan.

(15) "Emergency medical condition" means a medical, mental health, or substance use disorder condition manifesting itself by acute symptoms of

sufficient severity including, but not limited to, severe pain or emotional distress, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical, mental health, or substance use disorder treatment attention to result in a condition (a) placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, (b) serious impairment to bodily functions, or (c) serious dysfunction of any bodily organ or part.

(16) "Emergency services" means a medical screening examination, as required under section 1867 of the social security act (42 U.S.C. 1395dd), that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate that emergency medical condition, and further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under section 1867 of the social security act (42 U.S.C. 1395dd) to stabilize the patient. Stabilize, with respect to an emergency medical condition, has the meaning given in section 1867(e)(3) of the social security act (42 U.S.C. 1395dd(e)(3)).

(17) "Employee" has the same meaning given to the term, as of January 1, 2008, under section 3(6) of the federal employee retirement income security act of 1974.

(18) "Enrollee point-of-service cost-sharing" or "cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(19) "Essential health benefit categories" means:

(a) Ambulatory patient services;

(b) Emergency services;

(c) Hospitalization;

(d) Maternity and newborn care;

(e) Mental health and substance use disorder services, including behavioral health treatment;

(f) Prescription drugs;

(g) Rehabilitative and habilitative services and devices;

(h) Laboratory services;

(i) Preventive and wellness services and chronic disease management; and

(j) Pediatric services, including oral and vision care.

(20) "Exchange" means the Washington health benefit exchange established under chapter 43.71 RCW.

(21) "Final external review decision" means a determination by an independent review organization at the conclusion of an external review.

(22) "Final internal adverse benefit determination" means an adverse benefit determination that has been upheld by a health plan or carrier at the completion of the internal appeals process, or an adverse benefit determination with respect to which the internal appeals process has been exhausted under the exhaustion rules described in RCW 48.43.530 and 48.43.535.

(23) "Grandfathered health plan" means a group health plan or an individual health plan that under section 1251 of the patient protection and affordable care act, P.L. 111-148 (2010) and as amended by the health care and education

reconciliation act, P.L. 111-152 (2010) is not subject to subtitles A or C of the act as amended.

(24) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(25) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(26) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(27) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(28) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in the patient protection and affordable care act (P.L. 111-148).

(29) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 or 48.83 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage;

(l) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner; ~~(and)~~

(m) Civilian health and medical program for the veterans affairs administration (CHAMPVA); and

(n) Stand-alone prescription drug coverage that exclusively supplements medicare part D coverage provided through an employer group waiver plan under federal social security act regulation 42 C.F.R. Sec. 423.458(c).

(30) "Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(31) "In-network" or "participating" means a provider or facility that has contracted with a carrier or a carrier's contractor or subcontractor to provide health care services to enrollees and be reimbursed by the carrier at a contracted rate as payment in full for the health care services, including applicable cost-sharing obligations.

(32) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(33) "Open enrollment" means a period of time as defined in rule to be held at the same time each year, during which applicants may enroll in a carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(34) "Out-of-network" or "nonparticipating" means a provider or facility that has not contracted with a carrier or a carrier's contractor or subcontractor to provide health care services to enrollees.

(35) "Out-of-pocket maximum" or "maximum out-of-pocket" means the maximum amount an enrollee is required to pay in the form of cost-sharing for covered benefits in a plan year, after which the carrier covers the entirety of the allowed amount of covered benefits under the contract of coverage.

(36) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(37) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(38)(a) "Protected individual" means:

(i) An adult covered as a dependent on the enrollee's health benefit plan, including an individual enrolled on the health benefit plan of the individual's registered domestic partner; or

(ii) A minor who may obtain health care without the consent of a parent or legal guardian, pursuant to state or federal law.

(b) "Protected individual" does not include an individual deemed not competent to provide informed consent for care under RCW 11.88.010(1)(e).

(39) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(40) "Sensitive health care services" means health services related to reproductive health, sexually transmitted diseases, substance use disorder, gender dysphoria, gender affirming care, domestic violence, and mental health.

(41) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that employed an average of at least one but no more than fifty employees, during the previous calendar year and employed at least one employee on the first day of the plan year, is not formed primarily for purposes of buying health insurance, and in which a bona fide employer-employee relationship exists. In determining the number of employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor who is covered as a group of one must also: (a) Have been employed by the same small employer or small group for at least twelve months prior to application for small group coverage, and (b) verify that he or she derived at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year, except a self-employed individual or sole proprietor in an agricultural trade or business, must have derived at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year.

(42) "Special enrollment" means a defined period of time of not less than thirty-one days, triggered by a specific qualifying event experienced by the applicant, during which applicants may enroll in the carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(43) "Standard health questionnaire" means the standard health questionnaire designated under chapter 48.41 RCW.

(44) "Surgical or ancillary services" means surgery, anesthesiology, pathology, radiology, laboratory, or hospitalist services.

(45) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(46) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

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 February 13, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 197

[Substitute Senate Bill 6052]

LIFE INSURANCE--BEHAVIORAL CHANGE INCENTIVES

AN ACT Relating to life insurance products or services that are intended to incent behavioral changes that improve the health and reduce the risk of death of the insured; amending RCW 48.30.140, 48.30.150, 48.30.155, and 48.23.525; and providing an effective date.

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

Sec. 1. RCW 48.30.140 and 2019 c 253 s 1 are each amended to read as follows:

(1) Except to the extent provided for in an applicable filing with the commissioner then in effect, no insurer, insurance producer, or title insurance agent shall, as an inducement to insurance, or after insurance has been effected, directly or indirectly, offer, promise, allow, give, set off, or pay to the insured or to any employee of the insured, any rebate, discount, abatement, or reduction of premium or any part thereof named in any insurance contract, or any commission thereon, or earnings, profits, dividends, or other benefit, or any other valuable consideration or inducement whatsoever which is not expressly provided for in the policy.

(2) Subsection (1) of this section shall not apply as to commissions paid to a licensed insurance producer, or title insurance agent for insurance placed on that person's own property or risks.

(3) This section shall not apply to the allowance by any marine insurer, or marine insurance producer, to any insured, in connection with marine insurance, of such discount as is sanctioned by custom among marine insurers as being additional to the insurance producer's commission.

(4) This section shall not apply to advertising or promotional programs conducted by insurers or insurance producers whereby prizes, goods, wares, gift

cards, gift certificates, or merchandise, not exceeding one hundred dollars in value per person in the aggregate in any twelve-month period, are given to all insureds or prospective insureds under similar qualifying circumstances. This subsection does not apply to title insurers or title insurance agents.

(5) This section does not apply to an offset or reimbursement of all or part of a fee paid to an insurance producer as provided in RCW 48.17.270.

(6)(a) Subsection (1) of this section shall not be construed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract containing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW 48.43.005; and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

(7) Subsection (1) of this section does not apply to a payment by an insurer to offset documented expenses incurred by a group policyholder in changing coverages from one insurer to another. Insurers shall describe any such payment in the group insurance policy or in an applicable filing with the commissioner. If an implementation credit is given to a group, the implementation credit is part of the premium for the purposes of RCW 48.14.020 and 48.14.0201. This exception to subsection (1) of this section does not apply to "medicare supplemental insurance" or "medicare supplemental insurance policies" as defined in chapter 48.66 RCW.

(8) Subsection (7) of this section does not apply to small groups as defined in RCW 48.43.005.

(9) Subsection (1) of this section does not apply to products or services related to any policy of life insurance that are intended to incent behavioral changes that improve the health and reduce the risk of death of the insured.

Sec. 2. RCW 48.30.150 and 2019 c 253 s 2 are each amended to read as follows:

(1) No insurer, insurance producer, title insurance agent, or other person shall, as an inducement to insurance, or in connection with any insurance transaction, provide in any policy for, or offer, or sell, buy, or offer or promise to buy or give, or promise, or allow to, or on behalf of, the insured or prospective insured in any manner whatsoever:

(a) Any shares of stock or other securities issued or at any time to be issued on any interest therein or rights thereto; or

(b) Any special advisory board contract, or other contract, agreement, or understanding of any kind, offering, providing for, or promising any profits or special returns or special dividends; or

(c) Any prizes, goods, wares, gift cards, gift certificates, or merchandise of an aggregate value in excess of one hundred dollars per person in the aggregate in any consecutive twelve-month period. This subsection (1)(c) does not apply to title insurers or title insurance agents.

(2) Subsection (1) of this section shall not be deemed to prohibit the sale or purchase of securities as a condition to or in connection with surety insurance insuring the performance of an obligation as part of a plan of financing found by

the commissioner to be designed and operated in good faith primarily for the purpose of such financing, nor shall it be deemed to prohibit the sale of redeemable securities of a registered investment company in the same transaction in which life insurance is sold.

(3)(a) Subsection (1) of this section shall not be deemed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract providing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW 48.43.005; and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

(4) Subsection (1) of this section does not prohibit an insurer from issuing any payment to offset documented expenses incurred by a group policyholder in changing coverages from one insurer to another as provided in RCW 48.30.140. If an implementation credit is given to a group, the implementation credit is part of the premium for the purposes of RCW 48.14.020 and 48.14.0201. This exception to subsection (1) of this section does not apply to "medicare supplemental insurance" or "medicare supplemental insurance policies" as defined in chapter 48.66 RCW.

(5) Subsection (4) of this section does not apply to small groups as defined in RCW 48.43.005.

(6) Subsection (1) of this section does not apply to products or services related to any policy of life insurance that are intended to incent behavioral changes that improve the health and reduce the risk of death of the insured.

Sec. 3. RCW 48.30.155 and 1957 c 193 s 19 are each amended to read as follows:

No life or disability insurer shall directly or indirectly participate in any plan to offer or effect any kind or kinds of insurance in this state as an inducement to the purchase by the public of any goods, securities, commodities, services or subscriptions to publications. This section shall not apply to group or blanket insurance issued pursuant to this code. This section does not apply to products or services related to any policy of life insurance that are intended to incent behavioral changes that improve the health and reduce the risk of death of the insured.

Sec. 4. RCW 48.23.525 and 2009 c 76 s 1 are each amended to read as follows:

(1) A life insurer may include the following noninsurance benefits as part of a policy of individual life insurance, with the prior approval of the commissioner:

- (a) Will preparation services;
- (b) Financial planning and estate planning services;
- (c) Probate and estate settlement services; ~~(and)~~

(d) Products or services related to any policy of individual life insurance that are intended to incent behavioral changes that improve the health and reduce the risk of death of the insured; and

(e) Such other services as the commissioner may identify by rule.

(2) For products and services referenced in subsection (1)(d) of this section, the commissioner may adopt rules that include minimum product or service standards to protect policyholder privacy rights; establish standards for ensuring that incentives, in the aggregate, are directed to sharing the benefit of improving risk experience; and implement consumer protection design and administration of such product or service.

(3) The commissioner may adopt rules to ensure disclosure of the noninsurance benefits permitted under this section, including but not limited to guidelines concerning the provision of the coverage.

~~((3))~~ (4) Those providing the services listed in subsection (1) of this section must be appropriately licensed.

~~((4))~~ (5) This section does not require the commissioner to approve any particular proposed noninsurance benefit. The commissioner may disapprove any proposed noninsurance benefit that the commissioner determines may tend to promote or facilitate the violation of any other section of this title.

~~((5))~~ (6) This section does not expand, limit, or otherwise affect the authority and ethical obligations of those who are authorized by the state supreme court to practice law in this state. This section does not limit the prohibition against the unauthorized practice of law under chapter 2.48 RCW.

~~((6))~~ (7) This section does not affect the application of chapter 21.20 RCW.

NEW SECTION. Sec. 5. This act takes effect July 1, 2020.

Passed by the Senate January 31, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 198

[Senate Bill 6078]

FIRE SERVICE JURISDICTIONS--CLEAN-UP AND REMOVAL COST REIMBURSEMENT

AN ACT Relating to clarifying reimbursement for certain clean-up or removal actions by fire protection jurisdictions; adding a new section to chapter 52.30 RCW; and adding a new section to chapter 35.103 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 52.30 RCW to read as follows:

(1) A fire service jurisdiction is entitled to recover from any liable party the actual costs associated with the cleanup or removal of hazardous waste and other hazardous materials, including debris or vehicle operating fluids, when responding to a vehicle accident on private or public property, including public roadways. A liable party may submit an invoice for those actual costs incurred by the jurisdiction, for the jurisdiction's cleanup or removal services, to their insurer that provides coverage for property damage for which the party becomes legally obligated, if coverage is found within a liable party's insurance policy. An insurer providing such coverage may issue payment directly to the jurisdiction from available property damage liability coverage contained in the

policy. If there are multiple liable parties involved, the jurisdiction may only recover the proportional amount of liability legally determined for each party. The jurisdiction may not recover from any one liable party, or all liable parties combined, more than the actual costs incurred with the cleanup and removal of the hazardous waste and other hazardous materials, including debris or vehicle operating fluids, when responding to a vehicle accident on private or public property, including public roadways.

(2) For the purposes of this section, the definitions in this subsection apply:

(a) "Actual costs" means the amount necessary to compensate for reasonable personnel time spent at the scene of a vehicle accident and the reasonable cost of any supplies used in the cleanup or removal of hazardous waste and other hazardous materials, including debris or vehicle operating fluids, when responding to a vehicle accident on private or public property, including public roadways.

(b) "Fire service jurisdiction" or "jurisdiction" means a fire protection district or regional fire protection service authority.

(c) "Insurer" has the same meaning as in RCW 48.01.050.

(d) "Liable party" means a person or entity that is legally obligated or responsible for causing a vehicle accident.

(e) "Vehicle" means any mode of transportation operated by a liable party and involved in a vehicle accident including, but not limited to, automobiles, trucks, and motorcycles.

NEW SECTION. Sec. 2. A new section is added to chapter 35.103 RCW to read as follows:

(1) A municipal fire department, or department, is entitled to recover from any liable party the actual costs associated with the cleanup or removal of hazardous waste and other hazardous materials, including debris or vehicle operating fluids, when responding to a vehicle accident on private or public property, including public roadways. A liable party may submit an invoice for those actual costs incurred by the department, for the department's cleanup or removal services, to their insurer that provides coverage for property damage for which the party becomes legally obligated, if coverage is found within a liable party's insurance policy. An insurer providing such coverage may issue payment directly to the department from available property damage liability coverage contained in the policy. If there are multiple liable parties involved, the department may only recover the proportional amount of liability legally determined for each party. The department may not recover from any one liable party, or all liable parties combined, more than the actual costs incurred with the cleanup and removal of the hazardous waste and other hazardous materials, including debris or vehicle operating fluids, when responding to a vehicle accident on private or public property, including public roadways.

(2) For the purposes of this section, the definitions in this subsection apply:

(a) "Actual costs" means the amount necessary to compensate for reasonable personnel time spent at the scene of a vehicle accident and the reasonable cost of any supplies used in the cleanup or removal of hazardous waste and other hazardous materials, including debris or vehicle operating fluids, when responding to a vehicle accident on private or public property, including public roadways.

(b) "Insurer" has the same meaning as in RCW 48.01.050.

(c) "Liable party" means a person or entity that is legally obligated or responsible for causing a vehicle accident.

(d) "Vehicle" means any mode of transportation operated by a liable party and involved in a vehicle accident including, but not limited to, automobiles, trucks, and motorcycles.

Passed by the Senate February 14, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 199

[Substitute Senate Bill 6084]

CIRCULAR INTERSECTIONS--COMMERCIAL MOTOR VEHICLES

AN ACT Relating to circular intersections; amending RCW 46.61.140; and adding a new section to chapter 46.04 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.04 RCW to read as follows:

(1) "Circular intersection" means an intersection characterized by a circulatory roadway, generally circular in design, located in the center of the intersection. A circular intersection encompasses the area bounded by the outermost curb line or, if there is no curb, the edge of the pavement, and includes crosswalks on any entering or exiting roadway.

(2) "Circular intersection" includes:

- (a) Roundabouts;
- (b) Rotaries; and
- (c) Traffic circles.

Sec. 2. RCW 46.61.140 and 1965 ex.s. c 155 s 23 are each amended to read as follows:

Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.

(3) Official traffic-control devices may be erected directing slow moving or other specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.

(4) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

(5) Pursuant to subsection (1) of this section, the operator of a commercial motor vehicle as defined in RCW 46.25.010 may, with due regard for all other traffic, deviate from the lane in which the operator is driving to the extent necessary to approach and drive through a circular intersection.

Passed by the Senate February 17, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 200

[Engrossed Substitute Senate Bill 6095]

LIQUOR INDUSTRY--COMMON CARRIERS

AN ACT Relating to common carrier activities that are not prohibited under the three-tier system; and amending RCW 66.28.310 and 66.24.395.

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

Sec. 1. RCW 66.28.310 and 2019 c 149 s 1 are each amended to read as follows:

(1)(a) Nothing in RCW 66.28.305 prohibits an industry member from providing retailers, including common carriers licensed under RCW 66.24.395, branded promotional items which are of nominal value, singly or in the aggregate. Such items include but are not limited to: Trays, lighters, blotters, postcards, pencils, coasters, menu cards, meal checks, napkins, clocks, mugs, glasses, bottles or can openers, corkscrews, matches, printed recipes, shirts, hats, visors, and other similar items. Branded promotional items:

(i) Must be used exclusively by the retailer, including common carriers licensed under RCW 66.24.395, or its employees in a manner consistent with its license;

(ii) Must bear imprinted advertising matter of the industry member only, except imprinted advertising matter of the industry member can include the logo of a professional sports team which the industry member is licensed to use;

(iii) May be provided by industry members (~~(only)~~) to: (A) Common carriers licensed under RCW 66.24.395 for use by their employees or ticketed passengers; or (B) retailers, other than common carriers licensed under RCW 66.24.395, and their employees and may not be provided by or through retailers or their employees to retail customers; and

(iv) May not be targeted to or appeal principally to youth.

(b) An industry member is not obligated to provide any such branded promotional items, and a retailer, including common carriers licensed under RCW 66.24.395, may not require an industry member to provide such branded promotional items as a condition for selling any alcohol to the retailer, including common carriers licensed under RCW 66.24.395.

(c) Any industry member or retailer or any other person asserting that the provision of branded promotional items as allowed in (a) of this subsection has resulted or is more likely than not to result in undue influence or an adverse

impact on public health and safety, or is otherwise inconsistent with the criteria in (a) of this subsection may file a complaint with the board. Upon receipt of a complaint the board may conduct such investigation as it deems appropriate in the circumstances. If the investigation reveals the provision of branded promotional items has resulted in or is more likely than not to result in undue influence or has resulted or is more likely than not to result in an adverse impact on public health and safety or is otherwise inconsistent with (a) of this subsection the board may issue an administrative violation notice to the industry member, to the retailer, or both. The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.

(2) Nothing in RCW 66.28.305 prohibits:

(a) An industry member from providing to a special occasion licensee and a special occasion licensee from receiving services for:

(i) Installation of draft beer dispensing equipment or advertising;

(ii) Advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event; or

(iii) Pouring or dispensing of spirits by a licensed domestic distiller or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310; or

(b) Special occasion licensees from paying for beer, wine, or spirits immediately following the end of the special occasion event; or

(c) Wineries, breweries, or distilleries that are participating in a special occasion event from paying reasonable booth fees to the special occasion licensee.

(3) Nothing in RCW 66.28.305 prohibits industry members from performing, and retailers from accepting the service of building, rotating, and restocking displays and stockroom inventories; rotating and rearranging can and bottle displays of their own products; providing point of sale material and brand signs; pricing case goods of their own brands; and performing such similar business services consistent with board rules, or personal services as described in subsection (5) of this section.

(4) Nothing in RCW 66.28.305 prohibits:

(a) Industry members from listing on their internet web sites information related to retailers who sell or promote their products, including direct links to the retailers' internet web sites;

(b) Retailers from listing on their internet web sites information related to industry members whose products those retailers sell or promote, including direct links to the industry members' web sites;

(c) Manufacturers, distributors, or their licensed representatives from using web sites or social media accounts in their name to post, repost, or share promotional information or images about events featuring a product of the manufacturer's own production or a product sold by the distributor, held at an on-premises licensed liquor retailer's location or a licensed special occasion event. The promotional information may include links to purchase event tickets. Manufacturers, distributors, or their licensed representatives may not pay a third party to enhance viewership of a specific post. Industry members, or their licensed representatives, are not obligated to post, repost, or share information or images on a web site or on social media. A licensed liquor retailer may not require an industry member or their licensed representative to post, repost, or

share information or images on a web site or on social media as a condition for selling any alcohol to the retailer or participating in a retailer's event; or

(d) Industry members and retailers from producing, jointly or together with regional, state, or local industry associations, brochures and materials promoting tourism in Washington state which contain information regarding retail licensees, industry members, and their products.

(5) Nothing in RCW 66.28.305 prohibits the performance of personal services offered from time to time by a domestic winery or certificate of approval holder to retailers, including common carriers licensed under RCW 66.24.395, when the personal services are (a) conducted at a licensed premises, and (b) intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products. The performance of personal services may include participation and pouring, bottle signing events, and other similar informational or educational activities at the premises of a retailer holding a spirits, beer, and wine restaurant license, a wine and/or beer restaurant license, a specialty wine shop license, a special occasion license, a grocery store license with a tasting endorsement, a common carrier license under RCW 66.24.395, or a private club license. A domestic winery or certificate of approval holder is not obligated to perform any such personal services, and a retail licensee, including common carrier licensees under RCW 66.24.395, may not require a domestic winery or certificate of approval holder to conduct any personal service as a condition for selling any alcohol to the retail licensee, or as a condition for including any product of the domestic winery or certificate of approval holder in any tasting conducted by the licensee. Except as provided in RCW 66.28.150, the cost of sampling may not be borne, directly or indirectly, by any domestic winery or certificate of approval holder or any distributor. Nothing in this section prohibits wineries, breweries, microbreweries, certificate of approval holders, and retail licensees from identifying the producers on private labels authorized under RCW 66.24.400, 66.24.425, 66.24.450, 66.24.360, and 66.24.371.

(6) Nothing in RCW 66.28.305 prohibits an industry member from entering into an arrangement with any holder of a sports entertainment facility license or an affiliated business for brand advertising at the licensed facility or promoting events held at the sports entertainment facility as authorized under RCW 66.24.570.

(7) Nothing in RCW 66.28.305 prohibits the performance of personal services offered from time to time by a domestic brewery, microbrewery, or beer certificate of approval holder to grocery store licensees with a tasting endorsement, or common carrier licensees under RCW 66.24.395, when the personal services are (a) conducted at a licensed premises in conjunction with a tasting event, and (b) intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products. The performance of personal services may include participation and pouring, bottle signing events, and other similar informational or educational activities. A domestic brewery, microbrewery, or beer certificate of approval holder is not obligated to perform any such personal services, and a grocery store licensee may not require the performance of any personal service as a condition for including any product in any tasting conducted by the licensee.

(8) Nothing in RCW 66.28.305 prohibits an arrangement between a domestic winery and a restaurant licensed under RCW 66.24.320 or 66.24.400 to waive a corkage fee.

(9) Nothing in this section prohibits professional sports teams who hold a retail liquor license or their agents from accepting bona fide liquor advertising from manufacturers, importers, distributors, or their agents for use in the sporting arena. Professional sports teams who hold a retail liquor license or their agents may license the manufacturer, importer, distributor, or their agents to use the name and trademarks of the professional sports team in their advertising and promotions, under the following conditions:

(a) Such advertising must be paid for by said manufacturer, importer, distributor, or their agent at the published advertising rate or at a reasonable fair market value.

(b) Such advertising may carry with it no express or implied offer on the part of the manufacturer, importer, distributor, or their agent, or promise on the part of the retail licensee whose operation is directly or indirectly part of the sporting arena, to stock or list any particular brand of liquor to the total or partial exclusion of any other brand.

(10) Nothing in RCW 66.28.305 prohibits a licensed domestic brewery or microbrewery from providing branded promotional items which are of nominal value, singly or in the aggregate, to a nonprofit charitable corporation or association exempt from taxation under 26 U.S.C. Sec. 501(c)(3) of the internal revenue code as it existed on July 24, 2015, for use consistent with the purpose or purposes entitling it to such exemption.

(11) Nothing in RCW 66.28.305 prohibits a common carrier licensed under RCW 66.24.395 from:

(a) Transporting liquor without charge or at a discounted rate when the liquor was purchased by a ticketed passenger and is not intended to be sold for resale;

(b) Displaying or distributing information about an industry member, provided the industry member did not pay the common carrier to have the information displayed or distributed;

(c) Sponsoring any public or private event including those hosted by or otherwise affiliated with an industry member;

(d) Engaging in joint promotional activities with an industry member, provided the industry member does not pay the common carrier or a third party to participate in the joint promotional activity and any branded promotional items provided by the industry member are of nominal value;

(e) Accepting payment from an industry member for advertising, provided:

(i) The advertising appears in a publication produced and distributed to passengers of the common carrier;

(ii) The amount of the payment is consistent with the advertising rates paid by other advertisers purchasing similar advertisements in the same publication; and

(iii) The payment is not used as an inducement to purchase the products of the industry member paying for the advertising nor does it result in the exclusion of products of other industry members.

(12) Nothing in RCW 66.28.305 prohibits an industry member, subject to the requirements of its license, from entering into an agreement to provide

tastings with or without charge to passengers of a common carrier holding a license under RCW 66.24.395.

Sec. 2. RCW 66.24.395 and 1997 c 321 s 25 are each amended to read as follows:

(1)(a) There shall be a license that may be issued to corporations, associations, or persons operating as federally licensed commercial common passenger carriers engaged in interstate commerce, in or over territorial limits of the state of Washington on passenger trains, vessels, or airplanes. Such license shall permit the sale of spirituous liquor, wine, and beer at retail for passenger consumption within the state upon one such train passenger car, vessel, or airplane, while in or over the territorial limits of the state. Such license shall include the privilege of transporting into and storing within the state such liquor for subsequent retail sale to passengers in passenger train cars, vessels or airplanes. The fees for such master license shall be seven hundred fifty dollars per annum (class CCI-1): PROVIDED, That upon payment of an additional sum of five dollars per annum per car, or vessel, or airplane, the privileges authorized by such license classes shall extend to additional cars, or vessels, or airplanes operated by the same licensee within the state, and a duplicate license for each additional car, or vessel, or airplane shall be issued: PROVIDED, FURTHER, That such licensee may make such sales and/or service upon cars, or vessels, or airplanes in emergency for not more than five consecutive days without such license: AND PROVIDED, FURTHER, That such license shall be valid only while such cars, or vessels, or airplanes are actively operated as common carriers for hire in interstate commerce and not while they are out of such common carrier service.

(b) Alcoholic beverages sold and/or served for consumption by such interstate common carriers while within or over the territorial limits of this state shall be subject to such board markup and state liquor taxes in an amount to approximate the revenue that would have been realized from such markup and taxes had the alcoholic beverages been purchased in Washington: PROVIDED, That the board's markup shall be applied on spirituous liquor only. Such common carriers shall report such sales and/or service and pay such markup and taxes in accordance with procedures prescribed by the board.

(2) Alcoholic beverages sold and delivered in this state to interstate common carriers for use under the provisions of this section shall be considered exported from the state, subject to the conditions provided in subsection (1)(b) of this section. Interstate common carriers licensed under this section may purchase alcoholic beverages outside the territorial limits of the state of Washington and import such alcoholic beverages into the state of Washington for sales and service aboard passenger trains, vessels, or airplanes. The storage facilities for liquor within the state by common carriers licensed under this section shall be subject to written approval by the board.

(3) Interstate common carriers licensed under this section may provide complimentary alcoholic beverages to passengers aboard passenger trains, vessels, or airplanes.

Passed by the Senate February 18, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 201

[Senate Bill 6096]

DEPARTMENT OF SOCIAL AND HEALTH SERVICES--CONTRACTED SERVICE PROVIDERS--LABOR UNREST

AN ACT Relating to preventing disruption of certain state-financed and procured services due to labor unrest within contracted service providers; adding a new section to chapter 43.20A RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature intends to provide the uninterrupted delivery of essential services to its most vulnerable citizens and to provide efficiency and quality in the delivery of such services purchased by the state. The legislature finds that the state's proprietary interest in procuring the services authorized by chapter 43.20A RCW includes providing continuity in the delivery of such services without interruption by its vendors and contractors. The legislature finds that this interest is served by making sure private sector providers contracted by the state have averted or meaningfully mitigated the possibility of service disruptions resulting from labor management disputes and employee unrest.

The legislature finds that the contracts and services subject to chapter 43.20A RCW are essential and, if disrupted, could harm vulnerable members of the community, compromise the efficient delivery of essential state services, and burden taxpayers with additional costs. Thus, the legislature designates the continuity of operations as a vital procurement goal with respect to services that the state funds to provide these services to the public.

The legislature further finds that by contracting for the provisions of the services rather than providing them directly, the state may negotiate contracts with vendors that are conditioned on meeting this procurement goal insofar as private entities continue to find it commercially advantageous to offer such services to the state on the terms sought by the state.

NEW SECTION. Sec. 2. A new section is added to chapter 43.20A RCW to read as follows:

(1) Any contract entered into or renewed by the department with a private contractor for adult care, mental health, addiction, disability support, or youth services must contain an assurance that the contracted services will not be disrupted or delayed by economic or industrial action. The assurance may be provided through the execution of an agreement between the contractor and any labor organization that represents or seeks to represent the employees of the private contractor that perform or will perform the essential services contracted for by the department.

(2) The assurance required under subsection (1) of this section must be a condition of contracting with the department and may be satisfied through one or more of the following contractual commitments made on the part of the contractor through the life of the contract as a condition of receiving or renewing a contract:

(a) An agreement between the contractor and any exclusive representative labor organization representing the employees performing the contracted services that contains a provision prohibiting economic or industrial action on the part of all parties and includes a process for the resolution of disputes between them;

(b) An agreement between the contractor and any labor organization seeking to represent the employees performing the contracted services that includes a provision prohibiting the parties from causing, promoting, or encouraging economic, industrial, or other disruptive activity on the part of the contractor or employees performing services under the contract, and includes a process for resolution of disputes between parties; or

(c) Any other agreement or binding obligation providing assurances equivalent to those specified in (a) and (b) of this subsection that are to be maintained through the life of the contract.

(3) The assurance made to the department must be a binding provision of any contract subject to this section and constitutes a warranty to the department on the part of the contractor.

(4) Failure to maintain the assurance, such that the services contracted by the department are interrupted, shall entitle the department to terminate, suspend, or revoke the contract and make arrangements for the provision of services by other means.

(5) In awarding any contract subject to this section, the department must take into consideration any prior disruptions in the provision of services by the contractor and whether the assurance provided by the contractor pursuant to this section has mitigated the risk of a reoccurrence of the disruptions, if any.

(6) Any contract subject to this section that is awarded or renewed must include a provision providing for reimbursement to the department of the actual costs to the department arising from the inadequacy of the assurance provided by the contractor.

Passed by the Senate February 13, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 202

[Substitute Senate Bill 6158]

SEXUAL ASSAULT COORDINATED COMMUNITY RESPONSE TASK FORCE--MODEL HOSPITAL AND CLINIC PROTOCOLS

AN ACT Relating to model sexual assault protocols for hospitals and clinics; 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)(a) The sexual assault coordinated community response task force is established within the office of the attorney general with members as provided in this subsection. The purpose of the task force is to develop model protocols ensuring that adult or minor sexual assault victims receive a coordinated community response when presenting for care at any hospital or clinic following a sexual assault.

(b)(i) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(iii) The attorney general, in consultation with the legislative members of the task force, shall appoint:

(A) One member representing each of the following:

(I) The Washington state association of sheriffs and police chiefs;

(II) The Washington association of prosecuting attorneys;

(III) The Washington defender association or the Washington association of criminal defense lawyers;

(IV) The Washington association of cities;

(V) The Washington association of county officials;

(VI) The Washington superior court judges association;

(VII) The Washington coalition of sexual assault programs;

(VIII) The office of crime victims advocacy;

(IX) The Washington state hospital association;

(X) The Washington state nurses association;

(XI) The office of the attorney general;

(XII) The Washington state medical association; and

(XIII) The children's advocacy centers of Washington;

(B) Two providers from a community sexual assault program, one representative from a program serving an urban community, and one representative from a program serving a rural community;

(C) Two members representing survivors of sexual assault;

(D) Two members representing sexual assault nurse examiners, one representative of a sexual assault nurse examiner serving an urban community, and one representative of a sexual assault nurse examiner serving a rural community;

(E) Two members representing children's advocacy centers, one representative from a center serving an urban community, and one representative from a center serving a rural community.

(2) The duties of the task force include, but are not limited to:

(a) Researching, reviewing, and making recommendations for best practice models in this state and from other states for collaborative and coordinated responses to sexual assault victims beginning with their arrival at a hospital or clinic;

(b) Researching and identifying any existing gaps in trauma-informed, victim-centered care and support and sexual assault victim resources in Washington;

(c) Researching, identifying, and making recommendations for securing nonstate funding for implementing a standardized and coordinated community response to provide appropriate support for sexual assault victims;

(d) Researching, identifying, and making recommendations for any legislative policy options for providing a coordinated community response for victims of sexual assault; and

(e) Collaborating with the legislature, state agencies, medical facilities, and local governments to implement coordinated community responses for sexual assault victims consistent with best practices and standardized protocols

including but not limited to issues of access to sexual assault specific services, potential for assistance from the crime victims' compensation program, legal advocacy from system-based and community-based advocates, privacy of medical records, and access to necessary information among responding professionals and service providers.

(3) The office of the attorney general shall administer and provide staff support to the task force.

(4) Legislative members of the task force 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 task force must meet no less than twice annually.

(6) The task force shall report its findings and recommendations to the appropriate committees of the legislature and the governor by December 1st of each year.

(7) This section expires December 31, 2022.

Passed by the Senate March 10, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 203

[Senate Bill 6164]

FELONY RESENTENCING--PROSECUTORIAL DISCRETION

AN ACT Relating to prosecutorial discretion to seek resentencing; adding a new section to chapter 36.27 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to give prosecutors the discretion to petition the court to resentence an individual if the person's sentence no longer advances the interests of justice. The purpose of sentencing is to advance public safety through punishment, rehabilitation, and restorative justice. When a sentence includes incarceration, this purpose is best served by terms that are proportionate to the seriousness of the offense and provide uniformity with the sentences of offenders committing the same offense under similar circumstances. By providing a means to reevaluate a sentence after some time has passed, the legislature intends to provide the prosecutor and the court with another tool to ensure that these purposes are achieved.

NEW SECTION. Sec. 2. A new section is added to chapter 36.27 RCW to read as follows:

(1) The prosecutor of a county in which an offender was sentenced for a felony offense may petition the sentencing court or the sentencing court's successor to resentence the offender if the original sentence no longer advances the interests of justice.

(2) The court may grant or deny a petition under this section. If the court grants a petition, the court shall resentence the defendant in the same manner as if the offender had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence.

(3) The court may consider postconviction factors including, but not limited to, the inmate's disciplinary record and record of rehabilitation while incarcerated; evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the inmate's risk for future violence; and evidence that reflects changed circumstances since the inmate's original sentencing such that the inmate's continued incarceration no longer serves the interests of justice. Credit shall be given for time served.

(4) The prosecuting attorney shall make reasonable efforts to notify victims and survivors of victims of the petition for resentencing and the date of the resentencing hearing. The prosecuting attorney shall provide victims and survivors of victims access to available victim advocates and other related services. The court shall provide an opportunity for victims and survivors of victims of any crimes for which the offender has been convicted to present a statement personally or by representation. The prosecuting attorney and the court shall comply with the requirements set forth in chapter 7.69 RCW.

(5) A resentencing under this section shall not reopen the defendant's conviction to challenges that would otherwise be barred.

Passed by the Senate March 10, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 204

[Second Substitute Senate Bill 6231]

PROPERTY TAX EXEMPTION--SINGLE-FAMILY DWELLING IMPROVEMENTS-- EXPANSION AND STUDY

AN ACT Relating to expanding and studying the property tax exemption for physical improvements to single-family dwellings; amending RCW 84.36.400; and creating new sections.

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

Sec. 1. RCW 84.36.400 and 2013 c 23 s 350 are each amended to read as follows:

Any physical improvement to single-family dwellings upon real property, including constructing an accessory dwelling unit, whether attached to or within the single-family dwelling or as a detached unit on the same real property, shall be exempt from taxation for the three assessment years subsequent to the completion of the improvement to the extent that the improvement represents thirty percent or less of the value of the original structure. A taxpayer desiring to obtain the exemption granted by this section must file notice of his or her intention to construct the improvement prior to the improvement being made on forms prescribed by the department of revenue and furnished to the taxpayer by the county assessor: PROVIDED, That this exemption cannot be claimed more than once in a five-year period.

The department of revenue shall promulgate such rules and regulations as are necessary and convenient to properly administer the provisions of this section.

NEW SECTION. **Sec. 2.** This act applies to taxes levied for collection in 2021 and thereafter.

NEW SECTION. **Sec. 3.** The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. **Sec. 4.** The department of revenue must work with county assessors to review and evaluate the three year property tax exemption for home improvements to determine its effectiveness in encouraging homeowners to upgrade their residences, while avoiding the sudden and potentially large increases in assessed value and property tax which can otherwise occur. The review shall include an analysis of the types of properties and the value of exempt improvements by geographic area to develop a better demographic and geographic understanding of the home improvement property tax exemption and the locations and types of communities where the homes are located. The department of revenue must report their findings to the appropriate committees of the legislature by November 15, 2020.

Passed by the Senate March 11, 2020.

Passed by the House March 12, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 205

[Engrossed Substitute Senate Bill 6261]

FARM LABOR CONTRACTORS--VARIOUS PROVISIONS

AN ACT Relating to strengthening the farm labor contractor system by removing an exemption for nonprofits, prohibiting retaliation and the use of farm labor contractors in certain circumstances, and establishing liability for related violations; and reenacting and amending RCW 19.30.010.

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

Sec. 1. RCW 19.30.010 and 2017 c 253 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) "Agricultural employee" means any person who renders, or has rendered, personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity.

(2) "Agricultural employer" means any person engaged in agricultural activity, including the growing, producing, or harvesting of farm or nursery products, or engaged in the forestation or reforestation of lands, which includes but is not limited to the planting, transplanting, tubing, precommercial thinning, and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash, the harvest of Christmas trees, and other related activities.

(3) "Director" as used in this chapter means the director of the department of labor and industries of the state of Washington.

(4) "Farm labor contracting activity" means recruiting, soliciting, employing, supplying, transporting, or hiring agricultural employees.

(5) "Farm labor contractor" means any person, or his or her agent or subcontractor, who, for a fee, performs any farm labor contracting activity. "Farm labor contractor" does not include a person performing farm labor contracting activity solely for a small forestland owner as defined in RCW

76.09.450 who receives services of no more than two agricultural employees at any given time.

(6) "Fee" means:

(a) Any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by a farm labor contractor.

(b) Any valuable consideration received or to be received by a farm labor contractor for or in connection with any of the services described in subsection (4) of this section, and shall include the difference between any amount received or to be received by him, and the amount paid out by him for or in connection with the rendering of such services.

(7) "Person" includes any individual, firm, partnership, association, corporation, or unit or agency of state or local government.

(8) This chapter shall not apply to employees of the employment security department acting in their official capacity or their agents, nor to any common carrier or full time regular employees thereof while transporting agricultural employees, nor to any person who performs any of the services enumerated in subsection (4) of this section only within the scope of his or her regular employment for one agricultural employer on whose behalf he or she is so acting, unless he or she is receiving a commission or fee, which commission or fee is determined by the number of workers recruited (~~(, or to a nonprofit corporation or organization which performs the same functions for its members. Such nonprofit corporation or organization shall be one in which:~~

~~(a) None of its directors, officers, or employees are deriving any profit beyond a reasonable salary for services performed in its behalf.~~

~~(b) Membership dues and fees are used solely for the maintenance of the association or corporation)).~~

Passed by the Senate February 18, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 206

[Senate Bill 6263]

EDUCATIONAL DATA SHARING AGREEMENTS--SCHOOL DISTRICTS AND TRIBES-- MODEL POLICY

AN ACT Relating to a model educational data sharing agreement between school districts and tribes; and adding a new section to chapter 28A.604 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28A.604 RCW to read as follows:

(1) The Washington state school directors' association, in consultation and collaboration with tribes, shall develop a model policy and procedure to establish data sharing agreements between school districts and local tribes by January 1, 2021.

(2) In developing the model policy and procedure, the Washington state school directors' association must:

(a) Consult with the office of the superintendent of public instruction, the office of native education, the tribal leaders congress on education, and local tribes;

(b) Consider model agreements developed by the bureau of Indian education and model data sharing agreements and procedures developed by national Native educational organizations; and

(c) Consider standards for the identification of Native students for data sharing purposes.

(3) The model policy and procedure developed under this section must safeguard students' personally identifiable information consistent with the requirements of the federal family educational rights and privacy act (20 U.S.C. Sec. 1232g).

Passed by the Senate March 10, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 207

[Senate Bill 6305]

LIBRARY DISTRICTS--VARIOUS PROVISIONS

AN ACT Relating to library districts; and amending RCW 27.12.222 and 27.15.020.

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

Sec. 1. RCW 27.12.222 and 1984 c 186 s 8 are each amended to read as follows:

A rural county library district, intercounty rural library district, or island library district may contract indebtedness and issue general obligation bonds not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to one-tenth of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015. The maximum term of nonvoter approved general obligation bonds shall not exceed (~~six~~) twenty years. A rural county library district, island library district, or intercounty rural library district may additionally contract indebtedness and issue general obligation bonds for capital purposes only, together with any outstanding general indebtedness, not to exceed an amount equal to one-half of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015 whenever a proposition authorizing the issuance of such bonds has been approved by the voters of the district pursuant to RCW 39.36.050, by three-fifths of the persons voting on the proposition at which election the number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast in such taxing district at the last preceding general election. If the voters shall so authorize at an election held pursuant to RCW 39.36.050, the district may levy annual taxes in excess of normal legal limitations to pay the principal and interest upon such bonds as they shall become due. The excess levies mentioned in this section or in RCW 84.52.052 or 84.52.056 may be made notwithstanding anything contained in RCW 27.12.050 or 27.12.150 or any other statute pertaining to such library districts.

Sec. 2. RCW 27.15.020 and 2015 c 53 s 4 are each amended to read as follows:

(1) Upon receipt of a completed written request to both establish a library capital facility area and submit a ballot proposition under RCW 27.15.050 to finance library capital facilities, that is signed by a majority of the members of the board of trustees of a library district or board of trustees of a city or town library, the county legislative authority or county legislative authorities for the county or counties in which a proposed library capital facility area is to be established (~~(shall)~~ must submit (~~(separate)~~ a ballot proposition(~~(s)~~) to voters to (~~(authorize establishing)~~ establish the proposed library capital facility area and (~~(authorizing)~~ authorize the library capital facility area(~~(- if established,)~~) to finance library capital facilities by issuing general indebtedness and imposing excess levies to retire the indebtedness. The ballot proposition(~~(s-shall)~~ must be submitted to voters at a general or special election. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed library capital facility area is already holding a special election under RCW 29A.04.330. (~~(Approval of the ballot proposition to create a library capital facility area shall be)~~ The ballot proposition must be approved by a ((simple majority)) supermajority) vote.

(2) A completed request submitted under this section (~~(shall)~~ must include: (~~((+))~~ (a) A description of the boundaries of the library capital facility area; and (~~((+))~~ (b) a copy of the resolution of the legislative authority of each city or town, and board of trustees of each library district, with territory included within the proposed library capital facility area indicating both: (~~((+))~~ (i) Its approval of the creation of the proposed library capital facility area; and (~~((+))~~ (ii) agreement on how election costs will be paid for submitting the ballot proposition(~~(s)~~) to voters (~~(that authorize the library capital facility area to incur general indebtedness and impose excess levies to retire the general indebtedness)~~)).

(3) For the purposes of this section, a supermajority vote means the affirmative vote of a three-fifths majority of those voting on the proposition, and the total number of persons voting on the proposition must be at least 40 percent of the voters in the proposed library capital facility area who voted in the last preceding statewide general election.

Passed by the Senate March 9, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 208

[Engrossed Senate Bill 6313]

YOUNG VOTERS--VARIOUS PROVISIONS

AN ACT Relating to increasing opportunities for young voters; amending RCW 29A.08.210, 29A.08.230, 29A.08.330, 29A.08.810, 29A.08.355, 46.20.155, 28A.230.094, 29A.32.031, 29A.32.241, 29A.04.061, 29A.08.110, 29A.08.170, 29A.08.172, 29A.08.174, 29A.08.359, 29A.80.041, 29A.84.140, 46.20.156, and 29A.08.140; adding a new section to chapter 29A.40 RCW; creating new sections; and providing effective dates.

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

PART I

ACT NAME AND LEGISLATIVE FINDINGS

NEW SECTION. **Sec. 1.** This act may be known and cited as the voting opportunities through education act or the VOTE act.

NEW SECTION. **Sec. 2.** The legislature finds that robust participation by young voters in Washington state elections is critical to ensuring lifelong civic engagement. Research has shown that voting is a habitual behavior and that people who vote in the first three elections when they are eligible will likely vote for life. However, this is also the period of time when they are likely to face unique barriers to participate in the democratic process, including regularly changing their address, becoming eligible shortly after an election, and exclusion from certain voter registration policies.

The legislature also finds that the period prior to election day is the most critical time to ensure ballot access for young voters. States with early voting have higher participation rates than states that do not and the use of early voting sites on college campuses helped produce record levels of participation for young voters in 2016 and 2018.

The legislature finds that students that have more opportunities to be registered and vote are more likely to participate. Limiting statutory voter registration opportunities on college campuses to days well in advance of election day is inconsistent with implementation of same-day voter registration. Making automatic voter registration unavailable to those registering for the first time denies young voters the same benefits as every other voter.

PART II

PERSONS ALLOWED TO VOTE IN PRIMARIES

Sec. 3. RCW 29A.08.210 and 2018 c 109 s 8 are each amended to read as follows:

An applicant for voter registration shall complete an application providing the following information concerning his or her qualifications as a voter in this state:

- (1) The former address of the applicant if previously registered to vote;
- (2) The applicant's full name;
- (3) The applicant's date of birth;
- (4) The address of the applicant's residence for voting purposes;
- (5) The mailing address of the applicant if that address is not the same as the address in subsection (4) of this section;
- (6) The sex of the applicant;
- (7) The applicant's Washington state driver's license number, Washington state identification card number, or the last four digits of the applicant's social security number if he or she does not have a Washington state driver's license or Washington state identification card;
- (8) A check box allowing the applicant to indicate that he or she is a member of the armed forces, national guard, or reserves, or that he or she is an overseas voter;
- (9) A check box allowing the applicant to acknowledge that he or she is at least ~~((eighteen))~~ sixteen years old ~~((or is at least sixteen years old and will vote only after he or she reaches the age of eighteen))~~;

(10) Clear and conspicuous language, designed to draw the applicant's attention, stating that (~~the~~):

(a) The applicant must be a United States citizen in order to register to vote; and

(b) The applicant may register to vote if the applicant is at least sixteen years old and may vote if the applicant will be at least eighteen years old by the next general election, or is at least eighteen years old for special elections;

(11) A check box and declaration confirming that the applicant is a citizen of the United States;

(12) The following warning:

"If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, a fine of up to ten thousand dollars, or both."

(13) The oath required by RCW 29A.08.230 and a space for the applicant's signature; and

(14) Any other information that the secretary of state determines is necessary to establish the identity of the applicant and prevent duplicate or fraudulent voter registrations.

This information shall be recorded on a single registration form to be prescribed by the secretary of state.

Sec. 4. RCW 29A.08.230 and 2013 c 11 s 14 are each amended to read as follows:

For all voter registrations, the registrant shall sign the following oath:

"I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, I (~~will be~~) am at least (~~eighteen~~) sixteen years old (~~when I vote~~), I am not disqualified from voting due to a court order, and I am not under department of corrections supervision for a Washington felony conviction."

Sec. 5. RCW 29A.08.330 and 2019 c 391 s 6 are each amended to read as follows:

(1) The secretary of state shall prescribe the method of voter registration for each designated agency. The agency shall use either the state voter registration by mail form with a separate declination form for the applicant to indicate that he or she declines to register at this time, or the agency may use a separate form approved for use by the secretary of state.

(2) The person providing service at the agency shall offer voter registration services to every client whenever he or she applies for service or assistance and with each renewal, recertification, or change of address. The person providing service shall give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents, including information about age and citizenship requirements for voter registration.

(3) The person providing service at the agency shall determine if the prospective applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the service agent shall ask the following:

(a) "Are you a United States citizen?"

(b) "Are you at least ~~((eighteen))~~ sixteen years old ~~((or are you at least sixteen years old and will you vote only after you turn eighteen))~~?"

If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to sign up to vote, register to vote, or update a voter registration. If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration application.

(4) If an agency uses a computerized application process, it may, in consultation with the secretary of state, develop methods to capture simultaneously the information required for voter registration during a person's computerized application process.

(5) Each designated agency shall transmit the applications to the secretary of state or appropriate county auditor within three business days and must be received by the election official by the required voter registration deadline.

(6) Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.

Sec. 6. RCW 29A.08.810 and 2011 c 10 s 20 are each amended to read as follows:

(1) Registration of a person as a voter is presumptive evidence of his or her right to vote. A challenge to the person's right to vote must be based on personal knowledge of one of the following:

(a) The challenged voter has been convicted of a felony and the voter's civil rights have not been restored;

(b) The challenged voter has been judicially declared ineligible to vote due to mental incompetency;

(c) The challenged voter does not live at the residential address provided, in which case the challenger must either:

(i) Provide the challenged voter's actual residence on the challenge form; or

(ii) Submit evidence that he or she exercised due diligence to verify that the challenged voter does not reside at the address provided and to attempt to contact the challenged voter to learn the challenged voter's actual residence, including that the challenger personally:

(A) Sent a letter with return service requested to the challenged voter's residential address provided, and to the challenged voter's mailing address, if provided;

(B) Visited the residential address provided and contacted persons at the address to determine whether the voter resides at the address and, if not, obtained and submitted with the challenge form a signed affidavit subject to the penalties of perjury from a person who owns or manages property, resides, or is employed at the address provided, that to his or her personal knowledge the

challenged voter does not reside at the address as provided on the voter registration;

(C) Searched local telephone directories, including online directories, to determine whether the voter maintains a telephone listing at any address in the county;

(D) Searched county auditor property records to determine whether the challenged voter owns any property in the county; and

(E) Searched the statewide voter registration database to determine if the voter is registered at any other address in the state;

(d) The challenged voter will not be eighteen years of age by the next general election; or

(e) The challenged voter is not a citizen of the United States.

(2) A person's right to vote may be challenged by another registered voter or the county prosecuting attorney.

(3) The challenger must file a signed affidavit subject to the penalties of perjury swearing that, to his or her personal knowledge and belief, having exercised due diligence to personally verify the evidence presented, the challenged voter either is not qualified to vote or does not reside at the address given on his or her voter registration record based on one of the reasons allowed in subsection (1) of this section. The challenger must provide the factual basis for the challenge, including any information required by subsection (1)(c) of this section, in the signed affidavit. The challenge may not be based on unsupported allegations or allegations by anonymous third parties. All documents pertaining to the challenge are public records.

(4) Challenges based on a felony conviction under RCW 29A.08.520 must be heard according to RCW 29A.08.520 and rules adopted by the secretary of state.

PART III

AUTOMATIC VOTER SIGN-UP TO REGISTER

Sec. 7. RCW 29A.08.355 and 2018 c 110 s 102 are each amended to read as follows:

(1) The department of licensing ((shall implement an automatic voter registration system so that)) must allow a person age eighteen years or older ((who)) to be registered to vote or update voter registration information by automated process at the time of registration, renewal, or change of address if:

(a) The person meets requirements for voter registration ((and));

(b) The person has received or is renewing an enhanced driver's license or identocard issued under RCW 46.20.202 or is changing the address for an existing enhanced driver's license or identocard pursuant to RCW 46.20.205 ((may be registered to vote or update voter registration information at the time of registration, renewal, or change of address, by automated process if the)); and

(c) The department of licensing record associated with the applicant contains ((the));

(i) The data required to determine whether the applicant meets requirements for voter registration under RCW 29A.08.010 ((-other));

(ii) Other information as required by the secretary of state ((,- and includes a)); and

(iii) A signature image.

(2) The department of licensing must allow a person sixteen or seventeen years of age to be signed up to register to vote by automated process at the time of registration, renewal, or change of address if:

(a) The person meets requirements to sign up to register to vote;

(b) The person has received or is renewing an enhanced driver's license or identicard issued under RCW 46.20.202 or is changing the address for an existing enhanced driver's license or identicard pursuant to RCW 46.20.205; and

(c) The department of licensing record associated with the applicant contains:

(i) The data required to determine whether the applicant meets the requirements for voter registration under RCW 29A.08.210, other than age;

(ii) Other information as required by the secretary of state; and

(iii) A signature image.

(3) The person must be informed that his or her record will be used for voter registration and offered an opportunity to decline to register.

Sec. 8. RCW 46.20.155 and 2018 c 109 s 15 are each amended to read as follows:

(1) Before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the agent shall ask the following:

(1) "Are you a United States citizen?"

(2) "Are you at least ~~((eighteen))~~ sixteen years old ~~((or are you at least sixteen years old and will you vote only after you turn eighteen))?~~"

If the applicant answers in the affirmative to both questions, the agent shall then submit the registration, sign up form, or update. If the applicant answers in the negative to either question, the agent shall not submit an application. Information that is otherwise disclosable under chapter 29A.08 RCW cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.

(2) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.

Sec. 9. RCW 28A.230.094 and 2018 c 127 s 2 are each amended to read as follows:

(1)(a) Beginning with or before the 2020-21 school year, each school district that operates a high school must provide a mandatory one-half credit stand-alone course in civics for each high school student. Except as provided by (c) of this subsection, civics content and instruction embedded in other social studies courses do not satisfy the requirements of this subsection.

(b) Credit awarded to students who complete the civics course must be applied to course credit requirements in social studies that are required for high school graduation.

(c) Civics content and instruction required by this section may be embedded in social studies courses that offer students the opportunity to earn both high school and postsecondary credit.

(2) The content of the civics course must include, but is not limited to:

(a) Federal, state, tribal, and local government organization and procedures;
 (b) Rights and responsibilities of citizens addressed in the Washington state and United States Constitutions;

(c) Current issues addressed at each level of government;

(d) Electoral issues, including elections, ballot measures, initiatives, and referenda;

(e) The study and completion of the civics component of the federally administered naturalization test required of persons seeking to become naturalized United States citizens; and

(f) The importance in a free society of living the basic values and character traits specified in RCW 28A.150.211.

(3) By September 1, 2020, the office of the superintendent of public instruction, in collaboration with the Washington state association of county auditors and a 501(c)(3) nonprofit organization engaged in voter outreach and increasing voter participation, shall identify and make available civics materials and resources for use in courses under this section. The materials and resources must be posted on the office of the superintendent of public instruction's web site.

PART IV

STUDENT ENGAGEMENT HUBS

NEW SECTION. Sec. 10. A new section is added to chapter 29A.40 RCW to read as follows:

(1) Each state university, regional university, and The Evergreen State College as defined in RCW 28B.10.016 and each higher education campus as defined in RCW 28B.45.012 shall open a nonpartisan student engagement hub on its campus. The student engagement hub may be open during business hours beginning eight days before, and ending at 8:00 p.m. on the day of, the general election. All student engagement hubs must allow students to download their exact ballot from an online portal. Upon request of the student government organization to the administration and the county auditor, the student engagement hub at a state university, regional university, or The Evergreen State College as defined in RCW 28B.10.016 must allow voters to register in person pursuant to RCW 29A.08.140(1)(b) and provide voter registration materials and ballots.

(2) Each institution shall contract with the county auditor for the operation of a student engagement hub under this section.

(3) Student engagement hubs are not voting centers as outlined in RCW 29A.40.160 and must be operated in a manner that avoids partisan influence or electioneering.

PART V
VOTERS' PAMPHLETS

Sec. 11. RCW 29A.32.031 and 2013 c 283 s 2 are each amended to read as follows:

The voters' pamphlet published or distributed under RCW 29A.32.010 must contain:

(1) Information about each measure for an advisory vote of the people and each ballot measure initiated by or referred to the voters for their approval or rejection as required by RCW 29A.32.070;

(2) In even-numbered years, statements, if submitted, from candidates for the office of president and vice president of the United States, United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of public lands, superintendent of public instruction, insurance commissioner, state senator, state representative, justice of the supreme court, judge of the court of appeals, or judge of the superior court. Candidates may also submit campaign contact information and a photograph not more than five years old in a format that the secretary of state determines to be suitable for reproduction in the voters' pamphlet;

(3) In odd-numbered years, if any office voted upon statewide appears on the ballot due to a vacancy, then statements and photographs for candidates for any vacant office listed in subsection (2) of this section must appear;

(4) Contact information for the public disclosure commission established under RCW 42.17A.100, including the following statement: "For a list of the people and organizations that donated to state and local candidates and ballot measure campaigns, visit www.pdc.wa.gov." The statement must be placed in a prominent position, such as on the cover or on the first two pages of the voters' pamphlet. The secretary of state may substitute such language as is necessary for accuracy and clarity and consistent with the intent of this section;

(5) Contact information for major political parties;

(6) A brief statement explaining the deletion and addition of language for proposed measures under RCW 29A.32.080; (~~and~~)

(7) A list of all student engagement hubs as designated under section 10 of this act; and

(8) Any additional information pertaining to elections as may be required by law or in the judgment of the secretary of state is deemed informative to the voters.

Sec. 12. RCW 29A.32.241 and 2016 c 83 s 2 are each amended to read as follows:

(1) The local voters' pamphlet shall include but not be limited to the following:

(a) Appearing on the cover, the words "official local voters' pamphlet," the name of the jurisdiction producing the pamphlet, and the date of the election or primary;

(b) A list of jurisdictions that have measures or candidates in the pamphlet;

(c) Information on how a person may register to vote and obtain a ballot;

(d) The text of each measure accompanied by an explanatory statement prepared by the prosecuting attorney for any county measure or by the attorney

for the jurisdiction submitting the measure if other than a county measure. All explanatory statements for city, town, or district measures not approved by the attorney for the jurisdiction submitting the measure shall be reviewed and approved by the county prosecuting attorney or city attorney, when applicable, before inclusion in the pamphlet;

(e) The arguments for and against each measure submitted by committees selected pursuant to RCW 29A.32.280; (~~and~~)

(f) A list of all student engagement hubs in the county as designated under section 10 of this act; and

(g) For partisan primary elections, information on how to vote the applicable ballot format and an explanation that minor political party candidates and independent candidates will appear only on the general election ballot.

(2) The county auditor's name may not appear in the local voters' pamphlet in his or her official capacity if the county auditor is a candidate for office during the same year. His or her name may only be included as part of the information normally included for candidates.

PART VI HARMONIZING PROVISIONS

Sec. 13. RCW 29A.04.061 and 2003 c 111 s 111 are each amended to read as follows:

"Elector" means any person who possesses all of the qualifications to vote under Article VI of the state Constitution, including persons who are seventeen years of age at the primary election or presidential primary election but who will be eighteen years of age by the general election.

Sec. 14. RCW 29A.08.110 and 2019 c 391 s 5 are each amended to read as follows:

(1) For persons registering under RCW 29A.08.120, 29A.08.123, 29A.08.170, 29A.08.330, 29A.08.340, 29A.08.362, and 29A.08.365, an application is considered complete only if it contains the information required by RCW 29A.08.010. The applicant is considered to be registered to vote as of (~~the~~):

(a) The original date of receipt(~~(, or when)~~);

(b) When the person will be at least eighteen years old by the next election; or

(c) When the person will be at least seventeen years old by the next primary election or presidential primary election and eighteen years old by the general election, whichever is applicable.

(2) As soon as practicable, the auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. The secretary of state shall, pursuant to RCW 29A.04.611, establish procedures to enable new or updated voter registrations to be recorded on an expedited basis. Any mailing address provided shall be used only for mail delivery purposes, and not for precinct assignment or residency purposes. Within sixty days after the receipt of an application or transfer, the auditor shall send to the applicant, by first-class nonforwardable mail, an acknowledgment notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state.

The postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable.

~~((2))~~ (3) If an application is not complete, the auditor shall promptly mail a verification notice to the applicant. The verification notice shall require the applicant to provide the missing information. If the applicant provides the required information within forty-five days, the applicant shall be registered to vote as of the original date of application. The applicant shall not be placed on the official list of registered voters until the application is complete.

~~((3))~~ (4) Once a future voter is no longer in pending status, as described in RCW 29A.08.615, his or her application to sign up to register to vote is no longer pending and is subject to this section.

Sec. 15. RCW 29A.08.170 and 2018 c 109 s 5 are each amended to read as follows:

(1) A person may sign up to register to vote if he or she is sixteen or seventeen years of age, as part of the future voter program.

(2) A person who signs up to register to vote may not vote until reaching eighteen years of age ~~(, and his or her name)~~ unless the person is seventeen years of age at the primary election or presidential primary election and will be eighteen years of age by the general election. A person who signs up to register to vote may not be added to the statewide voter registration database list of voters until such time as he or she will be ((eighteen years of age by)) eligible to vote in the next election.

Sec. 16. RCW 29A.08.172 and 2018 c 109 s 6 are each amended to read as follows:

(1) A person who has attained sixteen years of age may sign up to register to vote, as part of the future voter program, by submitting a voter registration application by mail.

(2) The applicant must attest to the truth of the information provided on the application by affirmatively accepting the information as true.

(3) If signing up to register by mail, the person must provide a signature for voter registration purposes.

(4) The applicant must affirmatively acknowledge that he or she will not vote in a special or general election until his or her eighteenth birthday.

Sec. 17. RCW 29A.08.174 and 2018 c 109 s 14 are each amended to read as follows:

(1) A person who has attained sixteen years of age and has a valid Washington state driver's license or identocard may sign up to register to vote as part of the future voter program, by submitting a voter registration application electronically on the secretary of state's web site.

(2) The applicant must attest to the truth of the information provided on the application by affirmatively accepting the information as true.

(3) If signing up to register electronically, the applicant must affirmatively assent to the use of his or her driver's license or identocard signature for voter registration purposes.

(4) The applicant must affirmatively acknowledge that he or she will not vote in a special or general election until his or her eighteenth birthday, and will only vote in a primary election or presidential primary election if he or she will be eighteen years of age by the general election.

(5) For each electronic registration application, the secretary of state must obtain a digital copy of the applicant's driver's license or identicard signature from the department of licensing.

(6) The secretary of state may employ additional security measures to ensure the accuracy and integrity of voter preregistration applications submitted electronically.

Sec. 18. RCW 29A.08.359 and 2019 c 391 s 8 are each amended to read as follows:

(1)(a) For persons age eighteen years and older registering under RCW 29A.08.355(1), an application is considered complete only if it contains the information required by RCW 29A.08.010 and other information as required by the secretary of state. The applicant is considered to be registered to vote as of the original date of issuance or renewal or date of change of address of an enhanced driver's license or identicard issued under RCW 46.20.202 or change of address for an existing enhanced driver's license or identicard pursuant to RCW 46.20.205.

(b) For persons sixteen or seventeen years of age registering under RCW 29A.08.355(2), an application is considered complete only if it contains the information required by RCW 29A.08.010 and other information as required by the secretary of state. The applicant is considered to be registered to vote as of the date set forth in RCW 29A.08.110(1).

(c) The information must be transmitted in an expedited manner and must be received by an election official by the required voter registration deadline. The auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. Any mailing address provided shall be used only for mail delivery purposes, and not for precinct assignment or residency purposes. Within sixty days after the receipt of an application or transfer, the auditor shall send to the applicant, by first-class nonforwardable mail, an acknowledgment notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The United States postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable.

~~((b))~~ (d) An auditor may use other means to communicate with potential and registered voters such as, but not limited to, email, phone, or text messaging. The alternate form of communication must not be in lieu of the first-class mail requirements. The auditor shall act in compliance with all voter notification processes established in federal law.

(2) If an application is not complete, the auditor shall promptly mail a verification notice to the applicant. The verification notice must require the applicant to provide the missing information. If the applicant provides the required information within forty-five days, the applicant must be registered to vote. The applicant must not be placed on the official list of registered voters until the application is complete.

(3) If the prospective registration applicant declines to register to vote or the information provided by the department of licensing does not indicate citizenship, the information must not be included on the list of registered voters.

(4) The department of licensing is prohibited from sharing data files used by the secretary of state to certify voters registered through the automated process

outlined in RCW 29A.08.355 with any federal agency, or state agency other than the secretary of state. Personal information supplied for the purposes of obtaining a driver's license or identocard is exempt from public inspection pursuant to RCW 42.56.230.

Sec. 19. RCW 29A.80.041 and 2009 c 106 s 3 are each amended to read as follows:

Any member of a major political party who is a registered voter in the precinct and who will be at least eighteen years old by the date of the precinct committee officer election may file his or her declaration of candidacy as prescribed under RCW 29A.24.031 with the county auditor for the office of precinct committee officer of his or her party in that precinct. When elected at the primary, the precinct committee officer shall serve so long as the committee officer remains an eligible voter in that precinct.

Sec. 20. RCW 29A.84.140 and 2018 c 109 s 13 are each amended to read as follows:

A person who knows that he or she does not possess the legal qualifications of a voter and who registers to vote is guilty of a class C felony. This section does not apply to persons age sixteen or seventeen signing up to register to vote as authorized under RCW 29A.08.170 or 29A.08.355(2).

Sec. 21. RCW 46.20.156 and 2018 c 110 s 105 are each amended to read as follows:

For persons eighteen years of age or older who meet requirements for voter registration and persons sixteen or seventeen years of age who meet requirements to sign up to register to vote, who have been issued or are renewing an enhanced driver's license or identocard under RCW 46.20.202 or applying for a change of address for an existing enhanced driver's license or identocard pursuant to RCW 46.20.205, and have not declined to register to vote, the department shall produce and transmit to the secretary of state the following information from the records of each individual: The name, address, date of birth, gender of the applicant, the driver's license number, signature image, and the date on which the application was submitted. The department and the secretary of state shall process information as an automated application on a daily basis.

PART VII OTHER PROVISIONS

Sec. 22. RCW 29A.08.140 and 2019 c 391 s 4 are each amended to read as follows:

(1) In order to vote in any primary, special election, or general election, a person who is not registered to vote in Washington must:

(a) Submit a registration application that is received by an election official no later than eight days before the day of the primary, special election, or general election. For purposes of this subsection (1)(a), "received" means: (i) Being physically received by an election official by the close of business of the required deadline; or (ii) for applications received online or electronically, by midnight, of the required deadline; or

(b) Register in person at ~~((the))~~ a county auditor's office, the division of elections if in a separate city from the county auditor's office, a voting center, a student engagement hub, or other location designated by the county auditor (~~((#~~

~~his or her county of residence~~) no later than 8:00 p.m. on the day of the primary, special election, or general election.

(2) ~~((a))~~ (a) In order to change a residence address for voting in any primary, special election, or general election, a person who is already registered to vote in Washington may update his or her registration by:

~~((a)-(i))~~ (i) Submitting an address change using a registration application or making notification via any non-in-person method that is received by election officials no later than eight days before the day of the primary, special election, or general election; or

~~((b)-(ii))~~ (ii) Appearing in person, at ~~(the)~~ a county auditor's office, the division of elections if in a separate city from the county auditor's office, a voting center, or other location designated by the county auditor ~~((in his or her county of residence))~~, no later than 8:00 p.m. on the day of the primary, special election, or general election to be in effect for that primary, special election, or general election.

~~((e)-(b))~~ (b) A registered voter who fails to update his or her residential address by this deadline may vote according to his or her previous registration address.

(3) To register or update a voting address in person at ~~(the)~~ a county auditor's office, a voting center, or other location designated by the county auditor, a person must appear in person at ~~(the)~~ a county auditor's office, a voting center, or other location designated by the county auditor ~~((in the county in which the person resides))~~ at a time when the facility is open and complete the voter registration application by providing the information required by RCW 29A.08.010.

NEW SECTION. **Sec. 23.** Subject to the availability of amounts appropriated for this specific purpose, the secretary of state may provide grants to county auditors to implement section 10 of this act.

NEW SECTION. **Sec. 24.** Sections 3, 5, 6, and 13 through 17 of this act take effect January 1, 2022.

NEW SECTION. **Sec. 25.** Sections 7, 8, 18, 20, and 21 of this act take effect September 1, 2023.

Passed by the Senate March 7, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 209

[Substitute Senate Bill 6319]

SENIOR PROPERTY TAX EXEMPTION PROGRAM--VARIOUS PROVISIONS

AN ACT Relating to administration of the senior property tax exemption program; amending RCW 84.36.387, 84.36.385, and 84.36.383; and creating a new section.

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

Sec. 1. RCW 84.36.387 and 2003 c 53 s 408 are each amended to read as follows:

(1) ~~((A))~~ Except as provided in subsection (3) of this section, all claims for exemption shall be made and signed under oath by the person entitled to the exemption, by his or her attorney-in-fact or in the event the residence of such person is under mortgage or purchase contract requiring accumulation of reserves out of which the holder of the mortgage or contract is required to pay real estate taxes, by such holder or by the owner ~~((either before two witnesses or the county assessor or his or her deputy in the county where the real property is located))~~: PROVIDED, That if a claim for exemption is made by a person living in a cooperative housing association, corporation, or partnership, such claim shall be made and signed by the person entitled to the exemption and by the authorized agent of such cooperative.

(2) If the taxpayer is unable to submit his or her own claim, the claim shall be submitted by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(3) All claims for exemption and renewal applications shall be accompanied by such documented verification of income as shall be prescribed by rule adopted by the department of revenue.

(4) Any person signing a false claim with the intent to defraud or evade the payment of any tax is guilty of perjury under chapter 9A.72 RCW.

(5) The tax liability of a cooperative housing association, corporation, or partnership shall be reduced by the amount of tax exemption to which a claimant residing therein is entitled and such cooperative shall reduce any amount owed by the claimant to the cooperative by such exact amount of tax exemption or, if no amount be owed, the cooperative shall make payment to the claimant of such exact amount of exemption.

(6) A remainderman or other person who would have otherwise paid the tax on real property that is the subject of an exemption granted under RCW 84.36.381 for an estate for life shall reduce the amount which would have been payable by the life tenant to the remainderman or other person to the extent of the exemption. If no amount is owed or separately stated as an obligation between these persons, the remainderman or other person shall make payment to the life tenant in the exact amount of the exemption.

Sec. 2. RCW 84.36.385 and 2019 c 453 s 3 are each amended to read as follows:

(1) A claim for exemption under RCW 84.36.381 as now or hereafter amended, may be made and filed at any time during the year for exemption from taxes payable the following year and thereafter and solely upon forms as prescribed and furnished by the department of revenue. However, an exemption from tax under RCW 84.36.381 continues for no more than six years unless a renewal application is filed as provided in subsection (3) of this section.

(2) A person granted an exemption under RCW 84.36.381 must inform the county assessor of any change in status affecting the person's entitlement to the exemption on forms prescribed and furnished by the department of revenue.

(3) Each person exempt from taxes under RCW 84.36.381 in 1993 and thereafter must file with the county assessor a renewal application not later than December 31 of the year the assessor notifies such person of the requirement to file the renewal application. Renewal applications must be on forms prescribed and furnished by the department of revenue.

(4) At least once every six years, the county assessor must notify those persons receiving an exemption from taxes under RCW 84.36.381 of the requirement to file a renewal application. The county assessor may also require a renewal application following an amendment of the income requirements set forth in RCW 84.36.381.

(5) If the assessor finds that the applicant does not meet the qualifications as set forth in RCW 84.36.381, as now or hereafter amended, the claim or exemption must be denied but such denial is subject to appeal under the provisions of RCW 84.48.010 and in accordance with the provisions of RCW 84.40.038. If the applicant had received exemption in prior years based on erroneous information, the taxes must be collected subject to penalties as provided in RCW 84.40.130 for a period of not to exceed five years.

(6) The department and each local assessor is hereby directed to publicize the qualifications and manner of making claims under RCW 84.36.381 through 84.36.389, through communications media, including such paid advertisements or notices as it deems appropriate. Notice of the qualifications, method of making applications, the penalties for not reporting a change in status, and availability of further information must be included on or with property tax statements and revaluation notices for all residential property including mobile homes, except rental properties.

(7) The department must authorize an option for electronic filing of applications and renewal applications for the exemption under RCW 84.36.381.

(8) Beginning August 1, 2019, and by March 1st every fifth year thereafter, the department must publish updated income thresholds. The adjusted thresholds must be rounded up to the nearest one thousand dollars. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply. The department must adjust income thresholds for each county to reflect the most recent year available of estimated county median household incomes, including preliminary estimates or projections, as published by the office of financial management. For the purposes of this subsection, "county median household income" has the same meaning as provided in RCW 84.36.383.

(9) Beginning with the adjustment made by March 1, 2024, as provided in subsection (8) of this section, and every second adjustment thereafter, if an income threshold in a county is not adjusted based on percentage of county median income, then the income threshold must be adjusted based on the growth of the consumer price index for all urban consumers (CPI-U) for the prior twelve month period as published by the United States bureau of labor statistics. In no case may the adjustment be greater than one percent. The adjusted thresholds must be rounded to the nearest one dollar. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply.

Sec. 3. RCW 84.36.383 and 2019 c 453 s 2 are each amended to read as follows:

As used in RCW 84.36.381 through 84.36.389, unless the context clearly requires otherwise:

(1) The term "residence" means a single-family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations. The term also

includes a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term also includes a single-family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a residence is deemed real property.

(2) The term "real property" also includes a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities. A mobile home located on land leased by the owner of the mobile home is subject, for tax billing, payment, and collection purposes, only to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

(3) "Department" means the state department of revenue.

(4) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse or domestic partner, and the disposable income of each cotenant occupying the residence for the assessment year, less amounts paid by the person claiming the exemption or his or her spouse or domestic partner during the assessment year for:

(a) Drugs supplied by prescription of a medical practitioner authorized by the laws of this state or another jurisdiction to issue prescriptions;

(b) The treatment or care of either person received in the home or in a nursing home, assisted living facility, or adult family home; and

(c) Health care insurance premiums for medicare under Title XVIII of the social security act.

(5) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(a) Capital gains, other than gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;

(b) Amounts deducted for loss;

(c) Amounts deducted for depreciation;

(d) Pension and annuity receipts;

(e) Military pay and benefits other than attendant-care and medical-aid payments;

(f) Veterans benefits, other than:

(i) Attendant-care payments;

(ii) Medical-aid payments;

(iii) Disability compensation, as defined in Title 38, part 3, section 3.4 of the Code of Federal Regulations, as of January 1, 2008; and

(iv) Dependency and indemnity compensation, as defined in Title 38, part 3, section 3.5 of the Code of Federal Regulations, as of January 1, 2008;

(g) Federal social security act and railroad retirement benefits;

(h) Dividend receipts; and

(i) Interest received on state and municipal bonds.

(6) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

(7) "Disability" has the same meaning as provided in 42 U.S.C. Sec. 423(d)(1)(A) as amended prior to January 1, 2005, or such subsequent date as the department may provide by rule consistent with the purpose of this section.

(8) "County median household income" means the median household income estimates for the state of Washington by county of the legal address of the principal place of residence, as published by the office of financial management.

(9) "Income threshold 1" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to thirty thousand dollars; and

(b) For taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of "income threshold 1" for the previous year or forty-five percent of the county median household income, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8).

(10) "Income threshold 2" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to thirty-five thousand dollars; and

(b) For taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of "income threshold 2" for the previous year or fifty-five percent of the county median household income, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8).

(11) "Income threshold 3" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to forty thousand dollars; and

(b) For taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of "income threshold 3" for the previous year or sixty-five percent of the county median household income, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8).

(12) "Principal place of residence" means a residence occupied for more than (~~nine~~) six months each calendar year by a person claiming an exemption under RCW 84.36.381.

NEW SECTION. Sec. 4. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

Passed by the Senate February 19, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 210

[Substitute Senate Bill 6392]

LOCAL WINE INDUSTRY ASSOCIATION LICENSE

AN ACT Relating to the creation of a local wine industry association license; and adding a new section to chapter 66.24 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 66.24 RCW to read as follows:

(1) There is a retail license to be designated as the local wine industry association license to be issued to a nonprofit society or organization specifically created with the express purpose of encouraging consumer education of and promoting the economic development for a designated area of the Washington state wine industry.

(2) The local wine industry association licensee may purchase or receive donations of wine from domestic winery licensees and certificate of approval holders and use such wine for promotional or marketing purposes. Events or marketing programs conducted by the local wine industry association licensee may be held on domestic winery premises, including the premises of additional locations authorized under RCW 66.24.170(4), as long as the domestic winery and the local wine industry association licensee each separately account for the sales of its wine. Domestic wineries and additional locations authorized under RCW 66.24.170(4) are not subject to the restrictions of RCW 66.28.305, but only while participating in an event or marketing program conducted by the holder of this license.

(3) The holder of the local wine industry association license must notify the board of any event or marketing program conducted under the license at least forty-five days before the event or start of the marketing program.

(4) The annual fee for the local wine industry association license is seven hundred dollars per calendar year.

(5) Nothing in this section prohibits the holder of the local wine industry association license access to the special occasion license under RCW 66.24.380 or special permits under RCW 66.20.010.

(6) Wine furnished to a nonprofit society under this section is subject to the taxes imposed under RCW 66.24.210.

(7) A licensee under this section may conduct no more than twelve events per year.

(8) All licensees participating in an event or marketing program conducted under a license issued under this section are jointly responsible for any violation or enforcement issues arising out of the event or marketing program unless it can be demonstrated that the violation or enforcement issue was due to one or more licensee's specific conduct or action, in which case the violation or enforcement issue applies only to those identified licensees.

Passed by the Senate February 12, 2020.

Passed by the House March 5, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 211

[Substitute Senate Bill 6409]

INDUSTRIAL EQUIPMENT--ELECTRICAL WORK--EXEMPTIONS

AN ACT Relating to providing an exemption from electrical licensing, certification, and inspection for industrial equipment; and adding a new section to chapter 19.28 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 19.28 RCW to read as follows:

(1) A person, firm, partnership, corporation, or other entity and a manufacturer's authorized engineers and factory-trained service technicians it employs are exempt from licensing requirements under RCW 19.28.041, certification requirements under RCW 19.28.161, and inspection requirements under this chapter for the maintenance, repair, or replacement of components and the disconnection and reconnection of existing low voltage digital control system connections within the confines of the manufacturer's industrial equipment. Except for disconnection and reconnection of existing low voltage digital control system connections, this exemption does not include any: (a) Installation, maintenance, repair, disconnection, or reconnection of any premises wiring or electrical equipment connected to industrial equipment; (b) on-site assembly of industrial equipment; or (c) electrical interconnections between industrial equipment units.

(2) Modifications may not include any changes to the original intended equipment configuration. Any entity making modifications is responsible for maintaining conformance to applicable electrical product safety standards. Proof of conformance must be in accordance with this chapter.

(3) For the purposes of this section, "industrial equipment" means utilization equipment that is: (a) Fully assembled at the manufacturer's facility; (b) self-contained on a single skid or frame; (c) of a type that conforms to applicable standards or is indicated as acceptable by the established standards of any electrical product testing laboratory which is accredited by the department; and (d) directly used in manufacturing or industrial process not accessible to the public.

Passed by the Senate February 12, 2020.

Passed by the House March 3, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 212

[Engrossed Senate Bill 6421]

FARM INTERNSHIP PROGRAM

AN ACT Relating to extending the farm internship program; reenacting and amending RCW 49.46.010; adding a new section to chapter 49.12 RCW; adding a new section to chapter 50.04 RCW; adding a new section to chapter 51.16 RCW; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 49.12 RCW to read as follows:

(1) The director shall establish a farm internship pilot project for the employment of farm interns on small farms under special certificates at wages, if any, as authorized by the department and subject to such limitations as to time, number, proportion, and length of service as provided in this section and as prescribed by the department. The pilot project consists of the following counties: San Juan, Skagit, King, Whatcom, Kitsap, Pierce, Jefferson, Spokane, Yakima, Chelan, Grant, Island, Snohomish, Kittitas, Lincoln, Thurston, Walla Walla, Clark, Cowlitz, and Lewis.

(2) A small farm may employ no more than three interns at one time under this section.

(3) A small farm must apply for a special certificate on a form made available by the director. The application must set forth: The name of the farm and a description of the farm seeking the certificate; the type of work to be performed by a farm intern; a description of the internship program; the period of time for which the certificate is sought and the duration of an internship; the number of farm interns for which a special certificate is sought; the wages, if any, that will be paid to the farm intern; any room and board, stipends, and other remuneration the farm will provide to a farm intern; and the total number of workers employed by the farm.

(4) Upon receipt of an application, the department shall review the application and issue a special certificate to the requesting farm within fifteen days if the department finds that:

(a) The farm qualifies as a small farm;

(b) There have been no serious violations of chapter 49.46 RCW or Title 51 RCW that provide reasonable grounds to believe that the terms of an internship agreement may not be complied with;

(c) The issuance of a certificate will not create unfair competitive labor cost advantages nor have the effect of impairing or depressing wage or working standards established for experienced workers for work of a like or comparable character in the industry or occupation at which the intern is to be employed;

(d) A farm intern will not displace an experienced worker; and

(e) The farm demonstrates that the interns will perform work for the farm under an internship program that: (i) Provides a curriculum of learning modules and supervised participation in farm work activities designed to teach farm interns about farming practices and farm enterprises; (ii) is based on the bona fide curriculum of an educational or vocational institution; and (iii) is reasonably designed to provide the intern with vocational knowledge and skills about farming practices and enterprises. In assessing an internship program, the department may consult with relevant college and university departments and extension programs and state and local government agencies involved in the regulation or development of agriculture.

(5) A special certificate issued under this section must specify the terms and conditions under which it is issued, including: The name of the farm; the duration of the special certificate allowing the employment of farm interns and the duration of an internship; the total number of interns authorized under the special certificate; the authorized wage rate, if any; and any room and board, stipends, and other remuneration the farm will provide to the farm intern. A farm intern may be paid at wages specified in the certificate only during the effective period of the certificate and for the duration of the internship.

(6) If the department denies an application for a special certificate, notice of denial must be mailed to the farm. The farm listed on the application may, within fifteen days after notice of such action has been mailed, file with the director a petition for review of the denial, setting forth grounds for seeking such a review. If reasonable grounds exist, the director or the director's authorized representative may grant such a review and, to the extent deemed appropriate, afford all interested persons an opportunity to be heard on such review.

(7) Before employing a farm intern, a farm must submit a statement on a form made available by the director stating that the farm understands: The requirements of the industrial welfare act, this chapter, that apply to farm interns; that the farm must pay workers' compensation premiums in the assigned intern risk class and must pay workers' compensation premiums for nonintern work hours in the applicable risk class; and that if the farm does not comply with subsection (8) of this section, the director may revoke the special certificate.

(8) The director may revoke a special certificate issued under this section if a farm fails to: Comply with the requirements of the industrial welfare act, this chapter, that apply to farm interns; pay workers' compensation premiums in the assigned intern risk class; or pay workers' compensation premiums in the applicable risk class for nonintern work hours.

(9) Before the start of a farm internship, the farm and the intern must sign a written agreement and send a copy of the agreement to the department. The written agreement must, at a minimum:

(a) Describe the internship program offered by the farm, including the skills and objectives the program is designed to teach and the manner in which those skills and objectives will be taught;

(b) Explicitly state that the intern is not entitled to unemployment benefits or minimum wages for work and activities conducted pursuant to the internship program for the duration of the internship;

(c) Describe the responsibilities, expectations, and obligations of the intern and the farm, including the anticipated number of hours of farm activities to be performed by and the anticipated number of hours of curriculum instruction provided to the intern per week;

(d) Describe the activities of the farm and the type of work to be performed by the farm intern; and

(e) Describes any wages, room and board, stipends, and other remuneration the farm will provide to the farm intern.

(10) The department must limit the administrative costs of implementing the internship pilot program by relying on farm organizations and other stakeholders to perform outreach and inform the farm community of the program and by limiting employee travel to the investigation of allegations of noncompliance with program requirements.

(11) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Farm intern" means an individual who provides services to a small farm under a written agreement and primarily as a means of learning about farming practices and farm enterprises.

(b) "Farm internship program" means an internship program described under subsection (4)(e) of this section.

(c) "Small farm" means a farm:

- (i) Organized as a sole proprietorship, partnership, or corporation;
- (ii) That reports on the applicant's schedule F of form 1040 or other applicable form filed with the United States internal revenue service annual sales less than two hundred fifty thousand dollars; and
- (iii) Where all the owners or partners of the farm provide regular labor to and participate in the management of the farm, and own or lease the productive assets of the farm.

(12) The department shall monitor and evaluate the farm internships authorized by this section and report to the appropriate committees of the legislature by December 31, 2024. The report must include, but not be limited to: The number of small farms that applied for and received special certificates; the number of interns employed as farm interns; the nature of the educational activities provided to the farm interns; the wages and other remuneration paid to farm interns; the number of and type of workers' compensation claims for farm interns; the employment of farm interns following farm internships; and other matters relevant to assessing farm internships authorized in this section.

(13) This section expires December 31, 2025.

NEW SECTION. Sec. 2. A new section is added to chapter 50.04 RCW to read as follows:

(1) Except for services subject to RCW 50.44.010, 50.44.020, 50.44.030, or 50.50.010, the term "employment" does not include service performed in agricultural labor by a farm intern providing his or her services under a farm internship program as established in section 1 of this act.

(2) For purposes of this section, "agricultural labor" means:

(a) Services performed on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment;

(b) Services performed in packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this subsection (2)(b) are not applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or raising and harvesting of mushrooms; or

(c) Direct local sales of any agricultural or horticultural commodity after its delivery to a terminal market for distribution or consumption.

(3) This section expires December 31, 2025.

Sec. 3. RCW 49.46.010 and 2015 c 299 s 3 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Employ" includes to permit to work;

(3) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesperson as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the human resources director pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement, or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of

his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(o) Until December 31, 2025, any farm intern providing his or her services to a small farm which has a special certificate issued under section 1 of this act;

(p) An individual who is at least sixteen years old but under twenty-one years old, in his or her capacity as a player for a junior ice hockey team that is a member of a regional, national, or international league and that contracts with an arena owned, operated, or managed by a public facilities district created under chapter 36.100 RCW;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(6) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry;

(7) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director.

NEW SECTION. Sec. 4. A new section is added to chapter 51.16 RCW to read as follows:

(1) The department shall adopt rules to provide special workers' compensation risk class or classes for farm interns providing agricultural labor pursuant to a farm internship program under section 1 of this act. The rules must include any requirements for obtaining a special risk class that must be met by small farms.

(2) This section expires December 31, 2025.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate February 13, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 213

[Engrossed Substitute Senate Bill 6440]

INDUSTRIAL INSURANCE MEDICAL EXAMINATIONS--VARIOUS PROVISIONS

AN ACT Relating to industrial insurance medical examinations; amending RCW 51.32.110 and 51.36.070; adding a new section to chapter 51.08 RCW; adding a new section to chapter 51.36 RCW; creating a new section; 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 51.08 RCW to read as follows:

"New medical issue" means a medical issue not covered by a previous medical examination requested by the department or the self-insurer such as an issue regarding medical causation, medical treatment, work restrictions, or evaluating permanent partial disability.

Sec. 2. RCW 51.32.110 and 1997 c 325 s 3 are each amended to read as follows:

(1) ~~((Any))~~ As required under RCW 51.36.070, any worker entitled to receive any benefits or claiming such under this title shall, if requested by the department or self-insurer, submit himself or herself for medical examination, ~~((at a time and from time to time,))~~ at a place reasonably convenient for the worker ~~((and as may be provided by the rules of the department))~~. An injured worker, whether an alien or other injured worker, who is not residing in the United States at the time that a medical examination is requested may be required to submit to an examination at any location in the United States determined by the department or self-insurer.

(2) If the worker refuses to submit to medical examination, or obstructs the same, or, if any injured worker shall persist in unsanitary or injurious practices which tend to imperil or retard his or her recovery, or shall refuse to submit to such medical or surgical treatment as is reasonably essential to his or her recovery or refuse or obstruct evaluation or examination for the purpose of vocational rehabilitation or does not cooperate in reasonable efforts at such rehabilitation, the department or the self-insurer upon approval by the department, with notice to the worker may suspend any further action on any claim of such worker so long as such refusal, obstruction, noncooperation, or practice continues and reduce, suspend, or deny any compensation for such period: PROVIDED, That ~~((the))~~ (a) The department or the self-insurer shall not suspend any further action on any claim of a worker or reduce, suspend, or deny any compensation if a worker has good cause for refusing to submit to or to obstruct any examination, evaluation, treatment or practice requested by the department or required under this section and (b) the department may not assess a no-show fee against the worker if the worker gives at least five business days' notice of the worker's intent not to attend the examination.

(3) If the worker necessarily incurs traveling expenses in attending the examination pursuant to the request of the department, such traveling expenses shall be repaid to him or her out of the accident fund upon proper voucher and audit or shall be repaid by the self-insurer, as the case may be.

(4)(a) If the medical examination required by this section causes the worker to be absent from his or her work without pay:

(i) In the case of a worker insured by the department, the worker shall be paid compensation out of the accident fund in an amount equal to his or her usual wages for the time lost from work while attending the medical examination; or

(ii) In the case of a worker of a self-insurer, the self-insurer shall pay the worker an amount equal to his or her usual wages for the time lost from work while attending the medical examination.

(b) This subsection (4) shall apply prospectively to all claims regardless of the date of injury.

Sec. 3. RCW 51.36.070 and 2001 c 152 s 2 are each amended to read as follows:

(1)(a) Whenever the ((director)) department or the self-insurer deems it necessary in order to ((resolve any)) (i) make a decision regarding claim allowance or reopening, (ii) resolve a new medical issue, an appeal, or case progress, or (iii) evaluate the worker's permanent disability or work restriction, a worker shall submit to examination by a physician or physicians selected by the ((director)) department, with the rendition of a report to the person ordering the examination, the attending physician, and the injured worker.

(b) The examination must be at a place reasonably convenient to the injured worker, or alternatively utilize telemedicine if the department determines telemedicine is appropriate for the examination. For purposes of this subsection, "reasonably convenient" means at a place where residents in the injured worker's community would normally travel to seek medical care for the same specialty as the examiner. The department must address in rule how to accommodate the injured worker if no approved medical examiner in the specialty needed is available in that community.

(2) The department or self-insurer shall provide the physician performing an examination with all relevant medical records from the worker's claim file. The director, in his or her discretion, may charge the cost of such examination or examinations to the self-insurer or to the medical aid fund as the case may be. The cost of said examination shall include payment to the worker of reasonable expenses connected therewith.

(3) For purposes of this section, "examination" means a physical or mental examination by a medical care provider licensed to practice medicine, osteopathy, podiatry, chiropractic, dentistry, or psychiatry at the request of the department or self-insured employer or by order of the board of industrial insurance appeals.

(4) This section applies prospectively to all claims regardless of the date of injury.

NEW SECTION. Sec. 4. (1) An independent medical examination work group is established within the department of labor and industries, with members as provided in this subsection.

(a) The speaker of the house of representatives shall appoint two members from the house of representatives, with one member appointed from each of the two largest caucuses of the house of representatives;

(b) The president of the senate shall appoint two members from the senate, with one member appointed from each of the two largest caucuses of the senate;

(c) The department of labor and industries shall appoint one business representative representing employers participating in the state fund;

(d) The department of labor and industries shall appoint one business representative representing employers who are self-insured for purposes of workers' compensation insurance;

(e) The department of labor and industries shall appoint two labor representatives;

(f) The department of labor and industries shall appoint one representative of both an association representing physicians who perform examinations for purposes of workers' compensation insurance and the panel companies that work with them; and

(g) The department of labor and industries shall appoint one attorney who represents injured workers.

(2) The work group must:

(a) Develop strategies for reducing the number of medical examinations per claim while considering claim duration and medical complexity;

(b) Develop strategies for improving access to medical records, including records and reports created during the course of or pursuant to an examination;

(c) Consider whether the department of labor and industries should do all the scheduling of independent medical examinations;

(d) Consider the circumstances for which independent medical examiners should be randomly selected or specified;

(e) Consider workers' rights in the independent medical examination process including attendance, specialist consultations, the audio or video recording of examinations, and the distance and location of examinations;

(f) Recommend changes to improve the efficiency of the independent medical examination process; and

(g) Identify barriers to increasing the supply of in-state physicians willing to do independent medical examinations in the workers' compensation system.

(3) The department of labor and industries must report its findings and recommendations to the legislature by December 11, 2020.

(4) This section expires December 31, 2020.

NEW SECTION. Sec. 5. A new section is added to chapter 51.36 RCW to read as follows:

(1) The department may adopt rules to implement section 3 of this act.

(2) The department must adopt rules, policies, and processes governing the use of telemedicine for independent medical examinations under section 3 of this act. Development of rules may include a pilot project. Consideration should be given to all available research regarding the use of telemedicine for independent medical examinations.

NEW SECTION. Sec. 6. Sections 1 through 3 of this act take effect January 1, 2021.

Passed by the Senate March 7, 2020.

Passed by the House March 4, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 214

[Engrossed Substitute Senate Bill 6574]

**GROWTH MANAGEMENT HEARINGS BOARD/ENVIRONMENTAL LAND USE AND
HEARINGS OFFICE--VARIOUS PROVISIONS**

AN ACT Relating to clarifying the respective administrative powers, duties, and responsibilities of the growth management hearings board and the environmental land use and hearings office; and amending RCW 36.70A.250, 36.70A.252, 36.70A.260, 36.70A.270, and 43.21B.005.

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

Sec. 1. RCW 36.70A.250 and 2010 c 211 s 4 are each amended to read as follows:

(1) ~~((A))~~ (a) There is hereby created within the environmental and land use hearings office established by RCW 43.21B.005 a growth management hearings board for the state of Washington ((is created)). The board shall consist of ((seven)) five members qualified by experience or training in pertinent matters pertaining to land use law or land use planning and who have experience in the practical application of those matters. All ((seven)) five 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)) two 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)) No more than ((four)) three members of the ((seven-member)) five-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. Board members shall operate on a full-time basis, shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040, shall receive reimbursement for travel expenses incurred in the discharge of their duties in accordance with RCW 43.03.050 and 43.03.060, and shall be considered employees of the state of Washington subject to chapter 42.52 RCW.

(2) Each member of the board shall be appointed for a term of six years, and until their successors are appointed. 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 July 1, 2010, 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. 2. RCW 36.70A.252 and 2010 c 210 s 15 are each amended to read as follows:

~~((4))~~ 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. The chair of the growth management hearings board shall continue to exercise duties and responsibilities pursuant to RCW 36.70A.270(11). The environmental and land use hearings office shall be responsible for all other administrative functions pertaining to the growth management hearings board.

~~((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. 3. RCW 36.70A.260 and 2010 c 211 s 5 are each amended to read as follows:

(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))~~ chair determines ~~((that there is an emergency including, but not limited to,))~~ otherwise due to caseload management determinations or the unavailability of a board member due to illness, absence, or 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))~~ chair 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)~~) chair due to member unavailability, significant workload imbalances, or other reasons.

Sec. 4. RCW 36.70A.270 and 2019 c 452 s 2 are each amended to read as follows:

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 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. Each member shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040.))~~ The principal office of the board shall be located in ~~((Olympia))~~ Thurston county, but it may hold hearings at any other place in the state.

(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 the board shall constitute a quorum for 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 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 board shall specify in 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 used by 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) 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 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 prescribes. The board shall develop and adopt rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals and the assignment of cases to regional panels. The board shall publish such rules it renders and arrange for the reasonable distribution of the rules. 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.

(8) The board must ensure all rulings, decisions, and orders are available to the public through the environmental and land use hearings office's web sites as described in RCW 43.21B.005. To ensure uniformity and usability of searchable databases and web sites, the board shall coordinate with the environmental and land use hearings office, the department of commerce, and other interested stakeholders to develop and maintain a rational system of categorizing its decisions and orders.

(9) A board member or hearing examiner is subject to disqualification under chapter 34.05 RCW. The rules of practice of the board 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.

(10) All members of the board shall meet on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

(11) The board shall annually elect one of its attorney members to be the board ~~((administrative officer))~~ chair. The duties and responsibilities of the ~~((administrative officer))~~ chair 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))~~ developing board procedures, 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, and managing board meetings.

Sec. 5. RCW 43.21B.005 and 2019 c 452 s 1 are each 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 consists of the pollution control hearings board created in RCW 43.21B.010, the shorelines hearings board created in RCW 90.58.170, 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))~~ appoint a 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 shorelines hearings board, and the growth management hearings board shall be as provided by law.

(2) The director of the environmental and land use hearings office may appoint one or more administrative appeals judges 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. 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 director of the environmental and land use hearings office. Upon written request by the person so disciplined or terminated, the 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 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 director of the environmental and land use hearings office may also contract for required services.

(6) The director of the environmental and land use hearings office must ensure that timely and accurate ~~((growth management hearings))~~ board rulings, decisions, and orders are made available to the public through searchable databases accessible through the environmental and land use hearings office web sites. To ensure uniformity and usability of searchable databases and web sites, the director must coordinate with the ~~((growth management hearings board))~~ relevant boards, the department of commerce, and other interested stakeholders to develop and maintain a rational system of categorizing ~~((growth management hearings))~~ board rulings, decisions, and orders. The environmental and land use hearings office web sites must allow a user to search growth management hearings board decisions and orders by topic, party, and geographic location or by natural language. All rulings, decisions, and orders issued before January 1, 2019, must be published by June 30, 2021.

Passed by the Senate March 10, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 215

[Engrossed Substitute Senate Bill 6592]

TOURISM AUTHORITIES--VARIOUS PROVISIONS

AN ACT Relating to tourism authorities; amending RCW 35.101.010 and 35.101.130; adding new sections to chapter 35.101 RCW; and providing an expiration date.

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

Sec. 1. RCW 35.101.010 and 2015 c 131 s 1 are each amended to read as follows:

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

(1) "Area" means a tourism promotion area.

(2)(a) Except as otherwise provided in this subsection, "legislative authority" means the legislative authority of any county (~~((with a population greater than forty thousand))~~), or of any city or town within such a county, including unclassified cities or towns operating under special charters.

(b) Except as provided in (c) of this subsection, in any county with a population of one million or more, "legislative authority" means two or more jurisdictions acting jointly as the legislative authority under an interlocal agreement created under chapter 39.34 RCW for the joint establishment and operation of a tourism promotion area.

(c) For a city incorporated after January 1990, with a population greater than eighty-nine thousand, and located in a county described in (b) of this subsection, "legislative authority" means the city's legislative authority.

(3) "Lodging business" means a person that furnishes lodging taxable by the state under chapter 82.08 RCW that has forty or more lodging units.

(4) "Tourism promotion" means activities and expenditures designed to increase tourism and convention business, including but not limited to advertising, publicizing, or otherwise distributing information for the purpose of attracting and welcoming tourists, and operating tourism destination marketing organizations.

(5) "Tourist" means a person who travels for business or pleasure on a trip:

(a) Away from the person's place of residence or business and stays overnight in paid accommodations;

(b) To a place at least fifty miles away one way by driving distance from the person's place of residence or business for the day or stays overnight. However, island communities without land access are exempt from the mileage requirement under this subsection (5)(b); or

(c) To another country or state outside of the person's place of residence or business.

NEW SECTION. Sec. 2. A new section is added to chapter 35.101 RCW to read as follows:

(1) In addition to the two dollar charge authorized by RCW 35.101.050, a legislative authority may impose an additional charge of up to three dollars per night of stay on the furnishing of lodging by a lodging business located in the area. To impose the additional charge, signatures of the persons who operate lodging businesses who would pay sixty percent or more of the proposed charges must be provided together with the proposed uses and projects to which the proposed revenue from the additional charge shall be put, the total estimate costs, and the estimated rate for the charge with a proposed breakdown by class of lodging business if such classification is to be used.

(2) This section expires July 1, 2027.

Sec. 3. RCW 35.101.130 and 2003 c 148 s 13 are each amended to read as follows:

(1) The legislative authority imposing the charge shall have sole discretion as to how the revenue derived from the charge is to be used to promote tourism that increases the number of tourists to the area. However, the legislative authority may appoint existing advisory boards or commissions to make recommendations as to its use, or the legislative authority may create a new advisory board or commission for ~~((the that))~~ that purpose.

(2) The legislative authority may contract with tourism destination marketing organizations or other similar organizations to administer the operation of the area, so long as the administration complies with all applicable provisions of law, including this chapter, and with all county, city, or town resolutions and ordinances, and with all regulations lawfully imposed by the state auditor or other state agencies.

(3) If a majority of those lodging businesses assessed the charges imposed under RCW 35.101.050 or section 2 of this act petition in writing to the legislative authority that the charge be removed, the legislative authority must remove the charge. The legislative authority may determine the timing of when to remove the charge so that the effective date of the expiration of the charge will not adversely impact existing contractual obligations not to exceed twelve months. The legislative authority may not be held liable for any financial obligations, contractual obligations, or damages for removing the charge.

(4) Any legislative authority with a charge in place under RCW 35.101.050 as of January 1, 2020, shall not have the charge be amended as provided under subsection (3) of this section unless the legislative authority has adopted an increase to the charge as authorized in section 2 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 35.101 RCW to read as follows:

Each tourism promotion area must conduct a program review of the additional tourism promotion area charge established in section 2 of this act. The review must be completed and submitted to the appropriate committees of the legislature by January 1, 2026. The review must:

(1) Analyze how tourism promotion area charge funds were used during the period when the additional charge was imposed;

(2) Identify additional marketing and promotional measures conducted or purchased with additional funds beyond the current two dollar charge;

(3) Assess whether additional tourism promotion area charges above two dollars contributed to an actual increase in the number of tourists, as defined in RCW 35.101.010; and

(4) Assess the average additional cost per visit per tourist due to additional tourism promotion area charges above two dollars.

Passed by the Senate March 9, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 216

[Substitute Senate Bill 6613]

MARINE AQUATIC FARMING--INSPECTIONS--COST RECOVERY

AN ACT Relating to the inspection of marine aquatic farming locations; and amending RCW 77.125.030.

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

Sec. 1. RCW 77.125.030 and 2018 c 179 s 9 are each amended to read as follows:

(1) The director, in cooperation with the marine finfish aquatic farmers, shall develop proposed rules for the implementation, administration, and enforcement of marine finfish aquaculture programs. In developing such proposed rules, the director must use a negotiated rule-making process pursuant to RCW 34.05.310. ~~((The proposed rules shall be submitted to the appropriate legislative committees by January 1, 2002, to allow for legislative review of the proposed rules.))~~ The proposed rules shall include the following elements:

~~((1))~~ (a) Provisions for the prevention of escapes of cultured marine finfish aquaculture products from enclosures, net pens, or other rearing vessels;

~~((2))~~ (b) Provisions for the development and implementation of management plans to facilitate the most rapid recapture of live marine finfish aquaculture products that have escaped from enclosures, net pens, or other rearing vessels, and to prevent the spread or permanent escape of these products;

~~((3))~~ (c) Provisions for the development of management practices based on the latest available science, to include:

~~((a))~~ (i) Procedures for inspections of marine aquatic farming locations on a regular basis to determine conformity with law and the rules of the department relating to the operation of marine aquatic farming locations. The rules must provide for the recovery of actual costs incurred for required inspections, monitoring, and compliance testing by the department; and

~~((b))~~ (ii) Operating procedures at marine aquatic farming locations to prevent the escape of marine finfish, to include the use of net antifoulants;

~~((4))~~ (d) Provisions for the eradication of those cultured marine finfish aquaculture products that have escaped from enclosures, net pens, or other rearing vessels found spawning in state waters;

~~((5))~~ (e) Provisions for the determination of appropriate species, stocks, and races of marine finfish aquaculture products allowed to be cultured at specific locations and sites;

~~((6))~~ (f) Provisions for the development of an Atlantic salmon watch program similar to the one in operation in British Columbia, Canada. The program must provide for the monitoring of escapes of Atlantic salmon from marine aquatic farming locations, monitor the occurrence of naturally produced Atlantic salmon, determine the impact of Atlantic salmon on naturally produced and cultured finfish stocks, provide a focal point for consolidation of scientific information, and provide a forum for interaction and education of the public; and

~~((7))~~ (g) Provisions for the development of an education program to assist marine aquatic farmers so that they operate in an environmentally sound manner.

~~((8))~~ (2) The department must implement this section consistent with RCW 77.125.050.

Passed by the Senate February 17, 2020.

Passed by the House March 10, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 217

[Engrossed Substitute Senate Bill 6617]

ACCESSORY DWELLING UNITS--OFF-STREET PARKING

AN ACT Relating to accessory dwelling unit regulation; adding new sections to chapter 36.70A RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature makes the following findings:

(a) Washington state is experiencing a housing affordability crisis. Many communities across the state are in need of more housing for renters, across the income spectrum. Accessory dwelling units are frequently rented at below market rate, providing additional affordable housing options for renters.

(b) Accessory dwelling units are often occupied by tenants who pay no rent at all; among these tenants are grandparents, adult children, family members with disabilities, friends going through life transitions, and community members in need. Accessory dwelling units meet the needs of these people who might otherwise require scarce subsidized housing space and resources.

(c) Accessory dwelling units can meet the needs of Washington's growing senior population, making it possible for this population to age in their communities by offering senior-friendly housing, which prioritizes physical accessibility, in walkable communities near amenities essential to successful aging in place, including transit and grocery stores, without requiring costly renovations of existing housing stock.

(d) Homeowners who add an accessory dwelling unit may benefit from added income and an increased sense of security.

(e) Siting accessory dwelling units near transit hubs and near public amenities can help to reduce greenhouse gas emissions by increasing walkability, shortening household commutes, and limiting sprawl.

(2) The legislature intends to promote and encourage the creation of accessory dwelling units as a means to address the need for additional affordable housing options.

NEW SECTION. Sec. 2. A new section is added to chapter 36.70A 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) "Accessory dwelling unit" means a dwelling unit located on the same lot as a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(2) "Attached accessory dwelling unit" means an accessory dwelling unit located within or attached to a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(3) "City" means any city, code city, and town located in a county planning under RCW 36.70A.040.

(4) "Detached accessory dwelling unit" means an accessory dwelling unit that consists partly or entirely of a building that is separate and detached from a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(5) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

(6) "Major transit stop" means:

(a) A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing fixed route service at intervals of at least fifteen minutes during the peak hours of operation.

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

(1) Cities must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of section 4 of this act to take effect by July 1, 2021.

(2) Beginning July 1, 2021, the requirements of section 4 of this act:

(a) Apply and take effect in any city that has not adopted or amended ordinances, regulations, or other official controls as required under this section; and

(b) Supersede, preempt, and invalidate any local development regulations that conflict with section 4 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 36.70A RCW to read as follows:

(1) Except as provided in subsection (2) and (3) of this section, through ordinances, development regulations, zoning regulations, and other official controls as required under section 3 of this act, cities may not require the provision of off-street parking for accessory dwelling units within one-quarter mile of a major transit stop.

(2) A city may require the provision of off-street parking for an accessory dwelling unit located within one-quarter mile of a major transit stop if the city has determined that the accessory dwelling unit is in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the accessory dwelling unit.

(3) A city that has adopted or substantively amended accessory dwelling unit regulations within the four years previous to the effective date of this section is not subject to the requirements of this section.

NEW SECTION. Sec. 5. A new section is added to chapter 36.70A RCW to read as follows:

Nothing in this act modifies or limits any rights or interests legally recorded in the governing documents of associations subject to chapter 64.32, 64.34, 64.38, or 64.90 RCW.

Passed by the Senate March 10, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 27, 2020.

Filed in Office of Secretary of State March 27, 2020.

CHAPTER 218

[Substitute Senate Bill 6660]

FOUR-YEAR BALANCED BUDGET REQUIREMENTS

AN ACT Relating to improving fiscal responsibility and budget discipline by replacing the spending limit with additional four-year balanced budget requirements; amending RCW 43.88.030, 43.88.055, 43.135.025, 43.135.034, and 82.33.060; repealing RCW 43.135.010, 43.135.0341, 43.135.0342, 43.135.0343, 43.135.0351, 43.135.080, and 43.135.904; and providing an effective date.

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

Sec. 1. RCW 43.88.030 and 2006 c 334 s 43 are each amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The biennial budget document or documents shall also describe performance indicators that demonstrate measurable progress towards priority results. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official forecast. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or

documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, and agency;

(f) The expenditures that include nonbudgeted, nonappropriated accounts outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments, and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to

meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) The governor's operating budget document or documents shall reflect the statewide priorities as required by RCW 43.88.090.

(4) The governor's operating budget document or documents shall identify activities that are not addressing the statewide priorities.

(5)(a) Beginning in the 2021-2023 fiscal biennium, the governor's operating budget document or documents submitted to the legislature must leave, in total, a positive ending fund balance in the general fund and related funds.

(b) Beginning in the 2021-2023 fiscal biennium, the projected maintenance level of the governor's operating budget document or documents submitted to the legislature must not exceed the available fiscal resources for the next ensuing fiscal biennium.

(c) For purposes of this subsection:

(i) "Available fiscal resources" means the beginning general fund and related funds balances and any fiscal resources estimated for the general fund and related funds, adjusted for proposed revenue legislation, and with forecasted revenues adjusted to the greater of (A) the official general fund and related funds revenue forecast for the ensuing biennium, or (B) the official general fund and related funds forecast for the second fiscal year of the current fiscal biennium, increased by 4.5 percent for each fiscal year of the ensuing biennium.

(ii) "Projected maintenance level" means estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in the governor's budget document or documents submitted to the legislature or mandated by other state or federal law, adjusted by the estimated cost of proposed executive branch legislation, and the amount of any general fund moneys projected to be transferred to the budget stabilization account pursuant to Article VII, section 12 of the state Constitution. Proposed executive branch legislation does not include proposals by institutions of higher education, other separately elected officials, or other boards, commissions, and offices not under the authority of the governor that are not funded or assumed in the governor's budget document or documents submitted to the legislature.

(iii) "Related funds" has the meaning defined in RCW 43.88.055.

(d) (b) of this subsection (5) does not apply:

(i) To any governor-proposed legislation submitted to the legislature that makes net reductions in general fund and related funds appropriations to prevent the governor from making across-the-board reductions in allotments for these particular funds as provided in RCW 43.88.110(7); or

(ii) In a fiscal biennium for which the governor proposes appropriations from the budget stabilization account pursuant to Article VII, section 12(d)(ii) of the state Constitution.

(6) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Insomuch as is practical, and recognizing emergent

needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;

(e) A statement of the reason or purpose for a project;

(f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(g) A statement about the proposed site, size, and estimated life of the project, if applicable;

(h) Estimated total project cost;

(i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(q) Such other information bearing upon capital projects as the governor deems to be useful;

(r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

(s) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection ~~((5))~~ (6), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative evaluation and accountability program committee, and office of financial management.

~~((6))~~ (7) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

Sec. 2. RCW 43.88.055 and 2012 1st sp.s. c 8 s 1 are each amended to read as follows:

(1) The legislature must adopt a four-year balanced budget as follows:

(a) Beginning in the 2013-2015 fiscal biennium, the legislature shall enact a balanced omnibus operating appropriations bill that leaves, in total, a positive ending fund balance in the general fund and related funds.

(b) Beginning in the 2013-2015 fiscal biennium, the projected maintenance level of the omnibus appropriations bill enacted by the legislature shall not exceed the available fiscal resources for the next ensuing fiscal biennium.

(2) For purposes of this section:

(a) "Available fiscal resources" means the beginning general fund and related fund balances and any fiscal resources estimated for the general fund and related funds, adjusted for enacted legislation, and with forecasted revenues adjusted to the greater of (i) the official general fund and related funds revenue forecast for the ensuing biennium, or (ii) the official general fund and related funds forecast for the second fiscal year of the current fiscal biennium, increased by 4.5 percent for each fiscal year of the ensuing biennium;

(b) "Projected maintenance level" means estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in that appropriations bill or mandated by other state or federal law, and the amount of any general fund moneys projected to be transferred to the budget stabilization account pursuant to Article VII, section 12 of the state Constitution ~~((, but does not include in the 2013-2015 and 2015-2017 fiscal biennia the costs related to the enhanced funding under the new definition of basic education as established in chapter 548, Laws of 2009, and affirmed by the decision in *Mathew McCleary et al., v. The State of Washington*, 173 Wn.2d 477, 269 P.3d 227, (2012), from which the short-term exclusion of these obligations is solely for the purposes of calculating this estimate and does not in any way indicate an intent to avoid full funding of these obligations));~~

(c) "Related funds," as used in this section, means the Washington opportunity pathways account, the workforce education investment account, and the education legacy trust account.

(3) Subsection (1)(a) and (b) of this section does not apply to an appropriations bill that makes net reductions in general fund and related funds appropriations and is enacted between July 1st and February 15th of any fiscal year.

(4) Subsection (1)(b) of this section does not apply in a fiscal biennium in which money is appropriated from the budget stabilization account pursuant to Article VII, section 12(d)(ii) of the state Constitution.

Sec. 3. RCW 43.135.025 and 2015 3rd sp.s. c 29 s 3 are each amended to read as follows:

~~(1) ((Beginning July 1, 2021, the state shall not expend from the general fund during any fiscal year state moneys in excess of the state expenditure limit established under this chapter.~~

~~(2) Except pursuant to an appropriation under RCW 43.135.045(2), the state treasurer shall not issue or redeem any check, warrant, or voucher that will result in a state general fund expenditure for any fiscal year in excess of the state expenditure limit established under this chapter. A violation of this subsection constitutes a violation of RCW 43.88.290 and shall subject the state treasurer to the penalties provided in RCW 43.88.300.~~

~~(3) The state expenditure limit for any fiscal year shall be the previous fiscal year's state expenditure limit increased by a percentage rate that equals the fiscal growth factor.~~

~~(4) For purposes of computing the state expenditure limit for the fiscal year beginning July 1, 2021, the phrase "the previous fiscal year's state expenditure limit" means the total state expenditures from the state general fund for the fiscal year beginning July 1, 2020, plus the fiscal growth factor.~~

~~(5) A state expenditure limit committee is established for the purpose of determining and adjusting the state expenditure limit as provided in this chapter. The members of the state expenditure limit committee are the director of financial management, the attorney general or the attorney general's designee, and the chairs and ranking minority members of the senate committee on ways and means and the house of representatives committee on ways and means. All actions of the state expenditure limit committee taken pursuant to this chapter require an affirmative vote of at least four members.~~

~~(6)) Each November, the ((state expenditure limit committee)) economic and revenue forecast council shall ((adjust the expenditure limit for the preceding fiscal year based on actual expenditures and known changes in)) calculate the fiscal growth factor ((and then project an expenditure limit)) for ((the next two)) each fiscal ((years)) year of the current biennium and the ensuing biennium. ((If, by November 30th, the state expenditure limit committee has not adopted the expenditure limit adjustment and projected expenditure limit as provided in subsection (5) of this section, the attorney general or his or her designee shall adjust or project the expenditure limit, as necessary.~~

~~(7))~~ (2) The definitions in this subsection apply throughout this chapter unless the context clearly requires otherwise.

(a) "Fiscal growth factor" means the average growth in state personal income for the prior ten fiscal years.

~~((8))~~ (b) "General fund" means the state general fund.

Sec. 4. RCW 43.135.034 and 2015 3rd sp.s. c 44 s 421 are each amended to read as follows:

(1)(a) Any action or combination of actions by the legislature that raises taxes may be taken only if approved by a two-thirds vote in both the house of representatives and the senate. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election.

(b) For the purposes of this chapter, "raises taxes" means any action or combination of actions by the state legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

~~(2)((a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature may not take effect until approved by a vote of the people at a November general election. The state expenditure limit committee must adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment may not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit must be adjusted downward upon expiration or repeal of the legislative action.~~

~~(b) The ballot title for any vote of the people required under this section must be substantially as follows:~~

~~"Shall taxes be imposed on in order to allow a spending increase above last year's authorized spending adjusted for personal income growth?"~~

~~(3)(a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty-four months by a law approved by a two-thirds vote of each house of the legislature and signed by the governor. The law must set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty-four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.~~

~~(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes expire upon expiration of the declaration of emergency. The legislature may not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.~~

~~(c)) The state or any political subdivision of the state may not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.~~

~~((4) If the cost of any state program or function is shifted from the state general fund to another source of funding, or if moneys are transferred from the state general fund to another fund or account, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), must lower the state expenditure limit to reflect the shift. For the purposes of this section, a transfer of money from the state general fund to another fund or account includes any state legislative action taken that has the effect of reducing revenues from a~~

~~particular source, where such revenues would otherwise be deposited into the state general fund, while increasing the revenues from that particular source to another state or local government account. This subsection does not apply to: (a) The dedication or use of lottery revenues under RCW 67.70.240(1)(c), in support of education or education expenditures; (b) a transfer of moneys to, or an expenditure from, the budget stabilization account; or (c) a transfer of money to, or an expenditure from, the connecting Washington account established in RCW 46.68.395.~~

~~(5) If the cost of any state program or function and the ongoing revenue necessary to fund the program or function are shifted to the state general fund on or after January 1, 2007, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), must increase the state expenditure limit to reflect the shift unless the shifted revenue had previously been shifted from the general fund.))~~

Sec. 5. RCW 82.33.060 and 2012 1st sp.s. c 8 s 4 are each amended to read as follows:

(1) To facilitate compliance with, and subject to the terms of, RCW 43.88.055 and 43.88.030, the state budget outlook work group shall prepare, subject to the approval of the economic and revenue forecast council under RCW 82.33.010, an official state budget outlook for state revenues and expenditures for the general fund and related funds. ~~((In odd-numbered years, the period covered by the November state budget outlook shall be the current fiscal biennium and the next ensuing fiscal biennium. In even-numbered years, the period covered by the November state budget outlook shall be the next two ensuing fiscal biennia.))~~ The revenue and caseload projections used in the outlook must reflect the most recent official forecasts adopted by the economic and revenue forecast council and the caseload forecast council for the years for which those forecasts are available.

(2) The outlook must:

(a) Estimate revenues to and expenditures from the state general fund and related funds. The estimate of ensuing biennium expenditures must include maintenance items including, but not limited to, continuation of current programs, forecasted growth of current entitlement programs, and actions required by law, including legislation with a future implementation date. Estimates of ensuing biennium expenditures must exclude policy items including, but not limited to, legislation not yet enacted by the legislature, collective bargaining agreements not yet approved by the legislature, and changes to levels of funding for employee salaries and benefits unless those changes are required by statute. Estimated maintenance level expenditures must also exclude costs of court rulings issued during or within fewer than ninety days before the beginning of the current legislative session;

(b) Address major budget and revenue drivers, including trends and variability in these drivers;

(c) Clearly state the assumptions used in the estimates of baseline and projected expenditures and any adjustments made to those estimates;

(d) Clearly state the assumptions used in the baseline revenue estimates and any adjustments to those estimates; and

(e) Include the impact of previously enacted legislation with a future implementation date.

(3) The outlook must also separately include projections based on the revenues and expenditures proposed in the governor's budget documents submitted to the legislature under RCW 43.88.030.

(4) The economic and revenue forecast council shall submit state budget outlooks prepared under this section to the governor and the members of the committees on ways and means of the senate and house of representatives, including one copy to the staff of each of the committees, as required by this section.

(5) Each January, the state budget outlook work group shall also prepare, subject to the approval of the economic and revenue forecast council, a state budget outlook for state revenues and expenditures that reflects the governor's proposed budget document submitted to the legislature under chapter 43.88 RCW. Within thirty days following enactment of an operating budget by the legislature, the work group shall prepare, subject to the approval of the economic and revenue forecast council, a state budget outlook for state revenues and expenditures that reflects the enacted budget.

(6) All agencies of state government shall provide to the supervisor immediate access to all information relating to state budget outlooks.

(7) The state budget outlook work group must publish its proposed methodology on the economic and revenue forecast council web site. The state budget outlook work group, in consultation with the economic and revenue forecast work group and outside experts if necessary, must analyze the extent to which the proposed methodology for projecting expenditures for the ensuing fiscal biennia may be reliably used to determine the future impact of appropriations and make recommendations to change the outlook process to increase reliability and accuracy. The recommendations are due by December 1, 2013, and every five years thereafter.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

(1) RCW 43.135.010 (Findings—Intent) and 2015 3rd sp.s. c 29 s 2, 2005 c 72 s 3, 1994 c 2 s 1 (Initiative Measure No. 601, approved November 2, 1993), & 1980 c 1 s 1 (Initiative Measure No. 62, approved November 6, 1979);

(2) RCW 43.135.0341 (Child and family reinvestment account transfers) and 2012 c 204 s 3;

(3) RCW 43.135.0342 (Dedication of premium taxes under RCW 48.14.0201 or 48.14.020) and 2013 2nd sp.s. c 6 s 4;

(4) RCW 43.135.0343 (Liquefied natural gas sales tax revenue transfers) and 2014 c 216 s 407;

(5) RCW 43.135.0351 (Reinvesting in youth account transfers) and 2006 c 304 s 5;

(6) RCW 43.135.080 (Reenactment and reaffirmation of Initiative Measure No. 601—Continued limitations—Exceptions) and 1998 c 321 s 14 (Referendum Bill No. 49, approved November 3, 1998); and

(7) RCW 43.135.904 (Effective dates—1994 c 2) and 1994 c 2 s 14 (Initiative Measure No. 601, approved November 2, 1993).

NEW SECTION. Sec. 7. This act takes effect July 1, 2020.

Passed by the Senate March 9, 2020.

Passed by the House March 6, 2020.

Approved by the Governor March 27, 2020.
Filed in Office of Secretary of State March 27, 2020.

CHAPTER 219

[Engrossed Substitute House Bill 2322]

TRANSPORTATION BUDGET--SUPPLEMENTAL

AN ACT Relating to transportation funding and appropriations; amending RCW 46.68.310, 82.32.385, 47.66.110, 46.68.290, 82.44.135, and 46.68.395; amending 2019 c 416 ss 103, 105, 108-110, 201-223, 301, 303-311, 313, 401-408, 601, 606, and 701 (uncodified); adding new sections to 2019 c 416 (uncodified); making appropriations and authorizing expenditures for capital improvements; and declaring an emergency.

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

2019-2021 FISCAL BIENNIUM

GENERAL GOVERNMENT AGENCIES—OPERATING

Sec. 101. 2019 c 416 s 103 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

Motor Vehicle Account—State Appropriation	((<u>\$1,403,000</u>))
	<u>\$1,419,000</u>
Multimodal Transportation Account—State Appropriation	\$300,000
Puget Sound Ferry Operations Account—State Appropriation	((<u>\$116,000</u>))
	<u>\$121,000</u>
TOTAL APPROPRIATION	((<u>\$1,819,000</u>))
	<u>\$1,840,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$300,000 of the multimodal transportation account—state appropriation is provided solely for the office of financial management, in direct coordination with the office of state treasurer, to evaluate, coordinate, and assist in efforts by state agencies in developing cost recovery mechanisms for credit card and other financial transaction fees currently paid from state funds. This may include disbursing interagency reimbursements for the implementation costs incurred by the affected agencies. As part of the first phase of this effort, the office of financial management, with the assistance of relevant agencies, must develop implementation plans and take all necessary steps to ensure that the actual cost-recovery mechanisms will be in place by January 1, 2020, for the vehicles and drivers programs of the department of licensing. By November 1, 2019, the office of financial management must provide a report to the joint transportation committee on the phase 1 implementation plan and options to expand similar cost recovery mechanisms to other state agencies and programs, including the ferries division.

Sec. 102. 2019 c 416 s 105 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

Motor Vehicle Account—State Appropriation	((<u>\$1,357,000</u>))
	<u>\$1,359,000</u>

Sec. 103. 2019 c 416 s 108 (uncodified) is amended to read as follows:

FOR THE BOARD OF PILOTAGE COMMISSIONERS

Pilotage Account—State Appropriation	((<u>\$5,228,000</u>))
	<u>\$6,040,000</u>

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

(1) \$3,125,000 of the pilotage account—state appropriation is provided solely for self-insurance liability premium expenditures; however, this appropriation is contingent upon the board:

(a) Annually depositing the first one hundred fifty thousand dollars collected through Puget Sound pilotage district pilotage tariffs into the pilotage account; and

(b) Assessing a self-insurance premium surcharge of sixteen dollars per pilotage assignment on vessels requiring pilotage in the Puget Sound pilotage district.

(2) The board of pilotage commissioners shall file the annual report to the governor and chairs of the transportation committees required under RCW 88.16.035(1)(f) by September 1, 2019, and annually thereafter. The report must include the continuation of policies and procedures necessary to increase the diversity of pilots, trainees, and applicants, including a diversity action plan. The diversity action plan must articulate a comprehensive vision of the board's diversity goals and the steps it will take to reach those goals.

Sec. 104. 2019 c 416 s 109 (uncodified) is amended to read as follows:

FOR THE HOUSE OF REPRESENTATIVES

Motor Vehicle Account—State Appropriation~~(\$2,861,000)~~
\$3,082,000

Sec. 105. 2019 c 416 s 110 (uncodified) is amended to read as follows:

FOR THE SENATE

Motor Vehicle Account—State Appropriation~~(\$2,998,000)~~
\$2,999,000

NEW SECTION. **Sec. 106.** A new section is added to 2019 c 416 (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

Motor Vehicle Account—State Appropriation \$250,000

The appropriation in this section is subject to the following conditions and limitations: \$250,000 of the motor vehicle account—state appropriation is provided solely for the University of Washington, Foster School of Business' Consulting and Business Development Center to conduct an analysis of workforce development needs of the Washington state ferries. Plan development should consider the findings from the 2019 Washington state ferries overtime report, including data trend analysis and insight gathered from discussions with Washington state ferries staff and unions. The report of the study findings and recommendations is due to the transportation committees of the legislature by January 11, 2021. The study must include, but is not limited to, the following:

(1) A description of the current workforce, including demographic composition, use of relief and temporary employees, and the numbers of management and supervisory staff compared to line workers;

(2) An analysis of vacancies by job class and collective bargaining unit, the causes of vacancies, and projections of how these dynamics may change going forward;

(3) An analysis of current strategies for filling vacancies, including the use of overtime, relief staff, on-call staff, hiring of additional or new employees, and a comparison of these strategies to determine which may be more cost-effective;

(4) An inventory of mandatory training and certification requirements as compared to training provided currently to state ferries employees;

(5) An analysis of the role of federal requirements and collective bargaining agreements in determining staffing levels, as well as current practices in workforce management and development;

(6) An analysis of barriers to implementing changes in workforce management or innovative approaches to workforce development; and

(7) Findings and recommendations regarding recruitment methods and needs, strategies on how to recruit and conduct outreach to underrepresented communities throughout the state, management of overtime and leave usage, ratio of management employees to line employees as compared to industry and public sector standards, and adequacy of training budgets to meet workforce development needs.

TRANSPORTATION AGENCIES—OPERATING

Sec. 201. 2019 c 416 s 201 (uncodified) is amended to read as follows:

FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION

Highway Safety Account—State Appropriation	(\$4,588,000)
	<u>\$4,675,000</u>
Highway Safety Account—Federal Appropriation	(\$27,035,000)
	<u>\$27,051,000</u>
Highway Safety Account—Private/Local Appropriation	\$118,000
School Zone Safety Account—State Appropriation	\$850,000
TOTAL APPROPRIATION	(\$32,591,000)
	<u>\$32,694,000</u>

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

(1) \$150,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter 54 (~~Substitute Senate Bill No. 5710~~), Laws of 2019 (Cooper Jones Active Transportation Safety Council). If chapter 54 (~~Substitute Senate Bill No. 5710~~), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.

(2) The Washington traffic safety commission may oversee a pilot program in up to three cities implementing the use of automated vehicle noise enforcement cameras in zones that have been designated by ordinance as "Stay Out of Areas of Racing."

(a) Any programs authorized by the commission must be authorized by December 31, ~~(2019)~~ 2020.

(b) If a city has established an authorized automated vehicle noise enforcement camera pilot program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based upon the value of the equipment and services provided or rendered in support of the system.

(c) Any city administering a pilot program overseen by the traffic safety commission shall use the following guidelines to administer the program:

(i) Automated vehicle noise enforcement camera may record photographs or audio of the vehicle and vehicle license plate only while a violation is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle;

(ii) The law enforcement agency of the city or county government shall ~~((plainly mark the locations))~~ install two signs facing opposite directions within two hundred feet, or otherwise consistent with the uniform manual on traffic control devices, where the automated vehicle noise enforcement camera is used ~~((by placing signs on street locations that clearly indicate to a driver that he or she is entering a zone where traffic laws violations are being detected by automated vehicle noise enforcement cameras that record both audio and video))~~ that state "Street Racing Noise Pilot Program in Progress";

(iii) Cities testing the use of automated vehicle noise enforcement cameras must ~~((provide periodic notice by mail to its residents))~~ post information on the city web site and notify local media outlets indicating the zones in which the automated vehicle noise enforcement cameras will be used;

(iv) A city may only issue a warning notice with no penalty for a violation detected by automated vehicle noise enforcement cameras in a Stay Out of Areas of Racing zone. Warning notices must be mailed to the registered owner of a vehicle within fourteen days of the detected violation;

(v) A violation detected through the use of automated vehicle noise enforcement cameras is not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120;

(vi) Notwithstanding any other provision of law, all photographs, videos, microphotographs, audio recordings, 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. No photograph, microphotograph, audio recording, or electronic image may be used for any purpose other than the issuance of warnings for violations under this section or retained longer than necessary to issue a warning notice as required under this subsection (2); and

(vii) By June 30, 2021, the participating cities shall provide a report to the commission and appropriate committees of the legislature regarding the use, public acceptance, outcomes, warnings issued, data retention and use, and other relevant issues regarding automated vehicle noise enforcement cameras demonstrated by the pilot projects.

(3) The Washington traffic safety commission may oversee a demonstration project in one county, coordinating with a public transportation benefit area (PTBA) and the department of transportation, to test the feasibility and accuracy of the use of automated enforcement technology for high occupancy vehicle (HOV) lane passenger compliance. All costs associated with the demonstration project must be borne by the participating public transportation benefit area. Any photograph, microphotograph, or electronic images of a driver or passengers are for the exclusive use of the PTBA in the determination of whether an HOV passenger violation has occurred to test the feasibility and accuracy of automated enforcement under this subsection and are not open to the public and may not be used in a court in a pending action or proceeding. All photographs, microphotographs, and electronic images must be destroyed after determining a passenger count and no later than the completion of the demonstration project.

No warnings or notices of infraction may be issued under the demonstration project.

For purposes of the demonstration project, an automated enforcement technology device may record an image of a driver and passenger of a motor vehicle. The county and PTBA must erect signs marking the locations where the automated enforcement for HOV passenger requirements is occurring.

The PTBA, in consultation with the Washington traffic safety commission, must provide a report to the transportation committees of the legislature with the number of violations detected during the demonstration project, whether the technology used was accurate and any recommendations for future use of automated enforcement technology for HOV lane enforcement by June 30, 2021.

(4)(a) The Washington traffic safety commission shall coordinate with each city that implements a pilot program as authorized in chapter . . . (Engrossed Substitute House Bill No. 1793), Laws of 2020 (automated traffic safety cameras) or chapter . . . (Substitute Senate Bill No. 5789), Laws of 2020 (automated traffic safety cameras) to provide the transportation committees of the legislature with the following information by June 30, 2021:

(i) The number of warnings and infractions issued to first-time violators under the pilot program;

(ii) The number of warnings and infractions issued to the registered owners of vehicles that are not registered with an address located in the city conducting the pilot program; and

(iii) The frequency with which warnings and infractions are issued on weekdays versus weekend days.

(b) If neither chapter . . . (Engrossed Substitute House Bill No. 1793), Laws of 2020 nor chapter . . . (Substitute Senate Bill No. 5789), Laws of 2020 is enacted by June 30, 2020, the conditions of this subsection (4) have no force and effect.

Sec. 202. 2019 c 416 s 202 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account—State Appropriation	\$1,137,000
Motor Vehicle Account—State Appropriation	(\$2,803,000)
	<u>\$2,920,000</u>
County Arterial Preservation Account—State	
Appropriation	\$1,677,000
TOTAL APPROPRIATION	(\$5,617,000)
	<u>\$5,734,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$58,000 of the motor vehicle account—state appropriation is provided solely for succession planning and training.

Sec. 203. 2019 c 416 s 203 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Transportation Improvement Account—State	
Appropriation	(\$4,526,000)
	<u>\$3,854,000</u>

Sec. 204. 2019 c 416 s 204 (uncodified) is amended to read as follows:

FOR THE JOINT TRANSPORTATION COMMITTEE

Motor Vehicle Account—State Appropriation	(\$1,938,000)
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	<u>\$2,187,000</u>
Multimodal Transportation Account—State Appropriation	((\$750,000))
	<u>\$917,000</u>
Highway Safety Account—State Appropriation	\$275,000
TOTAL APPROPRIATION	((\$2,963,000))
	<u>\$3,379,000</u>

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

(1) \$400,000 of the motor vehicle account—state appropriation and \$50,000 of the multimodal transportation account—state appropriation is for the joint transportation committee to conduct a comprehensive assessment of statewide transportation needs and priorities, and existing and potential transportation funding mechanisms to address those needs and priorities. The assessment must include: (a) Recommendations on the critical state and local transportation projects, programs, and services needed to achieve an efficient, effective, statewide transportation system over the next ten years; (b) a comprehensive menu of funding options for the legislature to consider to address the identified transportation system investments; ~~(and)~~ (c) recommendations on whether a revision to the statewide transportation policy goals in RCW 47.04.280 is warranted in light of the recommendations and options identified in (a) and (b) of this subsection; and (d) an analysis of the economic impacts of a range of future transportation investments. The assessment must be submitted to the transportation committees of the legislature by June 30, 2020. Starting July 1, 2020, and concluding by December 31, 2020, a committee-appointed commission or panel shall review the assessment and make final recommendations to the legislature for consideration during the 2021 legislative session on a realistic, achievable plan for funding transportation programs, projects, and services over the next ten years including a timeline for legislative action on funding the identified transportation system needs shortfall.

(2)(a) (~~(\$450,000)~~) \$382,000 of the multimodal transportation account—state appropriation is for the joint transportation committee to conduct an analysis of the electrification of public fleets in Washington state. The study must include the following:

(i) An inventory of existing public fleets for the state of Washington, counties, a sampling of cities, and public transit agencies. The inventory must differentiate among battery and fuel cell electric vehicles, hybrid vehicles, gasoline powered vehicles, and any other functional categories. Three cities from each of the following population ranges must be selected for the analysis:

- (A) Population up to and including twenty-five thousand;
- (B) Population greater than twenty-five thousand and up to and including fifty thousand;
- (C) Population greater than fifty thousand and up to and including one hundred thousand;
- (D) Population greater than one hundred thousand;

(ii) A review of currently available battery and fuel cell electric vehicle alternatives to the vehicle types most commonly used by the state, counties, cities, and public transit agencies. The review must include:

(A) The average vehicle cost differential among the commercially available fuel options;

(B) A cost benefit analysis of the conversion of different vehicle classes; and

(C) Recommendations for the types of vehicles that should be excluded from consideration due to insufficient alternatives, unreliable technology, or excessive cost;

(iii) The projected costs of achieving substantial conversion to battery and/or fuel cell electric fleets by 2025, 2030, and 2035 for the state, counties, cities, and public transit agencies. This cost estimate must include:

(A) Vehicle acquisition costs, charging and refueling infrastructure costs, and other associated costs;

(B) Financial constraints of each type of entity to transition to an electric vehicle fleet; and

(C) Any other identified barriers to transitioning to a battery and/or fuel cell electric vehicle fleet;

(iv) Identification and analysis of financing mechanisms that could be used to finance the transition of publicly owned vehicles to battery and fuel cell electric vehicles. These mechanisms include, but are not limited to: Energy or carbon savings performance contracting, utility grants and rebates, revolving loan funds, state grant programs, private third-party financing, fleet management services, leasing, vehicle use optimization, and vehicle to grid technology; and

(v) The predicted number and location profile of electric vehicle fueling stations needed statewide to provide fueling for the fleets of the state, counties, cities, and public transit agencies.

(b) In developing and implementing the study, the joint transportation committee must solicit input from representatives of the department of enterprise services, the department of transportation, the department of licensing, the department of commerce, the Washington state association of counties, the association of Washington cities, the Washington state transit association, transit agencies, and others as deemed appropriate.

(c) The joint transportation committee must issue a report of its findings and recommendations to the transportation committees of the legislature by September 30, 2020.

(3)(a) \$250,000 of the multimodal transportation account—state appropriation is for the joint transportation committee to conduct a study of the feasibility of an east-west intercity passenger rail system. The study must include the following elements:

(i) Projections of potential ridership;

(ii) Review of relevant planning studies;

(iii) Establishment of an advisory group and associated meetings;

(iv) Development of a Stampede Pass corridor alignment to maximize ridership, revenue, and rationale, considering service to population centers: Auburn, Cle Elum, Yakima, Tri-Cities, Ellensburg, Toppenish, and Spokane;

(v) Assessment of current infrastructure conditions, including station stop locations;

(vi) Identification of equipment needs; and

(vii) Identification of operator options.

(b) A report of the study findings and recommendations is due to the transportation committees of the legislature by June 30, 2020.

(4)(a) \$275,000 of the highway safety fund—state appropriation is for a study of vehicle subagents in Washington state. The study must consider and include recommendations, as necessary, on the following:

(i) The relevant statutes, rules, and/or regulations authorizing vehicle subagents and any changes made to the relevant statutes, rules, and/or regulations;

(ii) The current process of selecting and authorizing a vehicle subagent, including the change of ownership process and the identification of any barriers to entry into the vehicle subagent market;

(iii) The annual business expenditures borne by each of the vehicle subagent businesses since fiscal year 2010 and identification of any materials, including office equipment and supplies, provided by the department of licensing to each vehicle subagent since fiscal year 2010. To accomplish this task, each vehicle subagent must provide expenditure data to the joint transportation committee for the purposes of this study;

(iv) The oversight provided by the county auditors and/or the department of licensing over the vehicle subagent businesses;

(v) The history of service fees, how increases to the service fee rate are made, and how the requested fee increase is determined;

(vi) The online vehicle registration renewal process and any potential improvements to the online process;

(vii) The department of licensing's ability to provide more vehicle licensing services directly, particularly taking into account the increase in online vehicle renewal transactions;

(viii) The potential expansion of services that can be performed by vehicle subagents; and

(ix) The process by which the geographic locations of vehicle subagents are determined.

(b) In conducting the study, the joint transportation committee must consult with the department of licensing, a representative of county auditors, and a representative of vehicle subagents.

(c) The joint transportation committee may collect any data from the department of licensing, county auditors, and vehicle subagents that is necessary to conduct the study.

(d) The joint transportation committee must issue a report of its findings and recommendations to the transportation committees of the legislature by September 30, 2020.

(5)(a) \$235,000 of the multimodal transportation account—state appropriation is for the joint transportation committee to oversee a consultant study on rail safety governance best practices, by class of rail where applicable, and recommendations for the implementation of these best practices in Washington state. The study must assess rail safety governance for passenger and freight rail, including rail transit services, and must consider recommendations made by the national transportation safety board in its 2017 Amtrak passenger train 501 derailment accident report that are relevant to rail safety governance.

(b) The study must include the following components:

(i)(A) An assessment of rail safety oversight in Washington state that includes: (I) The rail safety oversight roles of federal, state, regional, and local agencies, including the extent to which federal and state laws govern these roles and the extent to which these roles would be modified should the suspended federal rules in 49 C.F.R. Part 270 take effect; (II) federal, state, regional, and local agency organizational structures and processes utilized to conduct rail safety oversight; and (III) coordination activities by federal, state, regional, and local agencies in conducting rail safety oversight;

(B) An examination of rail safety governance best practices by other states for the items identified in (a) of this subsection; and

(C) Recommendations for the implementation of best practices for rail safety governance in Washington state.

(ii) The study must address the extent to which additional safety oversight of rail project design and construction is used in other states and would be a recommended best practice for Washington state.

(c) The joint transportation committee shall consult with the Washington state department of transportation, the Washington state utilities and transportation commission, sound transit, the national transportation safety board, Amtrak, the federal railroad administration, BNSF railway company, one or more representatives of short line railroads, one or more representatives of labor, and other entities with rail safety expertise as necessary.

(d) The joint transportation committee must issue a report of its findings and recommendations on rail safety governance to the transportation committees of the legislature by January 6, 2021.

(6)(a) \$250,000 of the motor vehicle account—state appropriation is for the joint transportation committee to conduct a study of the feasibility of a private auto ferry between the state of Washington and British Columbia, Canada. The study must include the following elements:

(i) Expected impacts to ridership, revenue, and expenditures for Washington state ferries;

(ii) Expected impacts to ferry service provided to the San Juan Islands;

(iii) Possible terminal locations on Fidalgo Island;

(iv) Economic impacts to the Anacortes area if ferry service between the area and Vancouver Island ceases;

(v) Economic impacts to the San Juan Islands if ferry service or ferry tourism is reduced;

(vi) Expected impacts to family wage jobs in the marine industry for Washingtonians;

(vii) Expected impacts to ferry fares between the state of Washington and British Columbia, Canada;

(viii) Legal analysis of all state, federal, or Canadian laws or rules, including the Jones act and rules of the board of pilotage commissioners, that may apply to initiation of private service or cessation of state service; and

(ix) Options for encouraging private auto ferry service between the state of Washington and Vancouver Island, Canada.

(b) In conducting the study, the joint transportation committee must consult with the department of transportation, a representative of San Juan county, a representative of the city of Anacortes, a representative of the inland boatman's union, a representative of Puget Sound pilots, a representative of the port of

Anacortes, a representative of the economic development alliance of Skagit county, and interested private ferry operators in Washington state.

(c) A report of the study findings and options is due to the transportation committees of the legislature by February 15, 2021.

Sec. 205. 2019 c 416 s 205 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account—State Appropriation	.....	(\$2,893,000)
		\$2,324,000
((Multimodal Transportation Account—State Appropriation	.....	\$112,000))
Interstate 405 and state Route Number 167 Express Toll Lanes ((Operations))		
Account—State Appropriation	.....	(\$250,000)
		\$410,000
<u>State Route Number 520 Corridor Account—State</u>		
Appropriation	.....	\$271,000
<u>Tacoma Narrows Toll Bridge Account—State</u>		
Appropriation	.....	\$158,000
<u>Alaskan Way Viaduct Replacement Project</u>		
Account—State Appropriation	.....	\$136,000
TOTAL APPROPRIATION	.....	(\$3,255,000)
		\$3,299,000

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

(1)(a) The commission shall reconvene the road usage charge steering committee, with the same membership described in chapter 297, Laws of 2018, and shall report at least once every three months to the steering committee with updates on report development for the completed road usage charge pilot project until the final report is submitted. The commission shall also report to the steering committee on any other activities undertaken in accordance with this subsection (1) as necessary to keep it apprised of new developments and to obtain input on its efforts. The final report on the road usage charge pilot project is due to the transportation committees of the legislature by January 1, 2020, and should include recommendations for necessary next steps to consider impacts to communities of color, low-income households, vulnerable populations, and displaced communities. Any legislative vacancies on the steering committee must be appointed by the speaker of the house of representatives for a house of representatives member vacancy, and by the president of the senate for a senate member vacancy.

(b)(i) The commission shall coordinate with the department of transportation to jointly seek federal funds available through the federal surface transportation system funding alternatives grant program, applying toll credits for meeting match requirements. One or more grant applications ~~((may))~~ shall be developed that ~~((, at a minimum,))~~

~~((+))~~(A) ~~((Update the recommended road usage charge operational concepts and business case presented to the road usage charge steering committee to reflect a range of scenarios regarding fleet electrification and use of shared vehicles. The operational concepts must include technological or system features necessary to ensure collection of the road usage charge from electric vehicles and fleets of shared and/or autonomous vehicles, if applicable.~~

The business case must assess a range of gross revenue impacts to a road usage charge and fuel taxes resulting from changes to total vehicle miles traveled under scenarios with varying degrees of shared, autonomous, and/or electric vehicle adoption rates;

~~(B) Develop a detailed plan for phasing in the implementation of road usage charges for vehicles operated in Washington, incorporating any updates to road usage charge policy recommendations made in (a) and (b)(i)(A) of this subsection and including consideration of methods for reducing the cost of collections for a road usage charge system in Washington state; and~~

~~(C) Examine the allocation of current gas tax revenues and possible frameworks for the allocation of road usage charge revenues that could be used to evaluate policy choices once road usage charge revenues comprise a significant share of state revenues for transportation purposes.)~~ Create a framework for modeling the effects of a road usage charge on passenger and light-duty vehicles including, but not limited to, plug-in electric vehicles, autonomous vehicles, state fleets, and transportation network companies on a road usage charge system;

(B) Identify and measure potential disparate impacts of a road usage charge on designated populations, including communities of color, low-income households, vulnerable populations, and displaced communities;

(C) Incorporate emerging approaches to mileage reporting, such as in-vehicle telematics, improved smartphone apps, and use of private businesses to provide odometer verification and mileage reporting services, into a road usage charge system;

(D) Conduct a series of facilitated work sessions with other states and private sector firms to identify opportunities to reduce the cost of collections for a road usage charge;

(E) Develop a road usage charge phase-in plan that incorporates findings from (b)(i)(A) through (D) of this subsection;

(F) Carry out a limited scale demonstration to test new mileage reporting methods; equity policies; cost reduction techniques; and collecting a road usage charge from passenger and light-duty vehicles including, but not limited to, plug-in electric vehicles, autonomous vehicles, state fleets, transportation network companies, and other new mobility services; and

(G) Produce a final report with recommendations and a recommended roadmap that details how a road usage charge could be appropriately scaled to fit state circumstances and that includes a framework for evaluating policy choices related to the use of road usage charge revenue.

(ii) A year-end report on the status of any federally-funded project for which federal funding is secured must be provided to the governor's office and the transportation committees of the legislature by January 1, 2020, and by January 1, 2021.

(c) \$150,000 of the motor vehicle account—state appropriation is provided solely for analysis of potential impacts of a road usage charge on communities of color, low-income households, vulnerable populations, and displaced communities. The analysis must include an assessment of potential mitigation measures to address these potential impacts. These funds must be held in unallotted status during the 2019-2021 fiscal biennium, and may only be used after the commission has provided notice to the office of financial management

that it has exhausted all efforts to secure federal funds from the federal surface transportation system funding alternatives grant program under (b) of this subsection without successfully securing federal funding for the further study of a road usage charge. A year-end update on the status of this effort, if undertaken prior to the end of calendar year 2020, must be provided to the governor's office and the transportation committees of the legislature by January 1, 2021.

(2)(a) \$250,000 of the Interstate 405 and state route number 167 express toll lanes ((operations)) account—state appropriation is provided solely for the transportation commission to conduct a study, applicable to the Interstate 405 express toll lanes, of discounted tolls and other similar programs for low-income drivers that are provided by other states, countries, or other entities and how such a program could be implemented in the state of Washington. The transportation commission may contract with a consultant to conduct all or a portion of this study.

(b) In conducting this study, the transportation commission shall consult with both the department of transportation and the department of social and health services.

(c) The transportation commission shall, at a minimum, consider the following issues when conducting the study of discounted tolls and other similar programs for low-income drivers:

(i) The benefits, requirements, and any potential detriments to the users of a program;

(ii) The most cost-effective way to implement a program given existing financial commitments, shared cost requirements across facilities, and technical requirements to execute and maintain a program;

(iii) The implications of a program for tolling policies, revenues, costs, operations, and enforcement; and

(iv) Any implications to tolled facilities based on the type of tolling implemented on a particular facility.

(d) The transportation commission shall provide a report detailing the findings of this study and recommendations for implementing a discounted toll or other appropriate program in the state of Washington to the transportation committees of the legislature by June 30, 2021.

(3) \$160,000 of the Interstate 405 and state route number 167 express toll lanes account—state appropriation, \$271,000 of the state route number 520 corridor account—state appropriation, \$158,000 of the Tacoma Narrows toll bridge account—state appropriation, and \$136,000 of the Alaskan Way viaduct replacement project account—state appropriation are provided solely for the transportation commission's proportional share of time spent supporting tolling operations for the respective tolling facilities.

(4) The legislature requests that the commission commence proceedings to name state route number 165 as The Glacier Highway to commemorate the significance of glaciers to the state of Washington.

Sec. 206. 2019 c 416 s 206 (uncodified) is amended to read as follows:

FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Freight Mobility Investment Account—State

Appropriation	(\$813,000)
	<u>\$772,000</u>

*Sec. 207. 2019 c 416 s 207 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL

State Patrol Highway Account—State Appropriation	(\$508,503,000)
	<u>\$501,294,000</u>
State Patrol Highway Account—Federal Appropriation	(\$16,069,000)
	<u>\$16,081,000</u>
State Patrol Highway Account—Private/Local Appropriation	(\$4,257,000)
	<u>\$4,258,000</u>
Highway Safety Account—State Appropriation	\$1,188,000
Ignition Interlock Device Revolving Account—State Appropriation	\$7,010,000
Multimodal Transportation Account—State Appropriation	\$286,000
<u>Interstate 405 and State Route Number 167 Express</u>	
<u>Toll Lanes Account—State Appropriation</u>	<u>\$1,182,000</u>
<u>State Route Number 520 Corridor Account—State</u>	
<u>Appropriation</u>	<u>\$1,988,000</u>
<u>Tacoma Narrows Toll Bridge Account—State Appropriation</u>	
<u>Alaskan Way Viaduct Replacement Project</u>	
<u>Account—State Appropriation</u>	<u>\$996,000</u>
TOTAL APPROPRIATION	(\$537,313,000)
	<u>\$535,441,000</u>

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

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

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

(3) \$1,424,000 of the state patrol highway account—state appropriation is provided solely to enter into an agreement for upgraded land mobile software, hardware, and equipment.

(4) \$2,582,000 of the state patrol highway account—state appropriation is provided solely for the replacement of radios and other related equipment.

(5) \$343,000 of the state patrol highway account—state appropriation is provided solely for aerial criminal investigation tools, including software licensing and maintenance, and annual certification.

(6) (~~(\$514,000)~~) \$2,342,000 of the state patrol highway account—state appropriation is provided solely (~~(for additional staff)~~) to address the increase in the number of toxicology cases from impaired driving and death investigations.

(7) \$580,000 of the state patrol highway account—state appropriation is provided solely for the operation of and administrative support to the license investigation unit to enforce vehicle registration laws in southwestern Washington. The Washington state patrol, in consultation with the department of revenue, shall maintain a running estimate of the additional vehicle registration fees, sales and use taxes, and local vehicle fees remitted to the state pursuant to activity conducted by the license investigation unit. Beginning October 1, 2019, and quarterly thereafter, the Washington state patrol shall submit a report detailing the additional revenue amounts generated since July 1, 2017, to the director of the office of financial management and the transportation committees of the legislature. At the end of the calendar quarter in which it is estimated that more than \$625,000 in state sales and use taxes have been remitted to the state since July 1, 2017, the Washington state patrol shall notify the state treasurer and the state treasurer shall transfer funds pursuant to section 406 (~~(of this act)~~), chapter 416, Laws of 2019.

(8) \$18,000 of the state patrol highway account—state appropriation is provided solely for the license investigation unit to procure an additional license plate reader and related costs.

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

(10) \$4,210,000 of the state patrol highway account—state appropriation is provided solely for a third arming and a third trooper basic training class. The cadet class is expected to graduate in June 2021.

(11) \$65,000 of the state patrol highway account—state appropriation is provided solely for the implementation of chapter 440 (~~((Engrossed Second Substitute Senate Bill No. 5497)))~~), Laws of 2019 (immigrants in the workplace). If chapter 440 (~~((Engrossed Second Substitute Senate Bill No. 5497)))~~), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.

(12)(a) The Washington state patrol must report quarterly to the house and senate transportation committees on the status of recruitment and retention activities as follows:

- (i) A summary of recruitment and retention strategies;
- (ii) The number of transportation funded staff vacancies by major category;
- (iii) The number of applicants for each of the positions by these categories;
- (iv) The composition of workforce; and
- (v) Other relevant outcome measures with comparative information with recent comparable months in prior years.

(b) By January 1, 2020, the Washington state patrol must submit to the transportation committees of the legislature and the governor a workforce diversity plan. The plan must identify ongoing, and both short-term and long-

term, specific comprehensive outreach and recruitment strategies to increase populations underrepresented within both commissioned and noncommissioned employee groups.

(13) \$1,182,000 of the Interstate 405 and state route number 167 express toll lanes account—state appropriation, \$1,988,000 of the state route number 520 corridor account—state appropriation, \$1,158,000 of the Tacoma Narrows toll bridge account—state appropriation, and \$996,000 of the Alaskan Way viaduct replacement project account—state appropriation are provided solely for the Washington state patrol's proportional share of time spent supporting tolling operations and enforcement for the respective tolling facilities.

(14) \$100,000 of the state patrol highway account—state appropriation is provided solely for the implementation of Senate Bill No. 6218, Laws of 2020 (Washington state patrol retirement definition of salary), which reflects an increase in the Washington state patrol retirement system pension contribution rate of 0.15 percent for changes to the definition of salary. If Senate Bill No. 6218, Laws of 2020 is not enacted by June 30, 2020, the amount provided in this subsection lapses.

(15) The Washington state patrol is directed to terminate its "Agreement for Utility Connection and Reimbursement of Water Extension Expenses" with the city of Shelton, executed on June 12, 2017, subject to the city of Shelton's consent to terminate the agreement. The legislature finds that the water connection extension constructed by the Washington state patrol from the city of Shelton's water facilities to the Washington state patrol academy was necessary to meet the water supply needs of the academy. The legislature also finds that the water connection provides an ongoing water supply that is necessary to the operation of the training facility, that the state is making use of the water connection for these public activities, and that any future incidental use of the municipal infrastructure put in place to support these activities will not impede the Washington state patrol's ongoing use of the water connection extension. Therefore, the legislature determines that under the public policy of this state, reimbursement by any other entity is not required, notwithstanding any prior condition regarding contributions of other entities that Washington state patrol was required to satisfy prior to expenditure of the funds for construction of the extension, and that the Washington state patrol shall terminate the agreement.

(16) \$975,000 of the state patrol highway account—state appropriation is provided solely for communications officers at the King county public safety answering point.

(17) \$830,000 of the state patrol highway account—state appropriation is provided solely for information technology security enhancements.

(18) \$150,000 of the state patrol highway account is provided solely for the Washington state patrol to work with the department of enterprise services and office of minority and women's business enterprises to contract for a workforce diversity strategic action plan. The successful consultant must have demonstrated expertise in workforce diversity research and an established record of assisting organizations in implementing diversity initiatives. The plan must include:

(a) Current and past employment data on the composition of the state patrol workforce generally and of its protective service workers;

(b) Research into the reasons for underrepresentation of minorities and women in the state patrol workforce;

(c) Research on best practices for recruiting across the state and from communities historically underrepresented in the Washington state patrol workforce;

(d) Case studies of law enforcement and other agencies that have successfully diversified their workforce; and

(e) A strategic plan with recommendations that will address disparities in the Washington state patrol employment ranks in both commissioned and noncommissioned personnel, with a focus on executive, command, and supervisory employees.

**Sec. 207 is partially vetoed. See message at end of chapter.*

***Sec. 208.** 2019 c 416 s 208 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING

Marine Fuel Tax Refund Account—State Appropriation	\$34,000
Motorcycle Safety Education Account—State Appropriation	(\$5,044,000)
	<u>\$5,052,000</u>
State Wildlife Account—State Appropriation	(\$536,000)
	<u>\$511,000</u>
Highway Safety Account—State Appropriation	(\$243,189,000)
	<u>\$242,965,000</u>
Highway Safety Account—Federal Appropriation	\$1,294,000
Motor Vehicle Account—State Appropriation	(\$77,219,000)
	<u>\$71,447,000</u>
<u>Motor Vehicle Account—Federal Appropriation</u>	<u>\$186,000</u>
Motor Vehicle Account—Private/Local Appropriation	(\$2,858,000)
	<u>\$10,008,000</u>
Ignition Interlock Device Revolving Account—State Appropriation	(\$6,143,000)
	<u>\$5,779,000</u>
Department of Licensing Services Account—State Appropriation	(\$8,012,000)
	<u>\$7,696,000</u>
License Plate Technology Account—State Appropriation	\$4,250,000
Abandoned Recreational Vehicle Account—State Appropriation	\$2,925,000
Limousine Carriers Account—State Appropriation	\$113,000
<u>Electric Vehicle Account—State Appropriation</u>	<u>\$264,000</u>
DOL Technology Improvement & Data Management Account—State Appropriation	\$2,250,000
Agency Financial Transaction Account—State Appropriation	\$11,903,000
TOTAL APPROPRIATION	(\$365,770,000)
	<u>\$366,677,000</u>

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

(1) \$139,000 of the motorcycle safety education account—state appropriation is provided solely for the implementation of chapter 65 (~~((Substitute House Bill No. 1116))~~), Laws of 2019 (motorcycle safety). If chapter 65 (~~((Substitute House Bill No. 1116))~~), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.

~~(2) ((\$404,000 of the highway safety account—state appropriation is provided solely for a new driver testing system at the department. Pursuant to RCW 43.135.055 and 46.82.310, the department is authorized to increase driver training school license application and renewal fees in fiscal years 2020 and 2021, as necessary to fully support the cost of activities related to administration of the driver training school program, including the cost of the new driver testing system described in this subsection.~~

~~(3)) \$25,000 of the motorcycle safety education account—state appropriation, \$4,000 of the state wildlife account—state appropriation, \$1,708,000 of the highway safety account—state appropriation, \$576,000 of the motor vehicle account—state appropriation, \$22,000 of the ignition interlock device revolving account—state appropriation, and \$28,000 of the department of licensing services account—state appropriation are provided solely for the department to fund the appropriate staff(~~(, other than data stewards,)~~) and necessary equipment and software for data management, data analytics, and data compliance activities. The department must, in consultation with the office of the chief information officer, construct a framework with goals for providing better data stewardship and a plan to achieve those goals. The department must provide the framework and plan to the transportation committees of the legislature by December 31, 2019, and an update by May 1, 2020. (~~Appropriations provided for the data stewardship and privacy project described in this subsection are subject to the conditions, limitations, and review provided in section 701 of this act.~~~~

~~(4)) (3) Appropriations provided for the cloud continuity of operations project in this section are subject to the conditions, limitations, and review provided in section 701 of this act.~~

~~((6)) (4) \$24,028,000 of the highway safety account—state appropriation is provided solely for costs necessary to accommodate increased demand for enhanced drivers' licenses and enhanced identicards. The department shall report on a quarterly basis on the use of these funds, associated workload, and information with comparative information with recent comparable months in prior years. The report must include detailed statewide and by licensing service office information on staffing levels, average monthly wait times, the number of enhanced drivers' licenses and enhanced identicards issued/renewed, and the number of primary drivers' licenses and identicards issued/renewed. Within the amounts provided in this subsection, the department shall implement efficiency measures to reduce the time for licensing transactions and wait times including, but not limited to, the installation of additional cameras at licensing service offices that reduce bottlenecks and align with the "keep your customer" initiative.~~

~~((8)) (5) \$507,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Substitute Senate Bill No. 5419), Laws of 2019 (vehicle service fees) or chapter 417 (~~(Engrossed House Bill No. 1789))~~), Laws of 2019 (vehicle service fees). If neither chapter . . .~~

(Substitute Senate Bill No. 5419), Laws of 2019 or chapter 417 (~~((Engrossed House Bill No. 1789)))~~), Laws of 2019 are enacted by June 30, 2019, the amount provided in this subsection lapses.

~~((10))~~ (6) \$25,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter 177 (~~((Engrossed House Bill No. 1996)))~~), Laws of 2019 (San Juan Islands license plate). If chapter 177 (~~((Engrossed House Bill No. 1996)))~~), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.

~~((11))~~ (7) \$24,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter 384 (~~((House Bill No. 2062)))~~), Laws of 2019 (Seattle Storm license plate). If chapter 384 (~~((House Bill No. 2062)))~~), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.

~~((13))~~ (8) \$65,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter 440 (~~((Engrossed Second Substitute Senate Bill No. 5497)))~~), Laws of 2019 (immigrants in the workplace). If chapter 440 (~~((Engrossed Second Substitute Senate Bill No. 5497)))~~), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.

~~((14))~~ (9) The appropriations in this section assume implementation of additional cost recovery mechanisms to recoup at least \$11,903,000 in credit card and other financial transaction costs as part of charges imposed for driver and vehicle fee transactions beginning January 1, 2020. At the direction of the office of financial management, the department must develop a method of tracking the additional amount of credit card and other financial cost-recovery revenues. In consultation with the office of financial management, the department must notify the state treasurer of these amounts and the state treasurer must deposit these revenues in the agency financial transaction account created in section 717 (~~(of this act)~~), chapter 416, Laws of 2019 on a quarterly basis.

~~((18))~~ (10) \$1,281,000 of the department of licensing service account—state appropriation is provided solely for savings from the implementation of chapter 417 (~~((Engrossed House Bill No. 1789)))~~), Laws of 2019 (vehicle service fees). If chapter 417 (~~((Engrossed House Bill No. 1789)))~~), Laws of 2019 is enacted by June 30, 2019, the amount provided in this subsection lapses.

~~((19))~~ (11) \$2,650,000 of the abandoned recreational vehicle disposal account—state appropriation is provided solely for providing reimbursements in accordance with the department's abandoned recreational vehicle disposal reimbursement program. It is the intent of the legislature that the department prioritize this funding for allowable and approved reimbursements and not to build a reserve of funds within the account.

~~((20))~~ (12) \$20,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter 210 (~~((Substitute House Bill No. 1197)))~~), Laws of 2019 (Gold Star license plate). If chapter 210 (~~((Substitute House Bill No. 1197)))~~), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.

~~((21))~~ (13) \$31,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter 262 (~~((Substitute House Bill No. 1436)))~~), Laws of 2019 (snow bikes). If chapter 262 (~~((Substitute House Bill~~

~~No. 1436~~)), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.

~~((22))~~ (14) \$24,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter 139 ~~((House Bill No. 2058))~~, Laws of 2019 (Purple Heart license plate). If chapter 139 ~~((House Bill No. 2058))~~, Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.

~~((23))~~ (15) \$24,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter 278 ~~((Engrossed House Bill No. 2067))~~, Laws of 2019 (vehicle and vessel owner information). If chapter 278 ~~((Engrossed House Bill No. 2067))~~, Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.

~~((25))~~ (16) \$600,000 of the highway safety account—state appropriation is provided solely for the department to provide an interagency transfer to the department of social and health services, children's administration division for the purpose of providing driver's license support to a larger population of foster youth than is already served within existing resources. Support services include reimbursement of driver's license issuance costs, fees for driver training education, and motor vehicle liability insurance costs.

~~((26))~~ (17) The department must place personal and company data elements in separate data fields to allow the department to select discrete data elements when providing information or data to persons or entities outside the department. Pursuant to the restrictions in federal and state law, a person's photo, social security number, or medical information must not be made available through public disclosure or data being provided under RCW 46.12.630 or 46.12.635.

~~((30))~~ (18) \$91,000 of the highway safety account—state appropriation is provided solely for the department's costs related to the one Washington project.

~~((31) \$974,000)~~ (19) \$1,674,000 of the highway safety account—state appropriation is provided solely for communication and outreach activities necessary to inform the public of federally acceptable identification options including, but not limited to, enhanced drivers' licenses and enhanced identicards. The department shall continue the outreach plan that includes informational material that can be effectively communicated to all communities and populations in Washington. To accomplish this work, the department shall contract with an external vendor with demonstrated experience and expertise in outreach and marketing to underrepresented communities in a culturally-responsive fashion.

(20) Due to the passage of chapter 1 (Initiative Measure No. 976), Laws of 2020, the department, working with the office of financial management, shall provide a monthly report on the number of registrations involved and differences between actual collections and collections if the initiative was not subject to a temporary injunction as of December 5, 2019.

(21) The appropriations in this section assume full cost recovery for the administration and collection of a motor vehicle excise tax on behalf of any regional transit authority pursuant to section 706 of this act.

(22) \$24,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Substitute House Bill No. 1255), Laws of 2020 (Patches pal special license plate). If chapter . . .

(Substitute House Bill No. 1255), Laws of 2020 is not enacted by June 30, 2020, the amount provided in this subsection lapses.

(23) \$24,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Second Substitute House Bill No. 2050), Laws of 2020 (Washington wine special license plate). If chapter . . . (Engrossed Second Substitute House Bill No. 2050), Laws of 2020 is not enacted by June 30, 2020, the amount provided in this subsection lapses.

(24) \$24,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute House Bill No. 2085), Laws of 2020 (Mt. St. Helens special license plate). If chapter . . . (Engrossed Substitute House Bill No. 2085), Laws of 2020 is not enacted by June 30, 2020, the amount provided in this subsection lapses.

(25) \$24,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Substitute House Bill No. 2187), Laws of 2020 (women veterans special license plate) or chapter . . . (Senate Bill No. 6433), Laws of 2020 (women veterans special license plate). If neither chapter . . . (Substitute House Bill No. 2187), Laws of 2020 nor chapter . . . (Senate Bill No. 6433), Laws of 2020 is enacted by June 30, 2020, the amount provided in this subsection lapses.

(26) \$107,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed House Bill No. 2188), Laws of 2020 (military veterans commercial driver's license waivers) or chapter . . . (Second Substitute Senate Bill No. 5544), Laws of 2020 (military veterans commercial driver's license waivers). If neither chapter . . . (Engrossed House Bill No. 2188), Laws of 2020 nor chapter . . . (Second Substitute Senate Bill No. 5544), Laws of 2020 is enacted by June 30, 2020, the amount provided in this subsection lapses.

(27) \$50,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Substitute House Bill No. 2353), Laws of 2020 (fire trailer registrations). If chapter . . . (Substitute House Bill No. 2353), Laws of 2020 is not enacted by June 30, 2020, the amount provided in this subsection lapses.

(28) \$114,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Substitute House Bill No. 2607), Laws of 2020 (homeless youth identicards) or chapter . . . (Senate Bill No. 6304), Laws of 2020 (homeless youth identicards). If neither chapter . . . (Substitute House Bill No. 2607), Laws of 2020 nor chapter . . . (Senate Bill No. 6304), Laws of 2020 is enacted by June 30, 2020, the amount provided in this subsection lapses.

(29) \$24,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (House Bill No. 2669), Laws of 2020 (Seattle national hockey league special license plate) or chapter . . . (Senate Bill No. 6562), Laws of 2020 (Seattle national hockey league special license plate). If neither chapter . . . (House Bill No. 2669), Laws of 2020 nor chapter . . . (Senate Bill No. 6562), Laws of 2020 is enacted by June 30, 2020, the amount provided in this subsection lapses.

(30) \$14,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute House Bill

No. 2723), Laws of 2020 (off-road vehicle enforcement) or chapter . . . (Senate Bill No. 6115), Laws of 2020 (off-road vehicle enforcement). If neither chapter . . . (Engrossed Substitute House Bill No. 2723), Laws of 2020 nor chapter . . . (Senate Bill No. 6115), Laws of 2020 is enacted by June 30, 2020, the amount provided in this subsection lapses.

(31) \$105,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (House Bill No. 2491), Laws of 2020 (tribal vehicles compact) or chapter . . . (Senate Bill No. 6251), Laws of 2020 (tribal vehicles compact). If neither chapter . . . (House Bill No. 2491), Laws of 2020 nor chapter . . . (Senate Bill No. 6251), Laws of 2020 (tribal vehicles compact) is enacted by June 30, 2020, the amount provided in this subsection lapses.

(32) \$57,000 of the state wildlife account—state appropriation is provided solely for the implementation of chapter . . . (Substitute Senate Bill No. 6072), Laws of 2020 (state wildlife account). If chapter . . . (Substitute Senate Bill No. 6072), Laws of 2020 is not enacted by June 30, 2020, the amount provided in this subsection lapses.

(33) \$19,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Senate Bill No. 6032), Laws of 2020 (apples special license plate). If chapter . . . (Engrossed Senate Bill No. 6032), Laws of 2020 is not enacted by June 30, 2020, the amount provided in this subsection lapses.

(34) \$19,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute Senate Bill No. 5591), Laws of 2020 (stolen vehicle check). If chapter . . . (Engrossed Substitute Senate Bill No. 5591), Laws of 2020 is not enacted by June 30, 2020, the amount provided in this subsection lapses.

(35) Within the amounts appropriated in this section, the department shall relocate, or finish relocating, the licensing service offices in Lacey, Tacoma, and Bellevue-Redmond and make emergency repairs to the licensing service office in Vancouver.

(36) \$40,000 of the department of licensing services account—state appropriation is provided solely for the department to report to the governor and chairs of the transportation committees of the legislature by December 1, 2020, with a proposed plan to allow the registered owner of a vehicle, or the registered owner's authorized representative, to voluntarily enter into either a quarterly or monthly payment plan with the department to pay vehicle fees or taxes due at the time of application for renewal vehicle registration. The plan must include: (a) An analysis of the administrative costs associated with allowing the payment plans; (b) the estimated revenue impact by fund or account, including impacts to local governments; and (c) the recommended method to achieve the greatest level of customer payment compliance.

(37)(a) Within available resources, and in collaboration with the department of revenue, the department of licensing shall evaluate the effectiveness of chapter 218, Laws of 2017, in improving compliance with state laws relating to the registration of off-road vehicles, including the payment of retail sales and use tax. The department of licensing shall recommend any statutory, administrative, or other changes needed to optimize and further strengthen the compliance, including an implementation timeline and corresponding resource requirements.

Among its recommendations, the department of licensing must address potential changes to the process under RCW 46.93.210 by which the department notifies persons whose vehicles may not be properly registered in the state. The department shall submit a report to the governor and the transportation committees of the legislature by December 15, 2020.

(b) If chapter . . . (Engrossed Substitute House Bill No. 2723), Laws of 2020 is enacted by June 30, 2020, this subsection has no force and effect.

**Sec. 208 is partially vetoed. See message at end of chapter.*

Sec. 209. 2019 c 416 s 209 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TOLL OPERATIONS AND MAINTENANCE—PROGRAM B

((High Occupancy Toll Lanes Operations Account—State	
Appropriation	\$3,774,000
Motor Vehicle Account—State Appropriation	\$513,000))
State Route Number 520 Corridor Account—State	
Appropriation	((\$43,773,000))
	\$59,059,000
State Route Number 520 Civil Penalties Account—State	
Appropriation	\$4,145,000
Tacoma Narrows Toll Bridge Account—State	
Appropriation	((\$27,807,000))
	\$33,806,000
Alaskan Way Viaduct Replacement Project Account—State	
Appropriation	((\$20,061,000))
	\$21,616,000
Interstate 405 <u>and State Route Number 167</u> Express	
Toll Lanes ((Operations)) Account—State	
Appropriation	((\$18,329,000))
	\$27,457,000
TOTAL APPROPRIATION	((\$118,402,000))
	\$146,083,000

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

(1) \$1,300,000 of the Tacoma Narrows toll bridge account—state appropriation and \$11,034,000 of the state route number 520 corridor account—state appropriation are provided solely for the purposes of addressing unforeseen operations and maintenance costs on the Tacoma Narrows bridge and the state route number 520 bridge, respectively. The office of financial management shall place the amounts provided in this subsection, which represent a portion of the required minimum fund balance under the policy of the state treasurer, in unallotted status. The office may release the funds only when it determines that all other funds designated for operations and maintenance purposes have been exhausted.

(2) As long as the facility is tolled, the department must provide quarterly reports to the transportation committees of the legislature on the Interstate 405 express toll lane project performance measures listed in RCW 47.56.880(4). These reports must include:

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

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

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

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

(3)(a) ~~(\$71,000)~~ \$2,114,000 of the ~~(high occupancy)~~ Interstate 405 and state route number 167 express toll lanes (operations) account—state appropriation, ~~(\$1,238,000)~~ \$4,920,000 of the state route number 520 corridor account—state appropriation, ~~(\$532,000)~~ \$2,116,000 of the Tacoma Narrows toll bridge account—state appropriation, ~~(\$460,000 of the Interstate 405 express toll lanes operations account state appropriation,)~~ and ~~(\$699,000)~~ \$2,776,000 of the Alaskan Way viaduct replacement project account—state appropriation are provided solely for the department to finish implementing a new tolling customer service toll collection system, and are subject to the conditions, limitations, and review provided in section 701 of this act.

(b) The department shall continue to work with the office of financial management, office of the chief information officer, and the transportation committees of the legislature on the project management plan that includes a provision for independent verification and validation of contract deliverables from the successful bidder and a provision for quality assurance that includes reporting independently to the office of the chief information officer on an ongoing basis during system implementation.

(4) The department shall make detailed quarterly reports to the transportation committees of the legislature and the public on the department's web site on the following:

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

(b) The nonvendor costs of administering toll operations, including the costs of staffing the division, consultants, and other personal service contracts

required for technical oversight and management assistance, insurance, payments related to credit card processing, transponder purchases and inventory management, facility operations and maintenance, and other miscellaneous nonvendor costs;

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

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

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

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

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

(iv) Workload costs related to hearings;

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

(vi) Revenues generated from notices of civil penalty; and

(e) A summary of toll revenue by facility on all operating toll facilities and ~~((high occupancy))~~ express toll lane systems, and an itemized depiction of the use of that revenue.

(5) ~~((\$17,517,000))~~ \$24,735,000 of the Interstate 405 and state route number 167 express toll lanes ~~((operations))~~ account—state appropriation is provided solely for operational costs related to the express toll lane facility.

(6) In calendar year 2021, toll equipment on the Tacoma Narrows Bridge will have reached the end of its operational life. During the 2019-2021 fiscal biennium, the department plans to issue a request for proposals as the first stage of a competitive procurement process that will replace the toll equipment and select a new tolling operator for the Tacoma Narrows Bridge. The request for proposals and subsequent competitive procurement must incorporate elements that prioritize the overall goal of lowering costs per transaction for the facility, such as incentives for innovative approaches which result in lower transactional costs, requests for efficiencies on the part of the bidder that lower operational costs, and incorporation of technologies such as self-serve credit card machines or other point-of-payment technologies that lower costs or improve operational efficiencies.

(7) ~~((\$19,362,000))~~ \$18,840,000 of the Alaskan Way viaduct replacement project account—state appropriation is provided solely for the new state route number 99 tunnel toll facility's expected share of collecting toll revenues, operating customer services, and maintaining toll collection systems. The legislature expects to see appropriate reductions to the other toll facility accounts once tolling on the new state route number 99 tunnel toll facility commences and any previously incurred costs for start-up of the new facility are charged back to the Alaskan Way viaduct replacement project account. The office of financial management shall closely monitor the application of the cost allocation model and ensure that the new state route number 99 tunnel toll facility is adequately sharing costs and the other toll facility accounts are not being overspent or subsidizing the new state route number 99 tunnel toll facility.

(8) ~~((\$256,000))~~ \$608,000 of the ~~((high occupancy toll lanes operations account—state appropriation and \$352,000 of the))~~ Interstate 405 and state route

number 167 express toll lanes (~~(operations)~~) account—state appropriation are provided solely for increased levels of service from the Washington state patrol for enforcement of toll lane violations on the (~~(state route number 167 high occupancy toll lanes and the)~~) Interstate 405 and state route number 167 express toll lanes. The department shall compile monthly data on the number of Washington state patrol enforcement hours on each facility and the percentage of time during peak hours that speeds are at or above forty-five miles per hour on each facility. The department shall provide this data in a report to the transportation committees of the legislature on at least a calendar quarterly basis.

(9) The department shall develop an ongoing cost allocation method to assign appropriate costs to each of the toll funds for services provided by each Washington state department of transportation program and all relevant transportation agencies, including the Washington state patrol and the transportation commission. This method should update the toll cost allocation method used in the 2020 supplemental transportation appropriations act. By December 1, 2020, a report with the recommended method and any changes or potential impacts to toll rates shall be submitted to the transportation committees of the legislature and the office of financial management.

Sec. 210. 2019 c 416 s 210 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—INFORMATION TECHNOLOGY—PROGRAM C

Transportation Partnership Account—State Appropriation	\$1,460,000
Motor Vehicle Account—State Appropriation	(\$94,993,000)
	<u>\$96,331,000</u>
Puget Sound Ferry Operations Account—State	
Appropriation	\$263,000
Multimodal Transportation Account—State	
Appropriation	\$2,878,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation	\$1,460,000
TOTAL APPROPRIATION	(\$101,054,000)
	<u>\$102,392,000</u>

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

(1) \$8,114,000 of the motor vehicle account—state appropriation is provided solely for the development of the labor system replacement project and is subject to the conditions, limitations, and review provided in section 701 of this act. It is the intent of the legislature that if any portion of the labor system replacement project is leveraged in the future for the time, leave, and labor distribution of any other agencies, the motor vehicle account will be reimbursed proportionally for the development of the system since amounts expended from the motor vehicle account must be used exclusively for highway purposes in conformance with Article II, section 40 of the state Constitution. This must be accomplished through a loan arrangement with the current interest rate under the terms set by the office of the state treasurer at the time the system is deployed to additional agencies. If the motor vehicle account is not reimbursed for future use of the system, it is further the intent of the legislature that reductions will be made to central service agency charges accordingly. The department shall

provide a report to the transportation committees of the legislature by December 31, 2019, detailing the project timeline as of July 1, 2019, an updated project timeline if necessary, expenditures made to date for the purposes of this project, and expenditures projected through the remainder of the project timeline.

(2) ~~(\$198,000)~~ \$1,375,000 of the motor vehicle account—state appropriation is provided solely for the department's cost related to the one Washington project.

(3) \$21,500,000 of the motor vehicle account—state appropriation is provided solely for the activities of the information technology program in developing and maintaining information systems that support the operations and program delivery of the department, ensuring compliance with section 701 of this act, and the requirements of the office of the chief information officer under RCW 43.88.092 to evaluate and prioritize any new financial and capital systems replacement or modernization project and any other information technology project. During the 2019-2021 fiscal biennium, the department ~~((is prohibited from using))~~ may use the distributed direct program support or ~~((any))~~ other cost allocation method to fund ~~((any))~~ a new ~~((financial and))~~ capital systems replacement or modernization project ~~((without having the project evaluated and prioritized by the office of the chief information officer and submitting)).~~ The department shall submit a decision package for implementation of a new capital systems replacement project to the governor and the transportation committees of the legislature as part of the normal budget process for the 2021-2023 biennium.

Sec. 211. 2019 c 416 s 211 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—FACILITY MAINTENANCE, OPERATIONS, AND CONSTRUCTION—PROGRAM D—OPERATING

Motor Vehicle Account—State Appropriation	(\$33,149,000)
	<u>\$34,807,000</u>
State Route Number 520 Corridor Account—State Appropriation	\$34,000
TOTAL APPROPRIATION	(\$33,183,000)
	<u>\$34,841,000</u>

Sec. 212. 2019 c 416 s 212 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—AVIATION—PROGRAM F

Aeronautics Account—State Appropriation	(\$7,635,000)
	<u>\$7,743,000</u>
Aeronautics Account—Federal Appropriation	(\$2,542,000)
	<u>\$3,043,000</u>
Aeronautics Account—Private/Local Appropriation	\$60,000
TOTAL APPROPRIATION	(\$10,237,000)
	<u>\$10,846,000</u>

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

(1) ~~(\$2,751,000)~~ \$2,862,000 of the aeronautics account—state appropriation is provided solely for the airport aid grant program, which

provides competitive grants to public use airports for pavement, safety, maintenance, planning, and security.

(2) (~~(\$468,000)~~) \$268,000 of the aeronautics account—state appropriation is provided solely for one FTE dedicated to planning aviation emergency services and addressing emerging aeronautics requirements(~~(, and for the implementation of chapter . . . (House Bill No. 1397), Laws of 2019 (electric aircraft work group), which extends the electric aircraft work group past its current expiration and allows WSDOT to employ a consultant to assist with the work group. If chapter . . . (House Bill No. 1397), Laws of 2019 is not enacted by June 30, 2019, \$200,000 of the amount in this subsection lapses)~~)).

(3) \$200,000 of the aeronautics account—state appropriation is provided solely for the department to convene an electric aircraft work group to study the state of the electrically powered aircraft industry and assess infrastructure needs related to the deployment of electric or hybrid-electric aircraft for commercial air travel in Washington state.

(a) The chair of the work group may be a consultant specializing in aeronautics. The work group must include, but is not limited to, representation from the electric aircraft industry, the aircraft manufacturing industry, electric utility districts, the battery industry, the department of commerce, the department of transportation aviation division, the airline pilots association, a primary airport representing an airport association, and the airline industry.

(b) The study must include, but is not limited to:

(i) Infrastructure requirements necessary to facilitate electric aircraft operations at airports;

(ii) Potential economic and public benefits including, but not limited to, the direct and indirect impact on the number of manufacturing and service jobs and the wages from those jobs in Washington state;

(iii) Potential incentives for industry in the manufacturing and operation of electric aircraft for regional air travel;

(iv) Educational and workforce requirements for manufacturing and maintaining electric aircraft;

(v) Demand and forecast for electric aircraft use to include expected timeline of the aircraft entering the market given federal aviation administration certification requirements;

(vi) Identification of up to six airports in Washington state that may benefit from a pilot program once an electrically propelled aircraft for commercial use becomes available; and

(vii) Recommendations to further the advancement of the electrification of aircraft for regional commercial use within Washington state, including specific, (~~(measurable))~~ measurable goals for the years 2030, 2040, and 2050 that reflect progressive and substantial increases in the utilization of electric and hybrid-electric commercial aircraft.

(c) The work group must submit a report and accompanying recommendations to the transportation committees of the legislature by November 15, 2020.

~~((d) If chapter . . . (House Bill No. 1397), Laws of 2019 is enacted by June 30, 2019, the amount provided in this subsection (3) lapses.))~~

(4) (~~(\$150,000)~~) \$350,000 of the aeronautics account—state appropriation is provided solely for the implementation of chapter 396 (~~((Substitute Senate~~

Bill No. 5370)), Laws of 2019 (aviation coordinating commission). ((If chapter 396 (Substitute Senate Bill No. 5370), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses:))

(5) Within amounts appropriated in this section, the aviation division of the department shall assist and consult with the department of revenue in their efforts to update the document titled "Washington Action Plan - FAA Policy Concerning Airport Revenue" to reflect changes to Washington tax code regarding hazardous substances. The department of revenue, in consultation with the aviation division of the Washington state department of transportation, is tasked with developing and recommending a methodology to segregate and track actual amounts collected from the hazardous substance tax under chapter 82.21 RCW and the petroleum products tax under chapter 82.23A RCW as imposed on aviation fuel. The department of revenue is directed to submit a report, including the recommended methodology, to the fiscal committees of the house of representatives and the senate by January 11, 2021.

Sec. 213. 2019 c 416 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM DELIVERY MANAGEMENT AND SUPPORT—PROGRAM H

Motor Vehicle Account—State Appropriation	(\$59,801,000)
	<u>\$59,788,000</u>
Motor Vehicle Account—Federal Appropriation	\$500,000
Multimodal Transportation Account—State Appropriation	\$258,000
TOTAL APPROPRIATION	(\$60,559,000)
	<u>\$60,546,000</u>

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

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

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

(b) Prior to completing the transfer in this subsection (1), the department must ensure that provisions are made to accommodate private and public utilities and any facilities that predate the department's acquisition of the property, at no cost to those entities. Prior to completing the transfer, the department shall also ensure that provisions, by fair market assessment, are made to accommodate other private and public utilities and any facilities that have been legally allowed by permit or other instrument.

(c) The department may sell any adjoining property that is not necessary to support the Rocky Reach Trail and adjacent buffer areas only after the transfer of

trail-related property to the Washington state parks and recreation commission is complete. Adjoining property owners must be given the first opportunity to acquire such property that abuts their property, and applicable boundary line or other adjustments must be made to the legal descriptions for recording purposes.

(2) With respect to Parcel 12 of the real property conveyed by the state of Washington to the city of Mercer Island under that certain quitclaim deed, dated April 19, 2000, recorded in King county under recording no. 20000425001234, the requirement in the deed that the property be used for road/street purposes only will be deemed satisfied by the department of transportation so long as commuter parking, as part of the vertical development of the property, is one of the significant uses of the property.

(3) \$1,600,000 of the motor vehicle account—state appropriation is provided solely for real estate services activities. Consistent with RCW 47.12.120 and during the 2019-2021 fiscal biennium, when initiating, extending, or renewing any rent or lease agreements with a regional transit authority, consideration of value must be equivalent to one hundred percent of economic or market rent.

(4)(a) \$100,000 of the motor vehicle account—state appropriation is provided solely for the department to:

(i) Determine the real property owned by the state of Washington and under the jurisdiction of the department in King county that is surplus property located in an area encompassing south of Dearborn Street in Seattle, south of Newcastle, west of SR 515, and north of South 216th to SR 515; and

(ii) Use any remaining funds after (a)(i) of this subsection is completed to identify additional real property across the state owned by the state of Washington and under the jurisdiction of the department that is surplus property.

(b) The department shall provide a report to the transportation committees of the legislature describing the properties it has identified as surplus property under (a) of this subsection by October 1, 2020.

Sec. 214. 2019 c 416 s 214 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC-PRIVATE PARTNERSHIPS—PROGRAM K

Motor Vehicle Account—State Appropriation	\$670,000
Electric Vehicle Account—State Appropriation	\$2,000,000
Multimodal Transportation Account—State Appropriation	\$1,634,000
TOTAL APPROPRIATION	\$4,304,000

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

(1) The economic partnerships program must continue to explore retail partnerships at state-owned park and ride facilities, as authorized in RCW 47.04.295.

(2) \$350,000 of the multimodal transportation account—state appropriation is provided solely for the department to execute a transit oriented development pilot project at Kingsgate park and ride in Kirkland intended to be completed by December 31, 2023. The purpose of the pilot project is to demonstrate how appropriate department properties may be used to provide multiple public benefits such as affordable and market rate housing, commercial development, and institutional facilities in addition to transportation purposes. To accomplish

the pilot project, the department is authorized to exercise all legal and administrative powers authorized in statute that may include, but is not limited to, the transfer, lease, or sale of some or all of the property to another governmental agency, public development authority, or nonprofit developer approved by the department and partner agencies. The department may also partner with sound transit, King county, the city of Kirkland, and any other federal, regional, or local jurisdiction on any policy changes necessary from those jurisdictions to facilitate the pilot project. By December 1, 2019, the department must report to the legislature on any legislative actions necessary to facilitate the pilot project and future transit oriented development projects.

(3) ~~\$2,000,000 of the electric vehicle account—state appropriation is provided solely for the clean alternative fuel vehicle charging and refueling infrastructure program in chapter 287 ((Engrossed Second Substitute House Bill No. 2042))), Laws of 2019 (advancing green transportation adoption). ((If chapter 287 (Engrossed Second Substitute House Bill No. 2042), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.))~~

(4) ~~\$1,200,000 of the multimodal transportation account—state appropriation is provided solely for the pilot program established under chapter 287 ((Engrossed Second Substitute House Bill No. 2042))), Laws of 2019 (advancing green transportation adoption) to provide clean alternative fuel vehicle use opportunities to underserved communities and low to moderate income members of the workforce not readily served by transit or located in transportation corridors with emissions that exceed federal or state emissions standards. ((If chapter 287 (Engrossed Second Substitute House Bill No. 2042), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.))~~

(5) ~~\$84,000 of the multimodal transportation account—state appropriation is provided solely for an interagency transfer to the department of commerce for the purpose of conducting a study as described in chapter 287 ((Engrossed Second Substitute House Bill No. 2042))), Laws of 2019 (advancing green transportation adoption) to identify opportunities to reduce barriers to electric vehicle adoption by lower income residents of the state through the use of vehicle and infrastructure financing assistance. ((If chapter 287 (Engrossed Second Substitute House Bill No. 2042), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.))~~

(6) Building on the information and experience gained from the transit oriented development project at the Kingsgate park and ride, the department must identify a pilot park and ride with future public-private partnership development potential in Pierce county and report back to the transportation committees of the legislature by June 30, 2021, with a proposal for moving forward with a pilot project.

Sec. 215. 2019 c 416 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE—PROGRAM M

Motor Vehicle Account—State Appropriation	(\$495,228,000)
	\$486,514,000
Motor Vehicle Account—Federal Appropriation	\$7,000,000
State Route Number 520 Corridor Account—State Appropriation	\$4,447,000

Tacoma Narrows Toll Bridge Account—State	
Appropriation	\$1,549,000
Alaskan Way Viaduct Replacement Project	
Account—State Appropriation	(\$9,533,000)
	<u>\$9,537,000</u>
Interstate 405 <u>and State Route Number 167</u> Express	
Toll Lanes ((Operations)) Account—State	
Appropriation	(\$1,370,000)
	<u>\$4,528,000</u>
TOTAL APPROPRIATION	(\$519,127,000)
	<u>\$513,575,000</u>

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

(1)(a) \$6,170,000 of the motor vehicle account—state appropriation is provided solely for utility fees assessed by local governments as authorized under RCW 90.03.525 for the mitigation of stormwater runoff from state highways. Plan and reporting requirements as required in chapter 435 (~~(Senate Bill No. 5505)~~), Laws of 2019 (Local Stormwater Charges) shall be consistent with the January 2012 findings of the Joint Transportation Committee Report for Effective Cost Recovery Structure for WSDOT, Jurisdictions, and Efficiencies in Stormwater Management.

(b) Pursuant to RCW 90.03.525(3), the department and the utilities imposing charges to the department shall negotiate with the goal of agreeing to rates such that the total charges to the department for the 2019-2021 fiscal biennium do not exceed the amount provided in this subsection. The department shall report to the transportation committees of the legislature on the amount of funds requested, the funds granted, and the strategies used to keep costs down, by January 17, 2021. If chapter 435 (~~(Senate Bill No. 5505)~~), Laws of 2019 (local stormwater charges) is enacted by June 30, 2019, this subsection (1)(b) does not take effect.

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

(3) \$1,549,000 of the Tacoma Narrows toll bridge account—state appropriation is provided solely to maintain the new Tacoma Narrows bridge. These funds must be used in accordance with RCW 47.56.830(3).

(4) (~~(\$1,370,000)~~) \$2,050,000 of the Interstate 405 and state route number 167 express toll lanes (~~(operations)~~) account—state appropriation is provided solely to maintain the Interstate 405 and state route number 167 express toll lanes between Lynnwood and Bellevue, and Renton and the southernmost point of the express toll lanes. These funds must be used in accordance with RCW 47.56.830(3).

(5) \$2,478,000 of the Interstate 405 and state route number 167 express toll lanes account—state appropriation is provided solely for maintenance for the 2019-2021 fiscal biennium only on the Interstate 405 roadway between Renton and Bellevue.

(6) \$5,000,000 of the motor vehicle account—state appropriation is provided solely for a contingency pool for snow and ice removal. The

department must notify the office of financial management and the transportation committees of the legislature when they have spent the base budget for snow and ice removal and will begin using the contingency pool funding.

((6)) (7) \$1,025,000 of the motor vehicle account—state appropriation is provided solely for the department to implement safety improvements and debris clean up on department-owned rights-of-way in the city of Seattle at levels above that being implemented as of January 1, 2019. The department must contract out or hire a crew dedicated solely to collecting and disposing of garbage, clearing debris or hazardous material, and implementing safety improvements where hazards exist to the traveling public, department employees, or people encamped upon department-owned rights-of-way. The department may request assistance from the Washington state patrol as necessary in order for both agencies to provide enhanced safety-related activities regarding the emergency hazards along state highway rights-of-way in the Seattle area.

((7)) (8) \$1,015,000 of the motor vehicle account—state appropriation is provided solely for a partnership program between the department and the city of Tacoma. The program shall address the safety and public health problems created by homeless encampments on the department's property along state highways within the city limits. \$570,000 is for dedicated department maintenance staff and associated clean-up costs. The department and the city of Tacoma shall enter into a reimbursable agreement to cover up to \$445,000 of the city's expenses for clean-up crews and landfill costs.

((8)) (9) The department must commence a pilot program for the 2019-2021 fiscal biennium at the four highest demand safety rest areas to create and maintain an online calendar for volunteer groups to check availability of weekends for the free coffee program. The calendar must be updated at least weekly and show dates and times that are, or are not, available to participate in the free coffee program. The department must submit a report to the legislature on the ongoing pilot by December 1, 2020, outlining the costs and benefits of the online calendar pilot, and including surveys from the volunteer groups and agency staff to determine its effectiveness.

Sec. 216. 2019 c 416 s 216 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—OPERATING

Motor Vehicle Account—State Appropriation	((\$70,681,000))
	<u>\$76,211,000</u>
Motor Vehicle Account—Federal Appropriation	\$2,050,000
Motor Vehicle Account—Private/Local Appropriation	\$250,000
<u>State Route Number 520 Corridor Account—State</u>	
<u>Appropriation.</u>	<u>\$53,000</u>
<u>Tacoma Narrows Toll Bridge Account—State Appropriation</u>	<u>\$31,000</u>
<u>Alaskan Way Viaduct Replacement Project Account—</u>	
<u>State Appropriation</u>	<u>\$26,000</u>
<u>Interstate 405 and State Route Number 167 Express</u>	
<u>Toll Lanes Account—State Appropriation</u>	<u>\$32,000</u>
TOTAL APPROPRIATION	((\$72,981,000))
	<u>\$78,653,000</u>

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

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

(2)(a) During the 2019-2021 fiscal biennium, the department shall continue a pilot program that expands private transportation providers' access to high occupancy vehicle lanes. Under the pilot program, when the department reserves a portion of a highway based on the number of passengers in a vehicle, the following vehicles must be authorized to use the reserved portion of the highway if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles. For purposes of this subsection, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees. Nothing in this subsection is intended to authorize the conversion of public infrastructure to private, for-profit purposes or to otherwise create an entitlement or other claim by private users to public infrastructure.

(b) The department shall expand the high occupancy vehicle lane access pilot program to vehicles that deliver or collect blood, tissue, or blood components for a blood-collecting or distributing establishment regulated under chapter 70.335 RCW. Under the pilot program, when the department reserves a portion of a highway based on the number of passengers in a vehicle, blood-collecting or distributing establishment vehicles that are clearly and identifiably marked as such on all sides of the vehicle are considered emergency vehicles and must be authorized to use the reserved portion of the highway.

(c) The department shall expand the high occupancy vehicle lane access pilot program to organ transport vehicles transporting a time urgent organ for an organ procurement organization as defined in RCW 68.64.010. Under the pilot program, when the department reserves a portion of a highway based on the number of passengers in a vehicle, organ transport vehicles that are clearly and identifiably marked as such on all sides of the vehicle are considered emergency vehicles and must be authorized to use the reserved portion of the highway.

(d) The department shall expand the high occupancy vehicle lane access pilot program to private, for hire vehicles regulated under chapter 81.72 RCW that have been specially manufactured, designed, or modified for the transportation of a person who has a mobility disability and uses a wheelchair or other assistive device. Under the pilot program, when the department reserves a portion of a highway based on the number of passengers in a vehicle, wheelchair-accessible taxicabs that are clearly and identifiably marked as such

on all sides of the vehicle are considered public transportation vehicles and must be authorized to use the reserved portion of the highway.

~~((4))~~ (e) Nothing in this subsection (2) is intended to exempt these vehicles from paying tolls when they do not meet the occupancy requirements established by the department for ~~((high occupancy))~~ express toll lanes.

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

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

(5) \$32,000 of the Interstate 405 and state route number 167 express toll lanes account—state appropriation, \$53,000 of the state route number 520 corridor account—state appropriation, \$31,000 of the Tacoma Narrows toll bridge account—state appropriation, and \$26,000 of the Alaskan Way viaduct replacement project account—state appropriation are provided solely for the traffic operations program's proportional share of time spent supporting tolling operations for the respective tolling facilities.

Sec. 217. 2019 c 416 s 217 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—

TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S

Motor Vehicle Account—State Appropriation~~(((\$38,782,000))~~

\$38,251,000

Motor Vehicle Account—Federal Appropriation \$1,380,000

Motor Vehicle Account—Private/Local Appropriation \$500,000

Multimodal Transportation Account—State

Appropriation \$1,129,000

State Route Number 520 Corridor Account—State

Appropriation \$199,000

Tacoma Narrows Toll Bridge Account—State Appropriation \$116,000

Alaskan Way Viaduct Replacement Project Account—

State Appropriation \$100,000

Interstate 405 and State Route Number 167 Express

Toll Lanes Account—State Appropriation \$119,000

TOTAL APPROPRIATION~~(((\$41,791,000))~~

\$41,794,000

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

(1) \$2,000,000 of the motor vehicle account—state appropriation is provided solely for a grant program that makes awards for the following: (a) Support for nonprofit agencies, churches, and other entities to help provide outreach to populations underrepresented in the current apprenticeship programs; (b) preapprenticeship training; and (c) child care, transportation, and other supports that are needed to help women, veterans, and minorities enter and succeed in apprenticeship. The department must report on grants that have been awarded and the amount of funds disbursed by December 1st each year. If moneys are provided in the omnibus operating appropriations act for a career connected learning grant program, defined in chapter . . . (Substitute House Bill

No. 1336), Laws of 2019, or otherwise, the amount provided in this subsection lapses.

(2) \$150,000 of the motor vehicle account—state appropriation is provided solely for a user-centered and mobile-compatible web site redesign using estimated web site ad revenues.

(3) From the revenues generated by the five dollar per studded tire fee under RCW 46.37.427, \$250,000 of the motor vehicle account—state appropriation is provided solely for the department, in consultation with the appropriate local jurisdictions and relevant stakeholder groups, to establish a pilot media-based public information campaign regarding the damage of studded tire use on state and local roadways in Whatcom county, and to continue the existing pilot information campaign in Spokane county. The reason for the geographic selection of Spokane and Whatcom counties is based on the high utilization of studded tires in these jurisdictions. The public information campaigns must primarily focus on making the consumer aware of the safety implications for other drivers, road deterioration, financial impact for taxpayers, and, secondarily, the alternatives to studded tires. The Whatcom county pilot media-based public information campaign must begin by September 1, 2020. By January 14, 2021, the department must provide the transportation committees of the legislature an update on the Spokane and Whatcom county pilot media-based public information campaigns.

(4) ~~(((\$138,000 of the motor vehicle account state appropriation is provided solely for the implementation of chapter . . . (Second Substitute Senate Bill No. 5489), Laws of 2019 (concerning environmental health disparities). If chapter . . . (Second Substitute Senate Bill No. 5489), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses)) \$119,000 of the Interstate 405 and state route number 167 express toll lanes account—state appropriation, \$199,000 of the state route number 520 corridor account—state appropriation, \$116,000 of the Tacoma Narrows toll bridge account—state appropriation, and \$100,000 of the Alaskan Way viaduct replacement project account—state appropriation are provided solely for the transportation management and support program's proportional share of time spent supporting tolling operations for the respective tolling facilities.~~

Sec. 218. 2019 c 416 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—
TRANSPORTATION PLANNING, DATA, AND RESEARCH—
PROGRAM T**

~~((High Occupancy)) Interstate 405 and State Route
Number 167 Express Toll Lanes ((Operations))~~

Account—State Appropriation	(((\$3,000,000))
	<u>\$3,123,000</u>
Motor Vehicle Account—State Appropriation	(((\$29,403,000))
	<u>\$26,587,000</u>
Motor Vehicle Account—Federal Appropriation	(((\$29,485,000))
	<u>\$35,385,000</u>
Motor Vehicle Account—Private/Local Appropriation	(((\$800,000))
	<u>\$1,200,000</u>
Multimodal Transportation Account—State Appropriation	\$710,000
Multimodal Transportation Account—Federal	

Appropriation	\$2,809,000
Multimodal Transportation Account—Private/Local	
Appropriation	\$100,000
<u>State Route Number 520 Corridor Account—State</u>	
<u>Appropriation</u>	<u>\$763,000</u>
<u>Tacoma Narrows Toll Bridge Account—State Appropriation</u>	<u>\$121,000</u>
<u>Alaskan Way Viaduct Replacement Project Account—</u>	
<u>State Appropriation</u>	<u>\$104,000</u>
TOTAL APPROPRIATION	(((\$66,307,000)) \$70,902,000

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

(1) \$130,000 of the motor vehicle account—state appropriation is provided solely for completion of a corridor study to identify potential improvements between exit 116 and exit 99 of Interstate 5. The study should further develop mid- and long-term strategies from the corridor sketch, and identify potential US 101/I-5 interchange improvements, a strategic plan for the Nisqually River bridges, regional congestion relief options, and ecosystem benefits to the Nisqually River estuary for salmon productivity and flood control.

(2) The study on state route number 518 referenced in section 218(5), chapter 297, Laws of 2018 must be submitted to the transportation committees of the legislature by November 30, 2019.

(3) \$100,000 of the motor vehicle account—state appropriation is provided solely to complete the Tacoma mall direct access feasibility study.

(4) \$4,600,000 of the motor vehicle account—federal appropriation is provided solely to complete the road usage charge pilot project overseen by the transportation commission using the remaining unspent amount of the federal grant award. The purpose of the road usage charge pilot project is to explore the viability of a road usage charge as a possible replacement for the gas tax.

(5) \$3,000,000 of the ~~((high occupancy))~~ Interstate 405 and state route number 167 express toll lanes ~~((operations))~~ account—state appropriation is provided solely for updating the state route number 167 master plan. If ~~((neither))~~ chapter 421 ~~((Engrossed Substitute Senate Bill No. 5825))~~, Laws of 2019 (addressing tolling) ~~((nor chapter . . . (House Bill No. 2132), Laws of 2019 (addressing tolling))~~ is not enacted by June 30, 2019, the amount provided in this subsection lapses.

(6) \$123,000 of the Interstate 405 and state route number 167 express toll lanes account—state appropriation, \$207,000 of the state route number 520 corridor account—state appropriation, \$121,000 of the Tacoma Narrows toll bridge account—state appropriation, and \$104,000 of the Alaskan Way viaduct replacement project account—state appropriation are provided solely for the transportation planning, data, and research program's proportional share of time spent supporting tolling operations for the respective tolling facilities.

(7) By December 31, 2020, the department shall provide to the governor and the transportation committees of the legislature a report examining the feasibility of doing performance-based evaluations for projects. The department must incorporate feedback from stakeholder groups, including traditionally underserved and historically disadvantaged populations, and the report shall

include the project evaluation procedures that would be used for the performance-based evaluation.

(8) \$556,000 of the state route number 520 corridor account—state appropriation is provided solely for the department to contract with the University of Washington department of mechanical engineering, to study measures to reduce noise impacts from the state route number 520 bridge expansion joints. The field testing shall be scheduled during existing construction, maintenance, or other scheduled closures to minimize impacts. The testing must also ensure safety of the traveling public. The study shall examine testing methodologies and project timelines and costs. A final report must be submitted to the transportation committees of the legislature and the governor by December 1, 2021.

(9) \$5,900,000 of the motor vehicle account—federal appropriation and \$400,000 of the motor vehicle account—private/local appropriation are provided solely for delivery of the department's state planning and research work program and pooled fund research projects, provided that the department may not expend any amounts provided in this section on a long-range plan or corridor scenario analysis for I-5 from Tumwater to Marysville. This is not intended to reference or impact: The existing I-5 corridor from Mounts road to Tumwater design and operations alternatives analysis; design studies related to HOV lanes or operations; or where it is necessary to continue design and operations analysis related to projects already under development.

Sec. 219. 2019 c 416 s 219 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM OTHER AGENCIES—PROGRAM U

Motor Vehicle Account—State Appropriation	.....(((\$71,996,000))	\$79,474,000
Multimodal Transportation Account—State Appropriation	.....(((\$2,491,000))	\$2,833,000
<u>Interstate 405 and State Route Number 167 Express</u>		
<u>Toll Lanes Account—State Appropriation</u>	.....	\$122,000
<u>State Route Number 520 Corridor Account—State Appropriation</u>	.....	\$205,000
<u>Tacoma Narrows Toll Bridge Account—State Appropriation</u>	.....	\$120,000
<u>Alaskan Way Viaduct Replacement Project Account—State Appropriation</u>	.....	\$102,000
TOTAL APPROPRIATION	.....(((\$74,487,000))	\$82,856,000

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

(1) ((Prior to entering into)) Consistent with existing protocol and practices, for any negotiated settlement of a claim against the state for the department that exceeds five million dollars, the department, in conjunction with the attorney general and the department of enterprise services, shall notify the director of the office of financial management and the transportation committees of the legislature.

(2) Beginning October 1, 2019, and quarterly thereafter, the department, in conjunction with the attorney general and the department of enterprise services, shall provide a report with judgments and settlements dealing with the Washington state ferry system to the director of the office of financial management and the transportation committees of the legislature. The report must include information on: (a) The number of claims and settlements by type; (b) the average claim and settlement by type; (c) defense costs associated with those claims and settlements; and (d) information on the impacts of moving legal costs associated with the Washington state ferry system into the statewide self-insurance pool.

(3) Beginning October 1, 2019, and quarterly thereafter, the department, in conjunction with the attorney general and the department of enterprise services, shall provide a report with judgments and settlements dealing with the nonferry operations of the department to the director of the office of financial management and the transportation committees of the legislature. The report must include information on: (a) The number of claims and settlements by type; (b) the average claim and settlement by type; and (c) defense costs associated with those claims and settlements.

(4) \$122,000 of the Interstate 405 and state route number 167 express toll lanes account—state appropriation, \$205,000 of the state route number 520 corridor account—state appropriation, \$120,000 of the Tacoma Narrows toll bridge account—state appropriation, and \$102,000 of the Alaskan Way viaduct replacement project account—state appropriation are provided solely for the charges from other agencies' program's proportional share of supporting tolling operations for the respective tolling facilities.

(5) When the department identifies significant legal issues that have potential transportation budget implications, the department must initiate a briefing for appropriate legislative members or staff through the office of the attorney general and its legislative briefing protocol.

*Sec. 220. 2019 c 416 s 220 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC TRANSPORTATION—PROGRAM V

State Vehicle Parking Account—State Appropriation	\$784,000
Regional Mobility Grant Program Account—State Appropriation	(\$96,630,000) <u>\$88,698,000</u>
Rural Mobility Grant Program Account—State Appropriation	\$32,223,000
Multimodal Transportation Account—State Appropriation	(\$128,554,000) <u>\$122,355,000</u>
Multimodal Transportation Account—Federal Appropriation	\$3,574,000
Multimodal Transportation Account—Local Appropriation	\$100,000
TOTAL APPROPRIATION	(\$261,865,000) <u>\$247,734,000</u>

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

(1) (~~(\$62,679,000)~~) \$62,698,000 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. (~~(If chapter 287 (Engrossed Second Substitute House Bill No. 2042), Laws of 2019 (advancing green transportation adoption) is not enacted by June 30, 2019, \$10,000,000 of the amount in this subsection lapses.)~~) Of this amount:

(a) (~~(\$14,278,000)~~) \$14,297,000 of the multimodal transportation account—state appropriation is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers must be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided. (~~(If chapter 287 (Engrossed Second Substitute House Bill No. 2042), Laws of 2019 (advancing green transportation adoption) is not enacted by June 30, 2019, \$2,278,000 of the amount in this subsection lapses.)~~)

(b) \$48,401,000 of the multimodal transportation account—state appropriation is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must, to the greatest extent practicable, have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies must be prorated based on the amount expended for demand response service and route deviated service in calendar year 2017 as reported in the "Summary of Public Transportation - 2017" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions. (~~(If chapter 287 (Engrossed Second Substitute House Bill No. 2042), Laws of 2019 (advancing green transportation adoption) is not enacted by June 30, 2019, \$7,722,000 of the amount in this subsection lapses.)~~)

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

(3)(a) (~~(\$10,290,000)~~) \$10,539,000 of the multimodal transportation account—state appropriation is provided solely for a vanpool grant program for:

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

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

(4) (~~(\$18,951,000)~~) \$27,483,000 of the regional mobility grant program account—state appropriation is reappropriated and provided solely for the regional mobility grant projects identified in LEAP Transportation Document

~~((2019-2))~~ 2020-2 ALL PROJECTS as developed (~~(April 27, 2019))~~ March 11, 2020, Program - Public Transportation Program (V).

(5)(a) (~~(\$77,679,000)~~) \$61,215,000 of the regional mobility grant program account—state appropriation is provided solely for the regional mobility grant projects identified in LEAP Transportation Document (~~(2019-2))~~ 2020-2 ALL PROJECTS as developed (~~(April 27, 2019))~~ March 11, 2020, Program - Public Transportation Program (V). The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any remaining funds must be used only to fund projects identified in the LEAP transportation document referenced in this subsection. The department shall provide annual status reports on December 15, 2019, and December 15, 2020, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule. A grantee may not receive more than twenty-five percent of the amount appropriated in this subsection. Additionally, when allocating funding for the 2021-2023 biennium, no more than thirty percent of the total grant program may directly benefit or support one grantee. The department shall not approve any increases or changes to the scope of a project for the purpose of a grantee expending remaining funds on an awarded grant.

(b) In order to be eligible to receive a grant under (a) of this subsection during the 2019-2021 fiscal biennium, a transit agency must establish a process for private transportation providers to apply for the use of park and ride facilities. For purposes of this subsection, (i) "private transportation provider" means: An auto transportation company regulated under chapter 81.68 RCW; a passenger charter carrier regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; a private nonprofit transportation provider regulated under chapter 81.66 RCW; or a private employer transportation service provider; and (ii) "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees.

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

(7) \$7,670,000 of the multimodal transportation account—state appropriation and \$784,000 of the state vehicle parking account—state appropriation are provided solely for CTR grants and activities. Of this amount:

(a) \$1,000,000 of the multimodal transportation account—state appropriation is provided solely for the department to continue a pilot transit pass incentive program. Businesses and nonprofit organizations located in a county adjacent to Puget Sound with a population of more than seven hundred thousand that have never offered transit subsidies to employees are eligible to apply to the program for a fifty percent rebate on the cost of employee transit subsidies provided through the regional ORCA fare collection system. No single

business or nonprofit organization may receive more than ten thousand dollars from the program.

(i) Businesses and nonprofit organizations may apply and be awarded funds prior to purchasing a transit subsidy, but the department may not provide reimbursement until proof of purchase or a contract has been provided to the department.

(ii) The department shall update the transportation committees of the legislature on the impact of the program by January 31, 2020, and may adopt rules to administer the program.

(b) \$30,000 of the state vehicle parking account—state appropriation is provided solely for the STAR pass program for state employees residing in Mason and Grays Harbor Counties. Use of the pass is for public transportation between Mason County and Thurston County, and Grays Harbor and Thurston County. The pass may also be used within Grays Harbor County. The STAR pass commute trip reduction program is open to any state employee who expresses intent to commute to his or her assigned state worksite using a public transit system currently participating in the STAR pass program.

(c) \$1,000,000 of the multimodal transportation account—state appropriation is provided solely for a first mile/last mile connections grant program. Eligible grant recipients include cities, businesses, nonprofits, and transportation network companies with first mile/last mile solution proposals. Transit agencies are not eligible. The commute trip reduction board shall develop grant parameters, evaluation criteria, and evaluate grant proposals. The commute trip reduction board shall provide the transportation committees of the legislature a report on the effectiveness of this grant program and best practices for continuing the program.

(8) Except as provided otherwise in this subsection, (~~(\$28,048,000)~~) \$33,370,000 of the multimodal transportation account—state appropriation is provided solely for connecting Washington transit projects identified in LEAP Transportation Document (~~(2019-2)~~) 2020-2 ALL PROJECTS as developed (~~(April 27, 2019)~~) March 11, 2020. It is the intent of the legislature that entities identified to receive funding in the LEAP document referenced in this subsection receive the amounts specified in the time frame specified in that LEAP document. If an entity has already completed a project in the LEAP document referenced in this subsection before the time frame identified, the entity may substitute another transit project or projects that cost a similar or lesser amount.

(9) (~~(\$2,000,000)~~) \$1,000,000 of the multimodal transportation account—state appropriation is provided solely for transit coordination grants.

(10) The department shall not require more than a ten percent match from nonprofit transportation providers for state grants.

(11)(a) For projects funded as part of the 2015 connecting Washington transportation package listed on the LEAP transportation document identified in subsection (4) of this section, if the department expects to have substantial reappropriations for the 2021-2023 fiscal biennium, the department may, on a pilot basis, apply funding from a project with an appropriation that cannot be used for the current fiscal biennium to advance one or more of the following projects:

(i) King County Metro - RapidRide Expansion, Burien-Delridge (G2000031);

- (ii) King County Metro - Route 40 Northgate to Downtown (G2000032);
- (iii) Mason Transit Park & Ride Development (G2000042); or
- (iv) Pierce Transit - SR 7 Express Service (~~((G2000046))~~) (G2000045).

(b) At least ten business days before advancing a project pursuant to this subsection, the department must notify the office of financial management and the transportation committees of the legislature. The advancement of a project may not hinder the delivery of the projects for which the reappropriations are necessary for the 2021-2023 fiscal biennium.

(c) To the extent practicable, the department shall use the flexibility and authority granted in this section to minimize the amount of reappropriations needed each biennium.

(12) \$750,000 of the multimodal transportation account—state appropriation is provided solely for Intercity Transit for the Dash shuttle program.

(13)(a) \$485,000 of the multimodal transportation account—state appropriation is provided solely for King county for:

(i) An expanded pilot program to provide certain students in the Highline, Tukwila, and Lake Washington school districts with an ORCA card during these school districts' summer vacations. In order to be eligible for an ORCA card under this program, a student must also be in high school, be eligible for free and reduced-price lunches, and have a job or other responsibility during the summer; and

(ii) Providing administrative support to other interested school districts in King county to prepare for implementing similar programs for their students.

(b) King county must provide a report to the department and the transportation committees of the legislature by December 15, 2021, regarding:

- (i) The annual student usage of the pilot program;
- (ii) Available ridership data;

(iii) A cost estimate, including a detailed description of the various expenses leading to the cost estimate, and any other factors relevant to expanding the program to other King county school districts;

(iv) A cost estimate, including a detailed description of the various expenses leading to the cost estimate, and any other factors relevant to expanding the program to student populations other than high school or eligible for free and reduced-price lunches;

(v) Opportunities for subsidized ORCA cards or local grant or matching funds; and

(vi) Any additional information that would help determine if the pilot program should be extended or expanded.

(14) \$12,000,000 of the multimodal transportation account—state appropriation is provided solely for the green transportation capital grant program established in chapter 287 (~~((Engrossed Second Substitute House Bill No. 2042))~~), Laws of 2019 (advancing green transportation adoption). (~~((If chapter 287 (Engrossed Second Substitute House Bill No. 2042), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.))~~)

(15) \$555,000 of the multimodal transportation account—state appropriation is provided solely for an interagency transfer to the Washington State University extension energy program to establish and administer a technical assistance and education program for public agencies on the use of

alternative fuel vehicles. ((If chapter 287 (Engrossed Second Substitute House Bill No. 2042), Laws of 2019 (advancing green transportation adoption) is not enacted by June 30, 2019, \$375,000 of the amount provided in this subsection lapses.))

(16) As a short-term solution, appropriation authority for the public transportation program in this section is reduced to reflect anticipated underruns in this program, based on historical reappropriation levels. It is the intent of the legislature that no public transportation grants or projects be eliminated or substantially delayed as a result of revenue reductions.

(17) The appropriations in this section include savings due to anticipated project underruns; however, it is unknown which projects will provide savings. The legislature intends to provide sufficient flexibility for the department to manage to this savings target. To provide this flexibility, the office of financial management may authorize, through an allotment modification, reductions in the appropriated amounts that are provided solely for a particular purpose within this section subject to the following conditions and limitations:

(a) No allotment modifications may be made to amounts provided solely for the special needs transportation grant program;

(b) The department must confirm that any modification requested under this subsection of amounts provided solely for a specific purpose are not expected to be used for that purpose in this biennium;

(c) Allotment modifications authorized under this subsection may not result in increased funding for any project beyond the amount provided for that project in the 2019-2021 fiscal biennium in LEAP Transportation Document 2020-2 ALL PROJECTS as developed March 11, 2020;

(d) Allotment modifications authorized under this subsection apply only to amounts appropriated in this section from the multimodal transportation account—state; and

(e) By December 1, 2020, the department must submit a report to the transportation committees of the legislature regarding the actions taken under this subsection.

(18)(a) The Washington state department of transportation public transportation division, working with the Thurston regional planning council, shall provide state agency management, the office of financial management, and the transportation committees of the legislature with results of their regional mobility grant program demonstration project I-5/US 101 Practical Solutions: State Capitol Campus Transportation Demand Management - Mobile Work. This includes reporting after the 2020 legislative session on the measurable results of an early pilot initiative, "Telework Tuesday," beginning in January 2020.

(b) Capitol campus state agency management is directed to fully participate in this work, which aims to reduce greenhouse gases, require less office space and parking investments; provide low cost congestion relief on I-5 during peak periods, US 101, and the local transportation network; and improve retention and recruitment of public employees. The agencies should actively: Encourage employees qualified to telework to participate in this program and increase the number of employees who qualify for mobile work and schedule shifts.

(c) If measurable success is achieved, the capitol campus state agencies shall provide options to expand the project to other jurisdictions concentrated

with large employers. Expansion and encouragement of telework will help reduce demand on the transportation system, reduce traffic during peak hours, and reduce greenhouse gas emissions.

**Sec. 220 is partially vetoed. See message at end of chapter.*

Sec. 221. 2019 c 416 s 221 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X

Motor Vehicle Account—State Appropriation	\$250,000
Puget Sound Ferry Operations Account—State Appropriation	(\$540,746,000)
	<u>\$545,997,000</u>
Puget Sound Ferry Operations Account—Federal Appropriation	\$7,932,000
Puget Sound Ferry Operations Account—Private/Local Appropriation	\$121,000
TOTAL APPROPRIATION	(\$549,049,000)
	<u>\$554,300,000</u>

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

(1) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2019-2021 supplemental and 2021-2023 omnibus transportation appropriations act requests, as determined jointly by the office of financial management, the Washington state ferries, and the transportation committees of the legislature. This level of detail must include the administrative functions in the operating as well as capital programs.

(2) For the 2019-2021 fiscal biennium, the department may enter into a distributor controlled fuel hedging program and other methods of hedging approved by the fuel hedging committee, which must include a representative of the department of enterprise services.

(3) (~~(\$76,261,000)~~) \$73,161,000 of the Puget Sound ferry operations account—state appropriation is provided solely for auto ferry vessel operating fuel in the 2019-2021 fiscal biennium, which reflect cost savings from a reduced biodiesel fuel requirement and, therefore, is contingent upon the enactment of section 703 (~~(of this act)~~), chapter 416, Laws of 2019. The amount provided in this subsection represents the fuel budget for the purposes of calculating any ferry fare fuel surcharge. The department shall review future use of alternative fuels and dual fuel configurations, including hydrogen.

(4) \$650,000 of the Puget sound ferry operations account—state appropriation is provided solely for increased staffing at Washington ferry terminals to meet increased workload and customer expectations. Within the amount provided in this subsection, the department shall contract with uniformed officers for additional traffic control assistance at the Kingston ferry terminal during peak ferry travel times, with a particular focus on Sundays and holiday weekends. Traffic control methods should include, but not be limited to, holding traffic on the shoulder at Lindvog Road until space opens for cars at the tollbooths and dock, and management of traffic on Highway 104 in order to

ensure Kingston residents and business owners have access to businesses, roads, and driveways.

(5) \$254,000 of the Puget Sound ferry operations account—state appropriation is provided solely for a dedicated inventory logistics manager on a one-time basis.

(6) \$500,000 of the Puget Sound ferry operations account—state appropriation is provided solely for operating costs related to moving vessels for emergency capital repairs. Funds may only be spent after approval by the office of financial management.

(7) By January 1, 2020, the ferries division must submit a workforce plan for reducing overtime due to shortages of staff available to fill vacant crew positions. The plan must include numbers of crew positions being filled by staff working overtime, strategies for filling these positions with straight time employees, progress toward implementing those strategies, and a forecast for when overtime expenditures will return to historical averages.

(8) \$160,000 of the Puget Sound ferry operations account—state appropriation is provided solely for a ferry fleet baseline noise study, conducted by a consultant, for the purpose of establishing plans and data-driven goals to reduce ferry noise when Southern resident orca whales are present. In addition, the study must establish prioritized strategies to address vessels serving routes with the greatest exposure to orca whale movements.

(9)(a) \$250,000 of the motor vehicle account—state appropriation is provided solely for the department, in consultation with the Washington state transportation center, to develop a plan for service on the triangle route with a goal of providing maximum sailings moving the most passengers to all stops in the least travel time, including waits between sailings, within budget and resource constraints.

(b) The Washington state transportation center must use new traffic management models and scheduling tools to examine proposed improvements for the triangle route. The department shall report to the standing transportation committees of the legislature by January 15, 2021. The report must include:

(i) Implementation and status of data collection, modeling, scheduling, capital investments, and procedural improvements to allow Washington state ferries to schedule more sailings to and from all stops on the triangle route with minimum time between sailings;

(ii) Recommendations for emergency boat allocations, regular schedule policies, and emergency schedule policies based on all customers alternative travel options to ensure that any dock with no road access is prioritized in scheduling and scheduled service is provided based on population size, demographics, and local medical services;

(iii) Triangle route pilot economic analysis of Washington state ferries fare revenue and fuel cost impact of offering additional, better spaced sailings;

(iv) Results of an economic analysis of the return on investment of potentially acquiring and using traffic control infrastructure, technology, walk on loading bridges, and Good-to-Go and ORCA replacement of current fare sales, validation, collections, accounting, and all associated labor and benefits costs that can be saved via those capital investments; and

(v) Recommendation on policies, procedures, or agency interpretations of statute that may be adopted to mitigate any delays or disruptions to scheduled sailings.

~~((e) If at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection (9) lapses.))~~

(10) \$15,139,000 of the Puget Sound ferry operations account—state appropriation is provided solely for training. Of the amount provided in this subsection:

(a) \$2,500,000 is for training for new employees.

(b) \$160,000 is for electronic chart display and information system training.

(c) \$379,000 is for marine evacuation slide training.

(11) \$1,600,000 of the Puget Sound ferry operations account—state appropriation is provided solely for naval architecture staff support for the marine maintenance program.

(12) \$336,000 of the Puget Sound ferry operations account—state appropriation is provided solely for inspections of fall restraint systems.

(13) \$4,361,000 of the Puget Sound ferry operations account—state appropriation is provided solely for overtime expenses incurred by engine and deck crew members.

(14) \$1,200,000 of the Puget Sound ferry operations account—state appropriation is provided solely for familiarization for new assignments of engine crew and terminal staff.

(15) \$100,000 of the Puget Sound ferry operations account—state appropriation is provided solely to develop a plan for upgrading a second vessel to meet the international convention for the safety of life at sea standards. The plan must identify the option with the lowest impacts to sailing schedules.

Sec. 222. 2019 c 416 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—OPERATING

Multimodal Transportation Account—State

Appropriation(((\$75,576,000))
\$70,244,000

Multimodal Transportation Account—Private/Local

Appropriation\$717,000

Multimodal Transportation Account—Federal

Appropriation\$500,000

TOTAL APPROPRIATION(((\$76,793,000))
\$71,461,000

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

(1)(a)(i) \$224,000 of the multimodal transportation account—state appropriation and \$671,000 of the multimodal transportation account—private/local appropriation are provided solely for continued analysis of the ultra high-speed ground transportation corridor in a new study, with participation

from Washington, Oregon, and British Columbia. No funds may be expended until the department is in receipt of \$671,000 in private/local funding provided solely for this purpose.

(ii) The ultra high-speed ground transportation corridor advisory group must include legislative membership.

(iii) "Ultra high-speed" means a maximum testing speed of at least two hundred fifty miles per hour.

(b) The study must consist of the following:

(i) Development of proposed corridor governance, general powers, operating structure, legal instruments, and contracting requirements, in the context of the roles of relevant jurisdictions, including federal, state, provincial, and local governments;

(ii) ~~((An assessment of current laws in state and provincial jurisdictions and identification of any proposed changes to laws, regulations, and/or agreements that are needed to proceed with development))~~ Development of a long-term funding and financing strategy for project initiation, development, construction, and program administration of the high-speed corridor, building on the funding and financing chapter of the 2019 business case analysis and aligned with the recommendations of (b)(i) of this subsection; and

(iii) Development of ~~((general recommendations for the authorization needed to advance the development of the corridor))~~ recommendations for a department-led ultra-high speed corridor engagement plan for policy leadership from elected officials.

(c) This study must build on the results of the 2018 Washington state ultra high-speed ground transportation business case analysis and the 2019 Washington state ultra high-speed ground transportation study findings report. The department shall consult with the transportation committees of the legislature regarding all issues related to proposed corridor governance.

~~((e))~~ (d) The development work referenced in (b) of this subsection is intended to identify and make recommendations related to specific entities, including interjurisdictional entities, policies, and processes required for the purposes of furthering preliminary analysis efforts for the ultra high-speed ground transportation corridor. This development work is not intended to authorize one or more entities to assume decision making authority for the design, construction, or operation of an ultra high-speed rail corridor.

~~((d))~~ (e) By December 1, 2020, the department shall provide to the governor and the transportation committees of the legislature a report of the study's findings regarding the three elements noted in this subsection. As applicable, the report should also be sent to the executive and legislative branches of government in the state of Oregon and appropriate government bodies in the province of British Columbia.

(2) The department is directed to continue to pursue efforts to reduce costs, increase ridership, and review Amtrak Cascades fares and fare schedules. Within thirty days of each annual cost/revenue reconciliation under the Amtrak service contract, the department shall report annual credits to the office of financial management and the legislative transportation committees. Annual credits from Amtrak to the department including, but not limited to, credits due to higher ridership, reduced level of service, and fare or fare schedule adjustments, must

be used to offset corresponding amounts of the multimodal transportation account—state appropriation, which must be placed in reserve.

Sec. 223. 2019 c 416 s 223 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—OPERATING

Motor Vehicle Account—State Appropriation	.....	(\$12,190,000)
		<u>\$12,187,000</u>
Motor Vehicle Account—Federal Appropriation	.....	\$2,567,000
Multiuse Roadway Safety Account—State Appropriation	.....	(\$132,000)
		<u>\$450,000</u>
Multimodal Transportation Account—State		
Appropriation	.....	\$350,000
TOTAL APPROPRIATION	.....	(\$15,239,000)
		<u>\$15,554,000</u>

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

(1) \$350,000 of the multimodal transportation account—state appropriation is provided solely for a study by the Puget Sound regional council of new passenger ferry service to better connect communities throughout the twelve county Puget Sound region. The study must assess potential new routes, identify future terminal locations, and provide recommendations to accelerate the electrification of the ferry fleet. The study must identify future passenger only demand throughout Western Washington, analyze potential routes and terminal locations on Puget Sound, Lake Washington, and Lake Union with an emphasis on preserving waterfront opportunities in public ownership and opportunities for partnership. The study must determine whether and when the passenger ferry service achieves a net reduction in carbon emissions including an analysis of the emissions of modes that passengers would otherwise have used. The study must estimate capital and operating costs for routes and terminals. The study must include early and continuous outreach with all interested stakeholders and a report to the legislature and all interested parties by January 31, 2021.

(2) \$1,142,000 of the motor vehicle account—state appropriation is provided solely for the department, from amounts set aside out of statewide fuel taxes distributed to counties according to RCW 46.68.120(3), to contract with the Washington state association of counties to:

(a) In coordination with stakeholders, identify county-owned fish passage barriers, with priority given to barriers that share the same stream system as state-owned fish passage barriers. The study must identify, map, and provide a preliminary assessment of county-owned barriers that need correction, and provide, where possible, preliminary costs estimates for each barrier correction. The study must provide recommendations on:

(i) How to prioritize county-owned barriers within the same stream system of state-owned barriers in the current six-year construction plan to maximize state investment; and

(ii) How future state six-year construction plans should incorporate county-owned barriers;

(b) Update the local agency guidelines manual, including exploring alternatives within the local agency guidelines manual on county priorities;

(c) Study the current state of county transportation funding, identify emerging issues, and identify potential future alternative transportation fuel funding sources to meet current and future needs.

(3) The entire multiuse roadway safety account—state appropriation is provided solely for grants under RCW 46.09.540, subject to the following limitations:

(a) Twenty-five percent of the amounts provided are reserved for counties that each have a population of fifteen thousand persons or less;

(b)(i) Seventy-five percent of the amounts provided are reserved for counties that each have a population exceeding fifteen thousand persons; and

(ii) No county that receives a grant or grants under (b) of this subsection may receive more than sixty thousand dollars in total grants.

TRANSPORTATION AGENCIES—CAPITAL

*Sec. 301. 2019 c 416 s 301 (uncodified) is amended to read as follows:

FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD	
Freight Mobility Investment Account—State	
Appropriation .....	..((\$18,094,000))
	<u>\$23,015,000</u>
<u>Highway Safety Account—State Appropriation</u>	<u>\$81,000</u>
<u>Motor Vehicle Account—State Appropriation.....</u>	<u>\$4,907,000</u>
Freight Mobility Multimodal Account—State	
Appropriation .....	..((\$21,220,000))
	<u>\$4,992,000</u>
Motor Vehicle Account—Federal Appropriation	
	..((\$2,250,000))
	<u>\$1,899,000</u>
Freight Mobility Multimodal Account—Private/Local	
Appropriation .....	..((\$1,320,000))
	<u>\$1,250,000</u>
TOTAL APPROPRIATION	
	..((\$42,884,000))
	<u>\$36,144,000</u>

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

(1) Except as otherwise provided in this section, the entire appropriations in this section are provided solely for the projects by amount, as listed in the LEAP Transportation Document (~~2019-3 as developed April 27, 2019,~~) 2020-3 as developed March 11, 2020. Conference FMSIB Project List.

(2) Until directed by the legislature, the board may not initiate a new call for projects. By January 1, 2020, the board must report to the legislature on alternative proposals to revise its project award and obligation process, which result in lower reappropriations.

(3) It is the intent of the legislature that no capital projects be eliminated or substantially delayed as a result of revenue reductions, but that as a short-term solution appropriation authority for the freight mobility strategic investment board's capital grant programs is reduced to reflect anticipated underruns in this program, based on historical reappropriation levels.

(4) It is the intent of the legislature to continue to make strategic investments in a statewide freight mobility transportation system with the help

of the freight mobility strategic investment board, including projects that mitigate the impact of freight movement on local communities.

**Sec. 301 is partially vetoed. See message at end of chapter.*

***Sec. 302.** 2019 c 416 s 303 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account—State Appropriation	(((\$65,996,000))	
		\$62,884,000
Motor Vehicle Account—State Appropriation		\$1,456,000
County Arterial Preservation Account—State		
Appropriation		\$39,590,000
TOTAL APPROPRIATION	(((\$107,042,000))	
		\$103,930,000

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that no capital projects be eliminated or substantially delayed as a result of revenue reductions, but that as a short-term solution appropriation authority for the county road administration board's capital grant programs is reduced to reflect anticipated underruns in this program, based on historical reappropriation levels.

**Sec. 302 is partially vetoed. See message at end of chapter.*

***Sec. 303.** 2019 c 416 s 304 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Small City Pavement and Sidewalk Account—State		
Appropriation		\$5,890,000
Transportation Improvement Account—State		
Appropriation	(((\$228,510,000))	
		\$224,568,000
Complete Streets Grant Program Account—State		
Appropriation	(((\$14,670,000))	
		\$10,200,000
TOTAL APPROPRIATION	(((\$249,070,000))	
		\$240,658,000

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

(1) \$9,315,000 of the transportation improvement account—state appropriation is provided solely for the Relight Washington Program. The transportation improvement board shall conduct a survey of all cities that are not currently eligible for the Relight Washington Program to determine demand for the program regardless of the current eligibility criteria. The transportation improvement board shall report the results of the survey to the governor and the transportation committees of the legislature by August 1, 2020.

(2) It is the intent of the legislature that no capital projects be eliminated or substantially delayed as a result of revenue reductions, but that as a short-term solution appropriation authority for the transportation improvement board's capital grant programs is reduced to reflect anticipated underruns in this program, based on historical reappropriation levels.

**Sec. 303 is partially vetoed. See message at end of chapter.*

Sec. 304. 2019 c 416 s 305 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—FACILITIES—PROGRAM D—(DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)—CAPITAL

Motor Vehicle Account—State Appropriation	(\$50,990,000)
	<u>\$51,187,000</u>
Connecting Washington Account—State Appropriation	(\$42,497,000)
	<u>\$51,523,000</u>
TOTAL APPROPRIATION	(\$93,487,000)
	<u>\$102,710,000</u>

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

(1) ~~(\$42,497,000)~~ \$51,523,000 of the connecting Washington account—state appropriation is provided solely for a new Olympic region maintenance and administration facility to be located on the department-owned site at the intersection of Marvin Road and 32nd Avenue in Lacey, Washington.

(2)(a) ~~(\$43,100,000)~~ \$43,297,000 of the motor vehicle account—state appropriation is provided solely for the department facility located at 15700 Dayton Ave N in Shoreline. This appropriation is contingent upon the department of ecology signing a not less than twenty-year agreement to pay a share of any financing contract issued pursuant to chapter 39.94 RCW.

(b) Payments from the department of ecology as described in this subsection shall be deposited into the motor vehicle account.

(c) Total project costs are not to exceed \$46,500,000.

(3) \$1,565,000 from the motor vehicle account—state appropriation is provided solely for furniture for the renovated Northwest Region Headquarters at Dayton Avenue. The department must efficiently furnish the renovated building. ~~((The amount provided in this subsection is the maximum the department may spend on furniture for this facility.))~~

*Sec. 305. 2019 c 416 s 306 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—IMPROVEMENTS—PROGRAM I

~~((High Occupancy Toll Lanes Operations~~

Account—State Appropriation	(\$7,000,000)
Transportation Partnership Account—State Appropriation	(\$325,275,000)
	<u>\$385,619,000</u>
Motor Vehicle Account—State Appropriation	(\$92,504,000)
	<u>\$102,543,000</u>
Motor Vehicle Account—Federal Appropriation	(\$154,337,000)
	<u>\$151,857,000</u>
Motor Vehicle Account—Private/Local Appropriation	(\$26,839,000)
	<u>\$70,404,000</u>
Connecting Washington Account—State Appropriation	(\$2,137,381,000)
	<u>\$2,355,205,000</u>
Special Category C Account—State Appropriation	(\$81,000,000)
	<u>\$36,134,000</u>
Multimodal Transportation Account—State	

Appropriation	(\$5,408,000)
	<u>\$3,853,000</u>
Alaskan Way Viaduct Replacement Project Account—State	
Appropriation	\$77,956,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation	(\$21,819,000)
	<u>\$10,429,000</u>
Interstate 405 <u>and State Route Number 167</u> Express	
Toll Lanes (Operations) Account—State	
Appropriation	(\$48,036,000)
	<u>\$90,027,000</u>
TOTAL APPROPRIATION	(\$2,977,555,000)
	<u>\$3,284,027,000</u>

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

(1) Except as provided otherwise in this section, the entire connecting Washington account—state appropriation and the entire transportation partnership account—state appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document (~~(2019-1)~~) 2020-1 as developed (~~(April 27, 2019)~~) March 11, 2020, Program - Highway Improvements Program (I). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 601 of this act.

(2) Except as provided otherwise in this section, the entire motor vehicle account—state appropriation and motor vehicle account—federal appropriation are provided solely for the projects and activities listed in LEAP Transportation Document (~~(2019-2)~~) 2020-2 ALL PROJECTS as developed (~~(April 27, 2019)~~) March 11, 2020, Program - Highway Improvements Program (I). Any federal funds gained through efficiencies, adjustments to the federal funds forecast, additional congressional action not related to a specific project or purpose, or the federal funds redistribution process must then be applied to highway and bridge preservation activities or fish passage barrier corrections (0BI4001).

(3) Within the motor vehicle account—state appropriation and motor vehicle account—federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act. Ten days prior to any transfer, the department must submit its request to the office of financial management and the transportation committees of the legislature and consider any concerns raised. The department shall submit a report on fiscal year funds transferred in the prior fiscal year using this subsection as part of the department's annual budget submittal.

(4) The connecting Washington account—state appropriation includes up to (~~(\$1,519,899,000)~~) \$1,835,325,000 in proceeds from the sale of bonds authorized in RCW 47.10.889.

(5) The special category C account—state appropriation includes up to (~~(\$75,274,000)~~) \$24,910,000 in proceeds from the sale of bonds authorized in RCW (~~(47.10.864)~~) 47.10.812.

(6) The transportation partnership account—state appropriation includes up to ~~(((\$150,232,000))~~ \$162,658,000 in proceeds from the sale of bonds authorized in RCW ~~((47.10.812))~~ 47.10.873.

(7) The Alaskan Way viaduct replacement project account—state appropriation includes up to \$77,956,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

~~(8) ((The multimodal transportation account—state appropriation includes up to \$5,408,000 in proceeds from the sale of bonds authorized in RCW 47.10.867.~~

~~(9) \$90,464,000))~~ \$168,757,000 of the transportation partnership account—state appropriation, ~~(((\$7,006,000))~~ \$19,790,000 of the motor vehicle account—private/local appropriation, ~~(((\$3,383,000))~~ \$3,384,000 of the transportation 2003 account (nickel account)—state appropriation, \$77,956,000 of the Alaskan Way viaduct replacement project account—state appropriation, and \$1,838,000 of the multimodal transportation account—state appropriation are provided solely for the SR 99/Alaskan Way Viaduct Replacement project (809936Z). It is the intent of the legislature that the \$25,000,000 increase in funding provided in the 2021-2023 fiscal biennium be covered by any legal damages paid to the state as a result of a lawsuit related to contractual provisions for construction and delivery of the Alaskan Way viaduct replacement project. The legislature intends that the \$25,000,000 of the transportation partnership account—state funds be repaid when those damages are recovered.

~~((40))~~ (9) \$3,000,000 of the multimodal transportation account—state appropriation is provided solely for transit mitigation for the SR 99/Viaduct Project - Construction Mitigation project (809940B).

~~((41) \$164,000,000))~~ (10) \$168,655,000 of the connecting Washington account—state appropriation ~~((is)),~~ \$1,052,000 of the special category C account—state appropriation, and \$738,000 of the motor vehicle account—private/local appropriation are provided solely for the US 395 North Spokane Corridor project (M00800R).

~~((12)(a) \$22,195,000 of the transportation partnership account—state appropriation, \$12,805,000 of the transportation 2003 account (nickel account)—state appropriation, and \$48,000,000))~~ (11) \$82,991,000 of the Interstate 405 and state route number 167 express toll lanes ~~((operations))~~ account—state appropriation ~~((are))~~ is provided solely for the I-405/SR 522 to I-5 Capacity Improvements project (L2000234) for activities related to adding capacity on Interstate 405 between state route number 522 and Interstate 5, with the goals of increasing vehicle throughput and aligning project completion with the implementation of bus rapid transit in the vicinity of the project. ~~((The transportation partnership account—state appropriation and transportation 2003 account (nickel account)—state appropriation are a transfer or a reappropriation of a transfer from the I-405/Kirkland Vicinity Stage 2—Widening project (8BH1002) due to savings and will fund right of way and construction for an additional phase of this I-405 project.~~

~~(b) If sufficient bonding authority to complete this project is not provided within chapter 421 (Engrossed Substitute Senate Bill No. 5825), Laws of 2019 (addressing tolling) or chapter 421 (House Bill No. 2132), Laws of 2019 (addressing tolling), or within a bond authorization act referencing chapter . . . (Engrossed Substitute Senate Bill No. 5825), Laws of 2019 or chapter . . .~~

~~(House Bill No. 2132), Laws of 2019, by June 30, 2019, \$21,000,000 of the Interstate 405 express toll lanes operations account—state appropriation provided in this subsection lapses, and it is the intent of the legislature to reduce the Interstate 405 express toll lanes operations account—state appropriation in the 2021–2023 biennium to \$5,000,000, and in the 2023–2025 biennium to \$0 on the list referenced in subsection (2) of this section.~~

~~(13))~~ (12)(a) ~~((\$395,822,000))~~ \$422,099,000 of the connecting Washington account—state appropriation~~((, \$60,000 of the motor vehicle account—state appropriation.))~~ and ~~((\$342,000))~~ \$456,000 of the motor vehicle account—private/local appropriation are provided solely for the SR 520 Seattle Corridor Improvements - West End project (M00400R).

(b) Recognizing that the department of transportation requires full possession of parcel number 1-23190 to complete the Montlake Phase of the West End project, the department is directed to:

(i) Work with the operator of the Montlake boulevard market located on parcel number 1-23190 to negotiate a lease allowing continued operations up to January 1, 2020. After that time, the department shall identify an area in the vicinity of the Montlake property for a temporary market or other food service to be provided during the period of project construction. Should the current operator elect not to participate in providing that temporary service, the department shall then develop an outreach plan with the city to solicit community input on the food services provided, and then advertise the opportunity to other potential vendors. Further, the department shall work with the city of Seattle and existing permit processes to facilitate vendor access to and use of the area in the vicinity of the Montlake property.

(ii) Upon completion of the Montlake Phase of the West End project (current anticipated contract completion of 2023), WSDOT shall sell that portion of the property not used for permanent transportation improvements and initiate a process to convey that surplus property to a subsequent owner.

(c) \$60,000 of the motor vehicle account—state appropriation is provided solely for grants to nonprofit organizations located in a city with a population exceeding six hundred thousand persons and that empower artists through equitable access to vital expertise, opportunities, and business services. Funds may be used only for the purpose of preserving, commemorating, and sharing the history of the city of Seattle's freeway protests and making the history of activism around the promotion of more integrated transportation and land use planning accessible to current and future generations through the preservation of Bent 2 of the R. H. Thompson freeway ramp.

~~((14))~~ (13) It is the intent of the legislature that for the I-5 JBLM Corridor Improvements project (M00100R), the department shall actively pursue \$50,000,000 in federal funds to pay for this project to supplant state funds in the future. \$50,000,000 in connecting Washington account funding must be held in unallotted status during the 2021–2023 fiscal biennium. These funds may only be used after the department has provided notice to the office of financial management that it has exhausted all efforts to secure federal funds from the federal highway administration and the department of defense.

~~((15) \$265,100,000))~~ (14) \$310,469,000 of the connecting Washington account—state appropriation is provided solely for the SR 167/SR 509 Puget Sound Gateway project (M00600R).

(a) Any savings on the project must stay on the Puget Sound Gateway corridor until the project is complete.

(b) Proceeds from the sale of any surplus real property acquired for the purpose of building the SR 167/SR 509 Puget Sound Gateway (M00600R) project must be deposited into the motor vehicle account for the purpose of constructing the project.

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

(d) It is the legislature's intent that the department shall construct a full single-point urban interchange at the junction of state route number 161 (Meridian avenue) and state route number 167 and a full single-point urban interchange at the junction of state route number 509 and 188th Street. If the department receives additional funds from an outside source for this project after the base project is fully funded, the funds must first be applied toward the completion of these two full single-point urban interchanges.

(e) In designing the state route number 509/state route number 516 interchange component of the SR 167/SR 509 Puget Sound Gateway project (M00600R), the department shall make every effort to utilize the preferred "4B" design.

(f) The department shall explore the development of a multiuse trail for bicyclists, pedestrians, skateboarders, and similar users along the SR 167 right-of-way acquired for the project to connect a network of new and existing trails from Mount Rainier to Point Defiance Park.

(g) If sufficient bonding authority to complete this project is not provided within chapter 421 (~~((Engrossed Substitute Senate Bill No. 5825))),~~ Laws of 2019 (addressing tolling) (~~(or chapter . . . (House Bill No. 2132),~~ Laws of 2019 (~~addressing tolling))),~~ or within a bond authorization act referencing chapter 421 (~~((Engrossed Substitute Senate Bill No. 5825))),~~ Laws of 2019 (~~(or chapter . . . (House Bill No. 2132),~~ Laws of 2019,) by June 30, 2019, it is the intent of the legislature to return the Puget Sound Gateway project (M00600R) to its previously identified construction schedule by moving \$128,900,000 in connecting Washington account—state appropriation back to the 2027-2029 biennium from the 2023-2025 biennium on the list referenced in subsection (2) of this section. If sufficient bonding authority is provided, it is the intent of the legislature to advance the project to allow for earlier completion and inflationary savings.

~~((46))~~ (15) It is the intent of the legislature that, for the I-5/North Lewis County Interchange project (L2000204), the department develop and design the project with the objective of significantly improving access to the industrially zoned properties in north Lewis county. The design must consider the county's process of investigating alternatives to improve such access from Interstate 5 that began in March 2015.

~~((18))~~ ~~(\$950,000))~~ (16) \$1,029,000 of the transportation partnership account—state appropriation is provided solely for the U.S. 2 Trestle IJR project (L1000158).

~~((19))~~ (17) The department shall itemize all future requests for the construction of buildings on a project list and submit them through the transportation executive information system as part of the department's annual budget submittal. It is the intent of the legislature that new facility construction must be transparent and not appropriated within larger highway construction projects.

~~((20))~~ (18) Any advisory group that the department convenes during the 2019-2021 fiscal biennium must consider the interests of the entire state of Washington.

~~((21))~~ (19) The legislature finds that there are sixteen companies involved in wood preserving in the state that employ four hundred workers and have an annual payroll of fifteen million dollars. Before the department's switch to steel guardrails, ninety percent of the twenty-five hundred mile guardrail system was constructed of preserved wood and one hundred ten thousand wood guardrail posts were produced annually for state use. Moreover, the policy of using steel posts requires the state to use imported steel. Given these findings, where practicable, and until June 30, 2021, the department shall include the design option to use wood guardrail posts, in addition to steel posts, in new guardrail installations. The selection of posts must be consistent with the agency design manual policy that existed before December 2009.

~~((22))~~ (20)(a) ~~((For projects funded as part of the 2015 connecting Washington transportation package listed on the LEAP transportation document identified in subsection (1) of this section, if the department expects to have substantial reappropriations for the 2021-2023 fiscal biennium, the department may, on a pilot basis, apply funding from a project in this section with an appropriation that cannot be used for the current fiscal biennium to advance one or more of the following projects:~~

~~(i) I-82 Yakima—Union Gap Economic Development Improvements (T21100R);~~

~~(ii) I-5 Federal Way—Triangle Vicinity Improvements (T20400R); or~~

~~(iii) SR 522/Paradise Lk Rd Interchange & Widening on SR 522 (Design/Engineering) (NPARADI).~~

~~(b) At least ten business days before advancing a project pursuant to this subsection, the department must notify the office of financial management and the transportation committees of the legislature. The advancement of a project may not hinder the delivery of the projects for which the reappropriations are necessary for the 2021-2023 fiscal biennium.~~

~~(c))~~ For connecting Washington projects that have already begun and are eligible for the authority granted in section 601 of this act, the department shall prioritize advancing the following projects if expected reappropriations become available:

~~(i) SR 14/I-205 to SE 164th Ave - Auxiliary Lanes (L2000102);~~

~~(ii) SR 305 Construction - Safety Improvements (N30500R);~~

~~(iii) SR 14/Bingen Underpass (L2220062);~~

~~(iv) I-405/NE 132nd Interchange - Totem Lake (L1000110);~~

~~(v) US Hwy 2 Safety (N00200R);~~

- (vi) US-12/Walla Walla Corridor Improvements (T20900R);
- (vii) I-5 JBLM Corridor Improvements (M00100R);
- (viii) I-5/Slater Road Interchange - Improvements (L1000099);
- (ix) SR 510/Yelm Loop Phase 2 (T32700R); or
- (x) SR 520/124th St Interchange (Design and Right of Way) (L1000098).

~~((4))~~ (b) To the extent practicable, the department shall use the flexibility and authority granted in this section and in section 601 of this act to minimize the amount of reappropriations needed each biennium.

(c) The advancement of a project may not hinder the delivery of the projects for which the reappropriations are necessary for the 2021-2023 fiscal biennium.

~~((23))~~ (21) The legislature continues to prioritize the replacement of the state's aging infrastructure and recognizes the importance of reusing and recycling construction aggregate and recycled concrete materials in our transportation system. To accomplish Washington state's sustainability goals in transportation and in accordance with RCW 70.95.805, the legislature reaffirms its determination that recycled concrete aggregate and other transportation building materials are natural resource construction materials that are too valuable to be wasted and landfilled, and are a commodity as defined in WAC 173-350-100.

Further, the legislature determines construction aggregate and recycled concrete materials substantially meet widely recognized international, national, and local standards and specifications referenced in American society for testing and materials, American concrete institute, Washington state department of transportation, Seattle department of transportation, American public works association, federal aviation administration, and federal highway administration specifications, and are described as necessary and desirable products for recycling and reuse by state and federal agencies.

As these recyclable materials have well established markets, are substantially a primary or secondary product of necessary construction processes and production, and are managed as an item of commercial value, construction aggregate and recycled concrete materials are exempt from chapter 173-350 WAC.

~~((24))~~ (22)(a) \$17,500,000 of the motor vehicle account—state appropriation is provided solely for staffing of a project office to replace the Interstate 5 bridge across the Columbia river (G2000088). If at least a \$9,000,000 transfer is not authorized in section 406(29) ~~((of this act))~~, chapter 416, Laws of 2019, then \$9,000,000 of the motor vehicle account—state appropriation lapses.

(b) Of the amount provided in this subsection, \$7,780,000 of the motor vehicle account—state appropriation must be placed in unallotted status by the office of financial management until the department develops a detailed plan for the work of this project office in consultation with the chairs and ranking members of the transportation committees of the legislature. The director of the office of financial management shall consult with the chairs and ranking members of the transportation committees of the legislature prior to making a decision to allot these funds.

(c) The work of this project office includes, but is not limited to, the reevaluation of the purpose and need identified for the project previously known as the Columbia river crossing, the reevaluation of permits and development of a

finance plan, the reengagement of key stakeholders and the public, and the reevaluation of scope, schedule, and budget for a reinvigorated bistate effort for replacement of the Interstate 5 Columbia river bridge. When reevaluating the finance plan for the project, the department shall assume that some costs of the new facility may be covered by tolls. The project office must also study the possible different governance structures for a bridge authority that would provide for the joint administration of the bridges over the Columbia river between Oregon and Washington. As part of this study, the project office must examine the feasibility and necessity of an interstate compact in conjunction with the national center for interstate compacts.

(d) Within the amount provided in this subsection, the department must implement chapter 137 (~~((Engrossed Substitute House Bill No. 1994))),~~ Laws of 2019 (projects of statewide significance).

(e) The department shall have as a goal to:

(i) Reengage project stakeholders and reevaluate the purpose and need and environmental permits by July 1, 2020;

(ii) Develop a finance plan by December 1, 2020; and

(iii) Have made significant progress toward beginning the supplemental environmental impact statement process by June 30, 2021. The department shall aim to provide a progress report on these activities to the governor and the transportation committees of the legislature by December 1, 2019, and a final report to the governor and the transportation committees of the legislature by December 1, 2020.

~~((25)) (23)~~ \$17,500,000 of the motor vehicle account—state appropriation is provided solely to begin the pre-design phase on the I-5/Columbia River Bridge project (G2000088)~~((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).~~

~~((26)) (24)(a) ((\$36,500,000))~~ \$191,360,000 of the connecting Washington account—state appropriation, ~~(((\$44,961,000))~~ \$47,655,000 of the motor vehicle account—federal appropriation, \$11,179,000 of the motor vehicle account—private/local appropriation, \$6,100,000 of the motor vehicle account—state appropriation, and ~~(((\$18,539,000))~~ \$18,706,000 of the transportation partnership account—state appropriation are provided solely for the Fish Passage Barrier project (OB14001) with the intent of fully complying with the court injunction by 2030.

(b) Of the amounts provided in this subsection, \$320,000 of the connecting Washington account—state appropriation is provided solely to remove the fish passage barrier on state route number 6 that interfaces with Boistfort Valley water utilities near milepost 46.6.

(c) The department shall coordinate with the Brian Abbott fish passage barrier removal board to use a watershed approach to maximize habitat gain by replacing both state and local culverts. The department shall deliver high habitat value fish passage barrier corrections that it has identified, guided by the following factors: Opportunity to bundle projects, ability to leverage

investments by others, presence of other barriers, project readiness, other transportation projects in the area, and transportation impacts.

(d) The department must keep track of, for each barrier removed: (i) The location; (ii) the amount of fish habitat gain; and (iii) the amount spent to comply with the injunction.

(e) It is the intent of the legislature that for the amount listed for the 2021-2023 biennium for the Fish Passage Barrier project (OBI4001) on the LEAP list referenced in subsection (1) of this section, that accrued practical design savings deposited in the transportation future funding program account be used to help fund the cost of fully complying with the court injunction by 2030.

((27) — \$14,750,000)) (25)(a) The Washington state department of transportation is directed to pursue compliance with the *U.S. v. Washington* permanent injunction by delivering culvert corrections within the injunction area guided by the principle of providing the greatest fisheries habitat gain at the earliest time and considering the following factors: Opportunity to bundle projects, tribal priorities, ability to leverage investments by others, presence of other barriers, project readiness, culvert condition, other transportation projects in the area, and transportation impacts.

(b) The department and Brian Abbott fish barrier removal board, while providing the opportunity for stakeholders, tribes, and government agencies to give input on a statewide culvert remediation plan, must provide updates on the development of the statewide culvert remediation plan to the capital budget, ways and means, and transportation committees of the legislature by November 1, 2020, and March 15, 2021. The first update must include a project timeline and plan to ensure that all state agencies with culvert correction programs are involved in the creation of the comprehensive plan.

(26) \$16,649,000 of the connecting Washington account—state appropriation, \$373,000 of the motor vehicle account—state appropriation, and \$6,000,000 of the motor vehicle account—private/local appropriation are provided solely for the I-90/Barker to Harvard - Improve Interchanges & Local Roads project (L2000122). The connecting Washington account appropriation for the improvements that fall within the city of Liberty Lake may only be expended if the city of Liberty Lake agrees to cover any project costs within the city of Liberty Lake above the \$20,900,000 of state appropriation provided for the total project in LEAP Transportation Document ((2019-1)) 2020-1 as developed ((April 27, 2019)) March 11, 2020, Program - Highway Improvements (I).

((28)) (27)(a) ((\$7,060,000)) \$6,799,000 of the motor vehicle account—federal appropriation, (((\$72,000)) \$31,000 of the motor vehicle account—state appropriation, (((\$3,580,000)) \$3,812,000 of the transportation partnership account—state appropriation, and \$7,000,000 of the ((high occupancy)) Interstate 405 and state route number 167 express toll lanes ((operations)) account—state appropriation are provided solely for the SR 167/SR 410 to SR 18 - Congestion Management project (316706C).

(b) If sufficient bonding authority to complete this project is not provided within chapter 421 ((Engrossed Substitute Senate Bill No. 5825)), Laws of 2019 (addressing tolling) ((or chapter . . . (House Bill No. 2132), Laws of 2019 (addressing tolling))), or within a bond authorization act referencing chapter 421 ((Engrossed Substitute Senate Bill No. 5825)), Laws of 2019 ((or chapter . . .

~~(House Bill No. 2132), Laws of 2019,))~~ by June 30, 2019, it is the intent of the legislature to remove the \$100,000,000 in toll funding from this project on the list referenced in subsection (2) of this section.

~~((29)) (28)~~ For the I-405/North 8th Street Direct Access Ramp in Renton project (L1000280), if sufficient bonding authority to begin this project is not provided within chapter 421 ~~((Engrossed Substitute Senate Bill No. 5825))~~, Laws of 2019 (addressing tolling) ~~((or chapter . . . (House Bill No. 2132), Laws of 2019 (addressing tolling))~~), or within a bond authorization act referencing chapter 421 ~~((Engrossed Substitute Senate Bill No. 5825))~~, Laws of 2019 ~~((or chapter . . . (House Bill No. 2132), Laws of 2019, by June 30, 2019))~~, it is the intent of the legislature to remove the project from the list referenced in subsection (2) of this section.

~~((30) \$7,900,000)) (29) \$7,985,000~~ of the Special Category C account—state appropriation and \$1,000,000 of the motor vehicle account—private/local appropriation are provided solely for the SR 18 Widening - Issaquah/Hobart Rd to Raging River project (L1000199) for improving and widening state route number 18 to four lanes from Issaquah-Hobart Road to Raging River.

~~((31)) (30)~~ \$2,250,000 of the motor vehicle account—state appropriation is provided solely for the I-5 Corridor from Mounts Road to Tumwater project (L1000231) for completing a National and State Environmental Policy Act (NEPA/SEPA) analysis to identify mid- and long-term environmental impacts associated with future improvements along the I-5 corridor from Tumwater to DuPont.

~~((32) \$1,290,000)) (31) \$622,000~~ of the motor vehicle account—state appropriation is provided solely for the US 101/East Sequim Corridor Improvements project (L2000343)~~((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses))~~.

~~((33) \$12,800,000)) (32) \$12,916,000~~ of the motor vehicle account—state appropriation is provided solely for the SR 522/Paradise Lk Rd Interchange & Widening on SR 522 (Design/Engineering) project (NPARADI)~~((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses))~~.

~~((34)) (33)~~ \$1,000,000 of the motor vehicle account—state appropriation is provided solely for the US 101/Morse Creek Safety Barrier project (L1000247)~~((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses))~~.

~~((35)) (34)~~ \$1,000,000 of the motor vehicle account—state appropriation is provided solely for the SR 162/410 Interchange Design and Right of Way

project (L1000276)((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).

~~((36) \$1,000,000 of the motor vehicle account—state appropriation is provided solely for the I-5/Rush Road Interchange Improvements project (L1000223); however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses.))~~

(35) It is the intent of the legislature that no capital projects be eliminated or substantially delayed as a result of revenue reductions, but that as a short-term solution appropriation authority for this program is reduced to reflect anticipated underruns in this program, based on historical reappropriation levels.

~~(36) The appropriations in this section include savings due to anticipated project underruns; however, it is unknown which projects will provide savings. The legislature intends to provide sufficient flexibility for the department to manage to this savings target. To provide this flexibility, the office of financial management may authorize, through an allotment modification, reductions in the appropriated amounts that are provided solely for a particular purpose within this section subject to the following conditions and limitations:~~

~~(a) The department must confirm that any modification requested under this subsection of amounts provided solely for a specific purpose are not expected to be used for that purpose in this biennium;~~

~~(b) Allotment modifications authorized under this subsection may not result in increased funding for any project beyond the amount provided for that project in the 2019-2021 fiscal biennium in LEAP Transportation Document 2020-2 ALL PROJECTS as developed March 11, 2020;~~

~~(c) Allotment modifications authorized under this subsection apply only to amounts appropriated in this section from the following accounts: Multimodal transportation account—state, transportation partnership account—state, connecting Washington account—state, and special category C account—state; and~~

~~(d) By December 1, 2020, the department must submit a report to the transportation committees of the legislature regarding the actions taken under this subsection.~~

**Sec. 305 is partially vetoed. See message at end of chapter.*

Sec. 306. 2019 c 416 s 307 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION— PRESERVATION—PROGRAM P	
Recreational Vehicle Account—State Appropriation	(\$1,744,000)
	<u>\$2,971,000</u>
Transportation Partnership Account—State Appropriation	(\$23,706,000)

	<u>\$20,248,000</u>
Motor Vehicle Account—State Appropriation	(((\$74,885,000))
	<u>\$82,447,000</u>
Motor Vehicle Account—Federal Appropriation	(((\$454,758,000))
	<u>\$490,744,000</u>
Motor Vehicle Account—Private/Local Appropriation	(((\$5,159,000))
	<u>\$7,408,000</u>
State Route Number 520 Corridor Account—State Appropriation	(((\$544,000))
	<u>\$326,000</u>
Connecting Washington Account—State Appropriation	(((\$189,771,000))
	<u>\$204,630,000</u>
Tacoma Narrows Toll Bridge Account—State Appropriation	(((\$7,906,000))
	<u>\$8,350,000</u>
Alaskan Way Viaduct Replacement Project Account—State Appropriation	\$10,000
<u>Interstate 405 and State Route Number 167 Express Toll Lanes Account—State Appropriation</u>	<u>\$3,018,000</u>
Transportation 2003 Account (Nickel Account)—State Appropriation	(((\$9,617,000))
	<u>\$17,892,000</u>
TOTAL APPROPRIATION	(((\$768,100,000))
	<u>\$838,044,000</u>

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

(1) Except as provided otherwise in this section, the entire connecting Washington account—state appropriation and the entire transportation partnership account—state appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ((2019-1)) 2020-1 as developed ((April 27, 2019)) March 11, 2020, Program - Highway Preservation Program (P). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 601 of this act.

(2) Except as provided otherwise in this section, the entire motor vehicle account—state appropriation and motor vehicle account—federal appropriation are provided solely for the projects and activities listed in LEAP Transportation Document ((2019-2)) 2020-2 ALL PROJECTS as developed ((April 27, 2019)) March 11, 2020, Program - Highway Preservation Program (P). Any federal funds gained through efficiencies, adjustments to the federal funds forecast, additional congressional action not related to a specific project or purpose, or the federal funds redistribution process must then be applied to highway and bridge preservation activities or fish passage barrier corrections (0B14001).

(3) Within the motor vehicle account—state appropriation and motor vehicle account—federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act. Ten days prior to any transfer, the department must submit its request to the

office of financial management and the transportation committees of the legislature and consider any concerns raised. The department shall submit a report on fiscal year funds transferred in the prior fiscal year using this subsection as part of the department's annual budget submittal.

(4) (~~(\$25,036,000)~~) \$26,683,000 of the connecting Washington account—state appropriation is provided solely for the land mobile radio upgrade (G2000055) and is subject to the conditions, limitations, and review provided in section 701 of this act. The land mobile radio project is subject to technical oversight by the office of the chief information officer. The department, in collaboration with the office of the chief information officer, shall identify where existing or proposed mobile radio technology investments should be consolidated, identify when existing or proposed mobile radio technology investments can be reused or leveraged to meet multiagency needs, increase mobile radio interoperability between agencies, and identify how redundant investments can be reduced over time. The department shall also provide quarterly reports to the technology services board on project progress.

(5) (~~(\$2,500,000)~~) \$4,000,000 of the motor vehicle account—state appropriation is provided solely for extraordinary costs incurred from litigation awards, settlements, or dispute mitigation activities not eligible for funding from the self-insurance fund. The amount provided in this subsection must be held in unallotted status until the department submits a request to the office of financial management that includes documentation detailing litigation-related expenses. The office of financial management may release the funds only when it determines that all other funds designated for litigation awards, settlements, and dispute mitigation activities have been exhausted. No funds provided in this subsection may be expended on any legal fees related to the SR 99/Alaskan Way viaduct replacement project (809936Z).

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

(7) (~~(\$22,729,000)~~) \$21,289,000 of the motor vehicle account—federal appropriation and (~~(\$553,000)~~) \$840,000 of the motor vehicle account—state appropriation are provided solely for the preservation of structurally deficient bridges or bridges that are at risk of becoming structurally deficient (L1000068). These funds must be used widely around the state of Washington. When practicable, the department shall pursue design-build contracts for these bridge projects to expedite delivery. The department shall provide a report that identifies the progress of each project funded in this subsection as part of its annual agency budget request.

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

(9) During the course of any planned resurfacing or other preservation activity on state route number 26 between Colfax and Othello in the 2019-2021 fiscal biennium, the department must add dug-in reflectors.

~~(10)((a) For projects funded as part of the 2015 connecting Washington transportation package listed on the LEAP transportation document identified in subsection (1) of this section, if the department expects to have substantial reappropriations for the 2021-2023 fiscal biennium, the department may, on a pilot basis, apply funding from a project in this section with an appropriation that cannot be used for the current fiscal biennium to advance the SR 4/Abernathy Creek Br—Replace Bridge project (40041A).~~

~~(b) At least ten business days before advancing the project pursuant to this subsection, the department must notify the office of financial management and the transportation committees of the legislature. The advancement of the project may not hinder the delivery of the projects for which the reappropriations are necessary for the 2021-2023 fiscal biennium.~~

~~(c) To the extent practicable, the department shall use the flexibility and authority granted in this section and in section 601 of this act to minimize the amount of reappropriations needed each biennium.~~

~~(H)) Within the connecting Washington account—state appropriation, the department may transfer funds from Highway System Preservation (L1100071) to other preservation projects listed in the LEAP transportation document identified in subsection (1) of this section, if it is determined necessary for completion of these high priority preservation projects. The department's next budget submittal after using this subsection must appropriately reflect the transfer.~~

*Sec. 307. 2019 c 416 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—CAPITAL

Motor Vehicle Account—State Appropriation	(\$7,311,000)
	<u>\$7,746,000</u>
Motor Vehicle Account—Federal Appropriation	(\$5,331,000)
	<u>\$6,137,000</u>
Motor Vehicle Account—Private/Local Appropriation	(\$500,000)
	<u>\$579,000</u>
<u>Interstate 405 and State Route Number 167 Express</u>	
<u>Toll Lanes Account—State Appropriation</u>	<u>\$100,000</u>
TOTAL APPROPRIATION	(\$13,142,000)
	<u>\$14,562,000</u>

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

~~(1) \$700,000 of the motor vehicle account—state appropriation is provided solely for the SR 99 Aurora Bridge ITS project (L2000338)((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).~~

(2) It is the intent of the legislature that no capital projects be eliminated or substantially delayed as a result of revenue reductions, but that as a short-term solution appropriation authority for this program is reduced to reflect

anticipated underruns in this program, based on historical reappropriation levels.

**Sec. 307 is partially vetoed. See message at end of chapter.*

***Sec. 308.** 2019 c 416 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 . . . . .	..(((\$111,076,000))
	<u>\$116,253,000</u>
Puget Sound Capital Construction Account—Federal	
Appropriation . . . . .	..(((\$141,750,000))
	<u>\$198,688,000</u>
Puget Sound Capital Construction Account—Private/Local	
Appropriation . . . . .	..(((\$350,000))
	<u>\$4,779,000</u>
Transportation Partnership Account—State	
Appropriation . . . . .	..(((\$4,936,000))
	<u>\$6,582,000</u>
Connecting Washington Account—State Appropriation . . . . .	..(((\$92,766,000))
	<u>\$112,426,000</u>
Capital Vessel Replacement Account—State	
Appropriation . . . . .	..(((\$99,000,000))
	<u>\$96,030,000</u>
<u>Transportation 2003 Account (Nickel Account)—State</u>	
<u>Appropriation</u>	..\$986,000
TOTAL APPROPRIATION . . . . .	..(((\$449,878,000))
	<u>\$535,744,000</u>

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

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed in LEAP Transportation Document ((2019-2)) 2020-2 ALL PROJECTS as developed ((April 27, 2019)) March 11, 2020, Program - Washington State Ferries Capital Program (W).

(2) (((\$1,461,000)) \$2,857,000 of the Puget Sound capital construction account—state appropriation, (((\$59,650,000)) \$17,832,000 of the Puget Sound capital construction account—federal appropriation, and \$63,789,000 of the connecting Washington account—state appropriation, are provided solely for the Mukilteo ferry terminal (952515P). To the extent practicable, the department shall avoid the closure of, or disruption to, any existing public access walkways in the vicinity of the terminal project during construction.

(3) (((\$73,089,000)) \$102,641,000 of the Puget Sound capital construction account—federal appropriation, (((\$33,089,000)) \$47,819,000 of the connecting Washington account—state appropriation, and (((\$8,778,000)) \$4,355,000 of the Puget Sound capital construction account—((state)) local appropriation are provided solely for the Seattle Terminal Replacement project (900010L).

(4) (((\$5,000,000)) \$5,357,000 of the Puget Sound capital construction account—state appropriation is provided solely for emergency capital repair

costs (999910K). Funds may only be spent after approval by the office of financial management.

(5) \$2,300,000 of the Puget Sound capital construction account—state appropriation is provided solely for the ORCA acceptance project (L2000300). The ferry system shall work with Washington technology solutions and the tolling division on the development of a new, interoperable ticketing system.

(6) \$495,000 of the Puget Sound capital construction account—state appropriation is provided solely for an electric ferry planning team (G2000087) to develop ten-year and twenty-year implementation plans to efficiently deploy hybrid-electric vessels, including a cost-benefit analysis of construction and operation of hybrid-electric vessels with and without charging infrastructure. The plan includes, but is not limited to, vessel technology and feasibility, vessel and terminal deployment schedules, project financing, and workforce requirements. The plan shall be submitted to the office of financial management and the transportation committees of the legislature by June 30, 2020.

(7) \$35,000,000 of the Puget Sound capital construction account—state appropriation and (~~(\$6,500,000)~~) \$8,000,000 of the Puget Sound capital construction account—federal appropriation are provided solely for the conversion of up to two Jumbo Mark II vessels to electric hybrid propulsion (G2000084). The department shall seek additional funds for the purposes of this subsection. The department may spend from the Puget Sound capital construction account—state appropriation in this section only as much as the department receives in Volkswagen settlement funds for the purposes of this subsection.

(8) \$400,000 of the Puget Sound capital construction account—state appropriation is provided solely for a request for proposals for a new maintenance management system (project L2000301) and is subject to the conditions, limitations, and review provided in section 701 of this act.

(9) (~~(\$99,000,000)~~) \$96,030,000 of the capital vessel replacement account—state appropriation is provided solely for the acquisition of a 144-car hybrid-electric vessel. The vendor must present to the joint transportation committee and the office of financial management, by September 15, 2019, a list of options that will result in significant cost savings changes in terms of construction or the long-term maintenance and operations of the vessel. The vendor must allow for exercising the options without a penalty. It is the intent of the legislature to provide an additional \$88,000,000 in funding in the 2021-23 biennium. (~~(Unless (a) chapter 431 (Engrossed Substitute House Bill No. 2161), Laws of 2019 (capital surcharge) or chapter . . . (Substitute Senate Bill No. 5992), Laws of 2019 (capital surcharge) is enacted by June 30, 2019, and (b) chapter 417 (Engrossed House Bill No. 1789), Laws of 2019 (service fees) or chapter . . . (Substitute Senate Bill No. 5419), Laws of 2019 (service fees) is enacted by June 30, 2019, the amount provided in this subsection lapses.)~~) The reduction provided in this subsection is an assumed underrun pursuant to subsection (11) of this section. The commencement of construction of new vessels for the ferry system is important not only for safety reasons, but also to keep skilled marine construction jobs in the Puget Sound region and to sustain the capacity of the region to meet the ongoing construction and preservation needs of the ferry system fleet of vessels. The legislature has determined that the current vessel procurement process must move forward with all due speed.

balancing the interests of both the taxpayers and shipyards. To accomplish construction of vessels in accordance with RCW 47.60.810, the prevailing shipbuilder, for vessels initially funded after July 1, 2020, is encouraged to follow the historical practice of subcontracting the construction of ferry superstructures to a separate nonaffiliated contractor located within the Puget Sound region, that is qualified in accordance with RCW 47.60.690.

(10) The capital vessel replacement account—state appropriation includes up to ~~(((\$99,000,000))~~ \$96,030,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

(11) It is the intent of the legislature that no capital projects be eliminated or substantially delayed as a result of revenue reductions, but that as a short-term solution appropriation authority for this program is reduced to reflect anticipated underruns in this program, based on historical reappropriation levels.

(12) The appropriations in this section include savings due to anticipated project underruns; however, it is unknown which projects will provide savings. The legislature intends to provide sufficient flexibility for the department to manage to this savings target. To provide this flexibility, the office of financial management may authorize, through an allotment modification, reductions in the appropriated amounts that are provided solely for a particular purpose within this section subject to the following conditions and limitations:

(a) The department must confirm that any modification requested under this subsection of amounts provided solely for a specific purpose are not expected to be used for that purpose in this biennium;

(b) Allotment modifications authorized under this subsection may not result in increased funding for any project beyond the amount provided for that project in the 2019-2021 fiscal biennium in LEAP Transportation Document 2020-2 ALL PROJECTS as developed March 11, 2020;

(c) Allotment modifications authorized under this subsection apply only to amounts appropriated in this section from the following accounts: Puget Sound capital construction account—state, transportation partnership account—state, and capital vessel replacement account—state; and

(d) By December 1, 2020, the department must submit a report to the transportation committees of the legislature regarding the actions taken under this subsection.

**Sec. 308 is partially vetoed. See message at end of chapter.*

***Sec. 309.** 2019 c 416 s 310 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—CAPITAL

Motor Vehicle Account—State Appropriation	(((\$1,750,000))	<u>\$3,300,000</u>
Essential Rail Assistance Account—State Appropriation	(((\$500,000))	<u>\$851,000</u>
Transportation Infrastructure Account—State Appropriation		\$7,554,000
Multimodal Transportation Account—State Appropriation	(((\$85,441,000))	<u>\$74,876,000</u>
Multimodal Transportation Account—Federal		

Appropriation	(\$8,302,000)
	<u>\$8,601,000</u>
Multimodal Transportation Account—Local	
Appropriation	\$336,000
TOTAL APPROPRIATION	(\$103,883,000)
	<u>\$95,518,000</u>

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

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document (~~(2019-2)~~) 2020-2 ALL PROJECTS as developed (~~(April 27, 2019)~~) March 11, 2020, Program - Rail Program (Y).

(2) \$7,136,000 of the transportation infrastructure account—state appropriation is provided solely for new low-interest loans approved by the department through the freight rail investment bank (FRIB) program. The department shall issue FRIB program loans with a repayment period of no more than ten years, and charge only so much interest as is necessary to recoup the department's costs to administer the loans. The department shall report annually to the transportation committees of the legislature and the office of financial management on all FRIB loans issued.

(3) (~~(\$8,112,000)~~) \$7,782,000 of the multimodal transportation account—state appropriation, \$51,000 of the transportation infrastructure account—state appropriation, and \$135,000 of the essential rail assistance account—state appropriation are provided solely for new statewide emergent freight rail assistance projects identified in the LEAP transportation document referenced in subsection (1) of this section.

(4) \$367,000 of the transportation infrastructure account—state appropriation and \$1,100,000 of the multimodal transportation account—state appropriation are provided solely to reimburse Highline Grain, LLC for approved work completed on Palouse River and Coulee City (PCC) railroad track in Spokane county between the BNSF Railway Interchange at Cheney and Geiger Junction and must be administered in a manner consistent with freight rail assistance program projects. The value of the public benefit of this project is expected to meet or exceed the cost of this project in: Shipper savings on transportation costs; jobs saved in rail-dependent industries; and/or reduced future costs to repair wear and tear on state and local highways due to fewer annual truck trips (reduced vehicle miles traveled). The amounts provided in this subsection are not a commitment for future legislatures, but it is the legislature's intent that future legislatures will work to approve biennial appropriations until the full \$7,337,000 cost of this project is reimbursed.

(5)(a) (~~(\$365,000)~~) \$716,000 of the essential rail assistance account—state appropriation (~~(is)~~) and \$82,000 of the multimodal transportation account—state appropriation are provided solely for the purpose of the rehabilitation and maintenance of the Palouse river and Coulee City railroad line (F01111B).

(b) Expenditures from the essential rail assistance account—state in this subsection may not exceed the combined total of:

(i) Revenues and transfers deposited into the essential rail assistance account from leases and sale of property relating to the Palouse river and Coulee City railroad;

(ii) Revenues from trackage rights agreement fees paid by shippers; and

(iii) Revenues and transfers transferred from the miscellaneous program account to the essential rail assistance account, pursuant to RCW 47.76.360, for the purpose of sustaining the grain train program by maintaining the Palouse river and Coulee City railroad.

(6) The department shall issue a call for projects for the freight rail assistance program, and shall evaluate the applications in a manner consistent with past practices as specified in section 309, chapter 367, Laws of 2011. By November 15, 2020, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

(7) \$10,000,000 of the multimodal transportation account—state appropriation is provided solely as expenditure authority for any insurance proceeds received by the state for Passenger Rail Equipment Replacement (project 700010C.) The department must use this expenditure authority only to purchase ~~((new train sets))~~ replacement equipment that ~~((have))~~ has been competitively procured and for service recovery needs and corrective actions related to the December 2017 derailment.

(8) ~~(((\$600,000))~~ \$898,000 of the multimodal transportation account—federal appropriation and ~~(((\$6,000))~~ \$8,000 of the multimodal transportation account—state appropriation are provided solely for the Ridgefield Rail Overpass (project 725910A). Total costs for this project may not exceed \$909,000 across fiscal biennia.

(9)(a) For projects funded as part of the 2015 connecting Washington transportation package listed on the LEAP transportation document identified in subsection (1) of this section, if the department expects to have substantial reappropriations for the 2021-2023 fiscal biennium, the department may, on a pilot basis, apply funding from a project in this section with an appropriation that cannot be used for the current fiscal biennium to advance the South Kelso Railroad Crossing project (L1000147).

(b) At least ten business days before advancing the project pursuant to this subsection, the department must notify the office of financial management and the transportation committees of the legislature. The advancement of the project may not hinder the delivery of the projects for which the reappropriations are necessary for the 2021-2023 fiscal biennium.

(c) To the extent practicable, the department shall use the flexibility and authority granted in this section to minimize the amount of reappropriations needed each biennium.

(10) The multimodal transportation account—state appropriation includes up to ~~(((\$19,592,000))~~ \$25,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.867.

(11) The department must report to the joint transportation committee on the progress made on freight rail investment bank projects and freight rail assistance projects funded during this biennium by January 1, 2020.

(12) \$1,500,000 of the multimodal transportation account—state appropriation is provided solely for the Chelatchie Prairie railroad roadbed rehabilitation project (L1000233).

(13) \$250,000 of the multimodal transportation account—state appropriation is provided solely for the Port of Moses Lake Northern Columbia Basin railroad feasibility study (L1000235).

(14) \$500,000 of the multimodal transportation account—state appropriation is provided solely for the Spokane airport transload facility project (L1000242).

(15) \$1,000,000 of the motor vehicle account—state appropriation is provided solely for the grade separation at Bell road project (L1000239)~~((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses))~~.

(16) ~~\$750,000 of the motor vehicle account—state appropriation ((is)) and \$399,000 of the multimodal transportation account—state appropriation are provided solely for the rail crossing improvements at 6th Ave. and South 19th St. project (L2000289)((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses))~~.

(17) It is the intent of the legislature that no capital projects be eliminated or substantially delayed as a result of revenue reductions, but that as a short-term solution appropriation authority for this program is reduced to reflect anticipated underruns in this program, based on historical reappropriation levels.

(18) The appropriations in this section include savings due to anticipated project underruns; however, it is unknown which projects will provide savings. The legislature intends to provide sufficient flexibility for the department to manage to this savings target. To provide this flexibility, the office of financial management may authorize, through an allotment modification, reductions in the appropriated amounts that are provided solely for a particular purpose within this section subject to the following conditions and limitations:

(a) The department must confirm that any modification requested under this subsection of amounts provided solely for a specific purpose are not expected to be used for that purpose in this biennium;

(b) Allotment modifications authorized under this subsection may not result in increased funding for any project beyond the amount provided for that project in the 2019-2021 fiscal biennium in LEAP Transportation Document 2020-2 ALL PROJECTS as developed March 11, 2020;

(c) Allotment modifications authorized under this subsection apply only to amounts appropriated in this section from the multimodal transportation account—state; and

(d) By December 1, 2020, the department must submit a report to the transportation committees of the legislature regarding the actions taken under this subsection.

**Sec. 309 is partially vetoed. See message at end of chapter.*

***Sec. 310.** 2019 c 416 s 311 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—CAPITAL

Highway Infrastructure Account—State Appropriation	(\$793,000)
	<u>\$1,276,000</u>
Highway Infrastructure Account—Federal Appropriation	(\$981,000)
	<u>\$1,337,000</u>
Transportation Partnership Account—State Appropriation	(\$750,000)
	<u>\$2,380,000</u>
Highway Safety Account—State Appropriation	(\$800,000)
	<u>\$1,314,000</u>
Motor Vehicle Account—State Appropriation	(\$30,878,000)
	<u>\$35,607,000</u>
Motor Vehicle Account—Federal Appropriation	(\$33,813,000)
	<u>\$41,420,000</u>
Motor Vehicle Account—Private/Local Appropriation	(\$21,500,000)
	<u>\$24,600,000</u>
Connecting Washington Account—State Appropriation	(\$172,454,000)
	<u>\$155,550,000</u>
Multimodal Transportation Account—State Appropriation	(\$72,269,000)
	<u>\$77,469,000</u>
TOTAL APPROPRIATION	(\$334,238,000)
	<u>\$340,953,000</u>

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

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document ((2019-2)) 2020-2 ALL PROJECTS as developed ((April 27, 2019)) March 11, 2020, Program - Local Projects Program (Z).

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

(a) \$18,380,000 of the multimodal transportation account—state appropriation is provided solely for newly selected pedestrian and bicycle safety program projects. ((~~\$5,940,000~~)) \$18,577,000 of the multimodal transportation account—state appropriation and ((~~\$750,000~~)) \$1,380,000 of the transportation partnership account—state appropriation are reappropriated for pedestrian and bicycle safety program projects selected in the previous biennia (L2000188).

(b) \$11,400,000 of the motor vehicle account—federal appropriation and \$7,750,000 of the multimodal transportation account—state appropriation are provided solely for newly selected safe routes to school projects. ((~~\$6,690,000~~))

\$11,354,000 of the motor vehicle account—federal appropriation, (~~(\$2,320,000)~~) \$4,640,000 of the multimodal transportation account—state appropriation, and (~~(\$800,000)~~) \$1,314,000 of the highway safety account—state appropriation are reappropriated for safe routes to school projects selected in the previous biennia (L2000189). The department may consider the special situations facing high-need areas, as defined by schools or project areas in which the percentage of the children eligible to receive free and reduced-price meals under the national school lunch program is equal to, or greater than, the state average as determined by the department, when evaluating project proposals against established funding criteria while ensuring continued compliance with federal eligibility requirements.

(3) The department shall submit a report to the transportation committees of the legislature by December 1, 2019, and December 1, 2020, on the status of projects funded as part of the pedestrian safety/safe routes to school grant program. The report must include, but is not limited to, a list of projects selected and a brief description of each project's status.

(4) (~~(\$28,319,000)~~) \$37,537,000 of the multimodal transportation account—state appropriation is provided solely for bicycle and pedestrian projects listed in the LEAP transportation document referenced in subsection (1) of this section.

(5) (~~(\$19,160,000)~~) \$23,926,000 of the connecting Washington account—state appropriation is provided solely for the Covington Connector (L2000104). The amounts described in the LEAP transportation document referenced in subsection (1) of this section are not a commitment by future legislatures, but it is the legislature's intent that future legislatures will work to approve appropriations in the 2019-2021 fiscal biennium to reimburse the city of Covington for approved work completed on the project up to the full \$24,000,000 cost of this project.

(6)(a) For projects funded as part of the 2015 connecting Washington transportation package listed on the LEAP transportation document identified in subsection (1) of this section, if the department expects to have substantial reappropriations for the 2021-2023 fiscal biennium, the department may, on a pilot basis, apply funding from a project in this section with an appropriation that cannot be used for the current fiscal biennium to advance one or more of the following projects:

- (i) (~~East West Corridor Overpass and Bridge (L2000067);~~
- (ii) 41st Street Rucker Avenue Freight Corridor Phase 2 (L2000134);
- (iii) Mottman Rd Pedestrian & Street Improvements (L1000089);
- (iv) I-5/Port of Tacoma Road Interchange (L1000087);
- (v) (~~Complete SR 522 Improvements Kenmore (T10600R);~~
- (vi) (ii) SR 99 Revitalization in Edmonds (NEDMOND); or
- (vii) (iii) SR 523 145th Street (L1000148);

(b) At least ten business days before advancing a project pursuant to this subsection, the department must notify the office of financial management and the transportation committees of the legislature. The advancement of a project may not hinder the delivery of the projects for which the reappropriations are necessary for the 2021-2023 fiscal biennium.

(c) To the extent practicable, the department shall use the flexibility and authority granted in this section to minimize the amount of reappropriations needed each biennium.

(7) It is the expectation of the legislature that the department will be administering a local railroad crossing safety grant program for \$7,000,000 in federal funds during the 2019-2021 fiscal biennium.

(8)(a) \$15,213,000 of the motor vehicle account—federal appropriation is provided solely for national highway freight network projects identified on the project list submitted in accordance with section 218(4)(b), chapter 14, Laws of 2016 on October 31, 2016.

(b) ~~((In advance of the expiration of the fixing America's surface transportation (FAST) act in 2020, the department must work with the Washington state freight advisory committee to agree on a framework for allocation of any new national highway freight funding that may be approved in a new federal surface transportation reauthorization act. The department and representatives of the advisory committee must report to the joint transportation committee by October 1, 2020, on the status of planning for allocating new funds for this program.))~~ The department shall convene a stakeholder group for the purpose of developing a recommendation for a Washington freight advisory committee. The recommendations must include, but are not limited to, defining the committee's purpose and goals, roles and responsibilities, reporting structure, and proposed activities. Stakeholders must include representation from, but not limited to, the trucking industry, the maritime industry, the rail industry, cities, tribal governments, counties, ports, and representatives from key industrial associations important to the state's economic vitality and other relevant public and private interests. In developing the recommendation, the stakeholder group must review practices used by other states. The proposed committee must conform with requirements of the fixing America's surface transportation act and other relevant federal legislation. The recommendations must include how the committee can address improving freight mobility including, but not limited to, addressing insufficient truck parking in Washington state, examining the link between preservation investments and freight mobility, and enhancing freight logistics through the application of technology. The stakeholder group shall make recommendations to the governor and the transportation committees of the legislature by December 1, 2020.

(9) \$1,000,000 of the motor vehicle account—state appropriation is provided solely for the Beech Street Extension project (L1000222)~~((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).~~

(10) \$3,900,000 of the motor vehicle account—state appropriation is provided solely for the Dupont-Steilacoom road improvements project (L1000224)~~((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model~~

~~toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).~~

~~(11) \$650,000 of the motor vehicle account—state appropriation is provided solely for the SR 104/40th place northeast roundabout project (L1000244)((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).~~

~~(12) \$860,000 of the multimodal transportation account—state appropriation is provided solely for the Clinton to Ken's corner trail project (L1000249).~~

~~(13) \$210,000 of the motor vehicle account—state appropriation is provided solely for the I-405/44th gateway signage and green-scaping improvements project (L1000250)((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).~~

~~(14) ((\$750,000 of the multimodal transportation account—state appropriation is provided solely for the Edmonds waterfront connector project (L1000252).~~

~~(15)) \$650,000 of the motor vehicle account—state appropriation is provided solely for the Wallace Kneeland and Shelton springs road intersection improvements project (L1000260)((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).~~

~~((16)) (15) \$1,000,000 of the motor vehicle account—state appropriation and \$500,000 of the multimodal transportation account—state appropriation are provided solely for the complete 224th Phase two project (L1000270)((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount in this subsection provided from the motor vehicle account—state appropriation lapses)).~~

~~((17)) (16) \$60,000 of the multimodal transportation account—state appropriation is provided solely for the installation of an updated meteorological station at the Colville airport (L1000279).~~

~~((18)) (17)(a) \$700,000 of the motor vehicle account—state appropriation is provided solely for the Ballard-Interbay Regional Transportation system plan project (L1000281)((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of~~

chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).

(b) Funding in this subsection is provided solely for the city of Seattle to develop a plan and report for the Ballard-Interbay Regional Transportation System project to improve mobility for people and freight. The plan must be developed in coordination and partnership with entities including but not limited to the city of Seattle, King county, the Port of Seattle, Sound Transit, the Washington state military department for the Seattle armory, and the Washington state department of transportation. The plan must examine replacement of the Ballard bridge and the Magnolia bridge, which was damaged in the 2001 Nisqually earthquake. The city must provide a report on the plan that includes recommendations to the Seattle city council, King county council, and the transportation committees of the legislature by November 1, 2020. The report must include recommendations on how to maintain the current and future capacities of the Magnolia and Ballard bridges, an overview and analysis of all plans between 2010 and 2020 that examine how to replace the Magnolia bridge, and recommendations on a timeline for constructing new Magnolia and Ballard bridges.

~~((19))~~ (18) \$750,000 of the motor vehicle account—state appropriation is provided solely for the Mickelson Parkway project (L1000282)~~((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses))~~.

~~((20))~~ (19) \$300,000 of the motor vehicle account—state appropriation is provided solely for the South 314th Street Improvements project (L1000283)~~((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses))~~.

~~((21))~~ (20) \$250,000 of the motor vehicle account—state appropriation is provided solely for the Ridgefield South I-5 Access Planning project (L1000284)~~((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses))~~.

~~((22))~~ (21) \$300,000 of the motor vehicle account—state appropriation is provided solely for the Washougal 32nd Street Underpass Design and Permitting project (L1000285)~~((; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model~~

toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).

~~((23))~~ (22) \$600,000 of the connecting Washington account—state appropriation, \$150,000 of the motor vehicle account—state appropriation, and (\$50,000) \$267,000 of the multimodal transportation account—state appropriation are provided solely for the Bingen Walnut Creek and Maple Railroad Crossing (L2000328)(; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount in this subsection provided from the motor vehicle account—state appropriation lapses)).

~~((24))~~ (23) \$1,500,000 of the motor vehicle account—state appropriation is provided solely for the SR 303 Warren Avenue Bridge Pedestrian Improvements project (L2000339)(; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).

~~((25))~~ (24) \$1,000,000 of the motor vehicle account—state appropriation is provided solely for the 72nd/Washington Improvements in Yakima project (L2000341)(; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).

~~((26))~~ (25) \$650,000 of the motor vehicle account—state appropriation is provided solely for the 48th/Washington Improvements in Yakima project (L2000342)(; however, if at least \$50,000,000 is not made available, by means of transfer, deposit, appropriation, or other similar conveyance, to the motor vehicle account for stormwater-related activities through the enactment of chapter 422 (Engrossed Substitute Senate Bill No. 5993), Laws of 2019 (model toxics control program reform) by June 30, 2019, the amount provided in this subsection lapses)).

(26) It is the intent of the legislature that no capital projects will be eliminated or substantially delayed as a result of revenue reductions, but that as a short-term solution appropriation authority for this program is reduced to reflect anticipated underruns in this program, based on historical reapportionment levels.

(27) The appropriations in this section include savings due to anticipated project underruns; however, it is unknown which projects will provide savings. The legislature intends to provide sufficient flexibility for the department to manage to this savings target. To provide this flexibility, the office of financial management may authorize, through an allotment modification, reductions in the appropriated amounts that are provided solely for a particular purpose within this section subject to the following conditions and limitations:

(a) The department must confirm that any modification requested under this subsection of amounts provided solely for a specific purpose are not expected to be used for that purpose in this biennium;

(b) Allotment modifications authorized under this subsection may not result in increased funding for any project beyond the amount provided for that project in the 2019-2021 fiscal biennium in LEAP Transportation Document 2020-2 ALL PROJECTS as developed March 11, 2020;

(c) Allotment modifications authorized under this subsection apply only to amounts appropriated in this section from the following accounts: Connecting Washington account—state and multimodal transportation account—state; and

(d) By December 1, 2020, the department must submit a report to the transportation committees of the legislature regarding the actions taken under this subsection.

**Sec. 310 is partially vetoed. See message at end of chapter.*

Sec. 311. 2019 c 416 s 313 (uncodified) is amended to read as follows:

QUARTERLY REPORTING REQUIREMENTS FOR CAPITAL PROGRAM

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

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

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

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

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

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

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

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

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

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

(2) For completed projects, the report must:

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

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

(3) For prospective projects, the report must:

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

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

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

TRANSFERS AND DISTRIBUTIONS

Sec. 401. 2019 c 416 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

Special Category C Account—State Appropriation	((<u>\$376,000</u>))
	<u>\$105,000</u>
Multimodal Transportation Account—State Appropriation	\$125,000
Transportation Partnership Account—State Appropriation	((<u>\$1,636,000</u>))
	<u>\$1,407,000</u>
Connecting Washington Account—State Appropriation	((<u>\$7,599,000</u>))
	<u>\$7,723,000</u>
Highway Bond Retirement Account—State	
Appropriation	((<u>\$1,327,766,000</u>))
	<u>\$1,378,835,000</u>
Ferry Bond Retirement Account—State Appropriation	((<u>\$25,077,000</u>))
	<u>\$25,078,000</u>
Transportation Improvement Board Bond Retirement	
Account—State Appropriation	((<u>\$12,684,000</u>))
	<u>\$12,452,000</u>
Nondebt-Limit Reimbursable Bond Retirement	
Account—State Appropriation	((<u>\$29,594,000</u>))
	<u>\$31,253,000</u>
Toll Facility Bond Retirement Account—State	
Appropriation	((<u>\$86,493,000</u>))
	<u>\$86,483,000</u>
TOTAL APPROPRIATION	((<u>\$1,491,340,000</u>))
	<u>\$1,543,461,000</u>

Sec. 402. 2019 c 416 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

Multimodal Transportation Account—State Appropriation	\$25,000
Transportation Partnership Account—State	
Appropriation	((<u>\$327,000</u>))

Connecting Washington Account—State Appropriation	\$281,000 (((\$1,520,000))
	<u>\$1,599,000</u>
Special Category C Account—State Appropriation	(((\$75,000))
	<u>\$21,000</u>
TOTAL APPROPRIATION	(((\$1,947,000))
	<u>\$1,926,000</u>

Sec. 403. 2019 c 416 s 403 (uncodified) is amended to read as follows:
FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account—State Appropriation:
 For motor vehicle fuel tax distributions to cities and counties

	(((\$518,198,000))
	<u>\$508,276,000</u>

Sec. 404. 2019 c 416 s 404 (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.

	(((\$2,188,945,000))
	<u>\$2,146,790,000</u>

Sec. 405. 2019 c 416 s 405 (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

	(((\$220,426,000))
	<u>\$235,788,000</u>

Sec. 406. 2019 c 416 s 406 (uncodified) is amended to read as follows:
FOR THE STATE TREASURER—ADMINISTRATIVE TRANSFERS

(1) Highway Safety Account—State Appropriation:
 For transfer to the Multimodal Transportation Account—State

	(((\$10,000,000))
	<u>\$54,000,000</u>

(2) Transportation Partnership Account—State Appropriation: For transfer to the Motor Vehicle Account—State

	(((\$50,000,000))
	<u>\$45,000,000</u>

(3) Motor Vehicle Account—State Appropriation:
 For transfer to the State Patrol Highway Account—State

	(((\$7,000,000))
	<u>\$57,000,000</u>

(4) Motor Vehicle Account—State Appropriation:
 For transfer to the Freight Mobility Investment Account—State

	(((\$8,511,000))
	<u>\$8,070,000</u>

(5) Motor Vehicle Account—State Appropriation:
 For transfer to the Rural Arterial Trust

Account—State~~(\$4,844,000)~~
\$1,732,000

(6) Motor Vehicle Account—State Appropriation:
For transfer to the Transportation Improvement

Account—State~~(\$9,688,000)~~
\$5,067,000

~~(7) (Highway Safety Account—State Appropriation:
For transfer to the State Patrol Highway~~

~~Account—State \$44,000,000~~

~~(8)) Motor Vehicle Account—State Appropriation: For transfer to the
Puget Sound Capital Construction Account—State \$52,000,000~~

~~(8) Motor Vehicle Account—State Appropriation: For transfer to the Puget
Sound Ferry Operations Account—State \$55,000,000~~

~~(9) Rural Mobility Grant Program Account—State
Appropriation: For transfer to the Multimodal~~

~~Transportation Account—State \$3,000,000~~

~~((9)) (10) State Route Number 520 Civil Penalties
Account—State Appropriation: For transfer to~~

~~the State Route Number 520 Corridor
Account—State \$1,434,000~~

~~((10)) (11) Capital Vessel Replacement Account—State
Appropriation: For transfer to the Connecting~~

~~Washington Account—State~~(\$50,000,000)~~
\$60,000,000~~

~~((11) Multimodal Transportation Account—State
Appropriation: For transfer to the Freight~~

~~Mobility Multimodal Account—State~~(\$8,511,000)~~~~

~~(12) (Multimodal Transportation Account—State
Appropriation: For transfer to the Puget Sound~~

~~Capital Construction Account—State \$15,000,000~~

~~(13) Multimodal Transportation Account—State
Appropriation: For transfer to the Puget Sound~~

~~Ferry Operations Account—State \$45,000,000~~

~~(14)) Multimodal Transportation Account—State
Appropriation: For transfer to the Regional~~

~~Mobility Grant Program Account—State~~(\$27,679,000)~~
\$11,215,000~~

~~((15)) (13) Multimodal Transportation Account—State
Appropriation: For transfer to the Rural~~

~~Mobility Grant Program Account—State \$15,223,000~~

~~((16)) (14) Transportation 2003 Account (Nickel Account)—
State Appropriation: For transfer to the Puget~~

~~Sound Capital Construction Account—State~~(\$20,000,000)~~
\$15,000,000~~

~~((17)) (15)(a) Alaskan Way Viaduct Replacement Project
Account—State Appropriation: For transfer to the~~

~~Motor Vehicle Account—State \$9,992,000~~

(b) The transfer identified in this subsection is provided solely to repay in full the motor vehicle account—state appropriation loan from section 1005(21) ~~((of this act)), chapter 416, Laws of 2019.~~

~~((18))~~ (16)(a) Transportation Partnership Account—State
Appropriation: For transfer to the Alaskan Way Viaduct
Replacement Project Account—State ((\$77,951,000))
\$77,956,000

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

~~((19))~~ (17) Motor Vehicle Account—State Appropriation:
For transfer to the County Arterial Preservation
Account—State ((\$4,844,000))
\$4,829,000

~~((20))~~ (18)(a) General Fund Account—State Appropriation:
For transfer to the State Patrol Highway
Account—State \$625,000

(b) The state treasurer shall transfer the funds only after receiving notification from the Washington state patrol under section 207(7) ~~((of this act)), chapter 416, Laws of 2019.~~

~~((21))~~ (19) Capital Vessel Replacement Account—State
Appropriation: For transfer to the Transportation
Partnership Account—State ((\$3,293,000))
\$2,312,000

~~((22))~~ (20)(a) Alaskan Way Viaduct Replacement Project
Account—State Appropriation: For transfer to the
Transportation Partnership Account—State ((\$19,262,000))
\$15,858,000

(b) The amount transferred in this subsection represents repayment of debt service incurred for the construction of the SR 99/Alaskan Way Viaduct Replacement project (809936Z).

~~((23))~~ (21) Tacoma Narrows Toll Bridge Account—State
Appropriation: For transfer to the Motor
Vehicle Account—State \$950,000

~~((24))~~ (22)(a) Tacoma Narrows Toll Bridge Account—State
Appropriation:
For transfer to the Motor Vehicle
Account—State \$5,000,000

(b) A transfer in the amount of \$5,000,000 was made from the Motor Vehicle Account to the Tacoma Narrows Toll Bridge Account in April 2019. It is the intent of the legislature that this transfer was to be temporary, for the purpose of minimizing the impact of toll increases, and this is an equivalent reimbursing transfer to occur in November 2019.

~~((25))~~ (23)(a) Transportation 2003 Account (Nickel Account)
—State Appropriation: For transfer to the Tacoma
Narrows Toll Bridge Account—State \$12,543,000

(b) It is the intent of the legislature that this transfer is temporary, for the purpose of minimizing the impact of toll increases, and an equivalent reimbursing transfer is to occur after the debt service and deferred sales tax on the Tacoma Narrows bridge construction costs are fully repaid in accordance with chapter 195, Laws of 2018.

~~((26))~~ (24) Transportation Infrastructure Account—State
Appropriation: For transfer to the multimodal
Transportation Account—State \$9,000,000

~~((27))~~ (25) Multimodal Transportation Account—State
Appropriation: For transfer to the Pilotage
Account—State \$2,500,000

~~((28))~~ (26)(a) Motor Vehicle Account—State
Appropriation: For transfer to the County Road
Administration Board Emergency Loan Account—State \$1,000,000

(b) If chapter 157 (~~(Senate Bill No. 5923)~~), Laws of 2019 is not enacted by June 30, 2019, the amount provided in this subsection lapses.

~~((29))~~ (27)(a) Advanced Environmental Mitigation
Revolving Account—State Appropriation: For transfer
to the Motor Vehicle Account—State \$9,000,000

(b) The amount transferred in this subsection is contingent on at least a \$9,000,000 transfer to the advanced environmental mitigation revolving account authorized by June 30, 2019, in the omnibus capital appropriations act.

~~((30) Motor Vehicle account—State Appropriation:
For transfer to the Electric Vehicle Charging
Infrastructure Account—State \$12,255,000~~

~~(31))~~ (28) Multimodal Transportation Account—State
Appropriation: For transfer to the Electric Vehicle
Charging Infrastructure Account—State ~~(\$8,000,000)~~
\$1,000,000

~~((32))~~ (29) Multimodal Transportation Account—State
Appropriation: For transfer to the Complete Streets
Grant Program Account—State ~~(\$14,670,000)~~
\$10,200,000

~~((33))~~ (30)(a) Transportation Partnership
Account—State Appropriation: For transfer to the Capital Vessel Replacement
Account—State ~~(\$99,000,000)~~
\$96,030,000

(b) The amount transferred in this subsection represents proceeds from the sale of bonds authorized in RCW 47.10.873.

(31) Freight Mobility Multimodal Account—State
Appropriation: For transfer to the Multimodal Transportation
Account—State \$7,296,000

(32) Connecting Washington Account—State
Appropriation: For transfer to the Motor Vehicle
Account—State \$115,000,000

Sec. 407. 2019 c 416 s 407 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

Multimodal Transportation Account—State	
Appropriation: For distribution to cities and counties	\$26,786,000
Motor Vehicle Account—State Appropriation: For	
distribution to cities and counties	\$23,438,000
TOTAL APPROPRIATION	\$50,224,000

Sec. 408. 2019 c 416 s 408 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT TO BE PAID BY STATUTORILY PRESCRIBED REVENUE

Toll Facility Bond Retirement Account—Federal	
Appropriation	\$199,522,000
Toll Facility Bond Retirement Account—State	
Appropriation	\$25,372,000
TOTAL APPROPRIATION	(\$225,273,000)
	\$224,894,000

COMPENSATION

NEW SECTION. **Sec. 501.** A new section is added to 2019 c 416 (uncodified) to read as follows:

COLLECTIVE BARGAINING AGREEMENTS

Sections 502 and 503 of this act represent the results of the negotiations for fiscal year 2021 collective bargaining agreement changes, permitted under chapter 47.64 RCW. Provisions of the collective bargaining agreements contained in sections 502 and 503 of this act are described in general terms. Only major economic terms are included in the descriptions. These descriptions do not contain the complete contents of the agreements. The collective bargaining agreements contained in sections 502 and 503 of this act may also be funded by expenditures from nonappropriated accounts. If positions are funded with lidded grants or dedicated fund sources with insufficient revenue, additional funding from other sources is not provided.

NEW SECTION. **Sec. 502.** A new section is added to 2019 c 416 (uncodified) to read as follows:

DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—MEBA-UL

An agreement has been reached between the governor and the marine engineers' beneficial association unlicensed engine room employees pursuant to chapter 47.64 RCW for the 2021 fiscal year. Funding is provided to ensure training opportunities are available to all bargaining unit employees.

NEW SECTION. **Sec. 503.** A new section is added to 2019 c 416 (uncodified) to read as follows:

DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—MEBA-L

An agreement has been reached between the governor and the marine engineers' beneficial association licensed engineer officers pursuant to chapter 47.64 RCW for the 2021 fiscal year. Funding is provided to ensure training opportunities are available to all bargaining unit employees.

NEW SECTION. Sec. 504. A new section is added to 2019 c 416 (uncodified) to read as follows:

GENERAL STATE EMPLOYEE COMPENSATION ADJUSTMENTS

Except as otherwise provided in sections 501 through 503 of this act, state employee compensation adjustments will be provided in accordance with funding adjustments provided in the 2020 supplemental omnibus appropriations act.

IMPLEMENTING PROVISIONS

Sec. 601. 2019 c 416 s 601 (uncodified) is amended to read as follows:

FUND TRANSFERS

(1) The 2005 transportation partnership projects or improvements and 2015 connecting Washington projects or improvements are listed in the LEAP Transportation Document (~~(2019-1)~~) 2020-1 as developed (~~(April 27, 2019)~~) March 11, 2020, which consists of a list of specific projects by fund source and amount over a sixteen-year period. Current fiscal biennium funding for each project is a line-item appropriation, while the outer year funding allocations represent a sixteen-year plan. The department of transportation is expected to use the flexibility provided in this section to assist in the delivery and completion of all transportation partnership account and connecting Washington account projects on the LEAP transportation document referenced in this subsection. For the 2019-2021 project appropriations, unless otherwise provided in this act, the director of the office of financial management may provide written authorization for a transfer of appropriation authority between projects funded with transportation partnership account appropriations or connecting Washington account appropriations to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

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

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

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

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

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

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

(g) Each transfer between projects may only occur if the director of the office of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature. Until the legislature reconvenes to consider the 2020 supplemental omnibus transportation appropriations act, any unexpended 2017-2019 appropriation balance as approved by the office of financial management, in consultation with the chairs and ranking members of the house of representatives and senate transportation committees, may be considered when transferring funds between projects; and

(h) Transfers between projects may be made by the department of transportation without the formal written approval provided under this subsection (1), provided that the transfer amount does not exceed two hundred

fifty thousand dollars or ten percent of the total project, whichever is less. These transfers must be reported quarterly to the director of the office of financial management and the chairs of the house of representatives and senate transportation committees.

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

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

(4) Before approval, the office of financial management shall work with legislative staff of the house of representatives and senate transportation committees to review the requested transfers in a timely manner and consider any concerns raised by the chairs and ranking members of the transportation committees.

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

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

Sec. 602. 2019 c 416 s 606 (uncodified) is amended to read as follows:

TRANSIT, BICYCLE, AND PEDESTRIAN ELEMENTS REPORTING

(1) By November 15th of each year, the department of transportation must report on amounts expended to benefit transit, bicycle, or pedestrian elements within all connecting Washington projects in programs I, P, and Z identified in LEAP Transportation Document ((2019-2)) 2020-2 ALL PROJECTS as developed ((~~April 27, 2019~~)) March 11, 2020. The report must address each modal category separately and identify if eighteenth amendment protected funds have been used and, if not, the source of funding.

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

MISCELLANEOUS 2019-2021 FISCAL BIENNIUM

Sec. 701. 2019 c 416 s 701 (uncodified) is amended to read as follows:

INFORMATION TECHNOLOGY OVERSIGHT

(1) Agencies must apply to the office of financial management and the office of the state chief information officer for approval before beginning a project or proceeding with each discreet stage of a project subject to this section. At each stage, the office of the state chief information officer must certify that the project has an approved technology budget and investment plan, complies with state information technology and security requirements, and other policies defined by the office of the state chief information officer. The office of financial management must notify the fiscal committees of the legislature of the receipt of

each application and may not approve a funding request for ten business days from the date of notification.

(2)(a) Each project must have a technology budget. The technology budget must use a method similar to the state capital budget, identifying project costs, each fund source, and anticipated deliverables through each stage of the entire project investment and across fiscal periods and biennia from project onset through implementation and close out.

(b) As part of the development of a technology budget and at each request for funding, the agency shall submit detailed financial information to the office of financial management and the office of the state chief information officer. The technology budget must describe the total cost of the project by fiscal month to include and identify:

- (i) Fund sources;
- (ii) Full-time equivalent staffing level to include job classification assumptions;
- (iii) A discreet appropriation index and program index;
- (iv) Object and subobject codes of expenditures; and
- (v) Anticipated deliverables.

(c) If a project technology budget changes and a revised technology budget is completed, a comparison of the revised technology budget to the last approved technology budget must be posted to the dashboard, to include a narrative rationale on what changed, why, and how that impacts the project in scope, budget, and schedule.

(3)(a) Each project must have an investment plan that includes:

- (i) An organizational chart of the project management team that identifies team members and their roles and responsibilities;
- (ii) The office of the state chief information officer staff assigned to the project;
- (iii) An implementation schedule covering activities, critical milestones, and deliverables at each stage of the project for the life of the project at each agency affected by the project;
- (iv) Performance measures used to determine that the project is on time, within budget, and meeting expectations for quality of work product;
- (v) Ongoing maintenance and operations cost of the project post implementation and close out delineated by agency staffing, contracted staffing, and service level agreements; and
- (vi) Financial budget coding to include at least discrete program index and subobject codes.

(4) Projects with estimated costs greater than one hundred million dollars from initiation to completion and implementation may be divided into discrete subprojects as determined by the office of the state chief information officer. Each subproject must have a technology budget and investment plan as provided in this section.

(5)(a) The office of the state chief information officer shall maintain an information technology project dashboard that provides updated information each fiscal month on projects subject to this section. This includes, at least:

- (i) Project changes each fiscal month;
- (ii) Noting if the project has a completed market requirements document;

(iii) Financial status of information technology projects under oversight;
 ((and))

(iv) Coordination with agencies;

(v) Monthly quality assurance reports, if applicable;

(vi) Monthly office of the state chief information officer status reports;

(vii) Historical project budget and expenditures through fiscal year 2019;

(viii) Budget and expenditures each fiscal month; and

(ix) Estimated annual maintenance and operations costs by fiscal year.

(b) The dashboard must retain a roll up of the entire project cost, including all subprojects, that can be displayed the subproject detail.

(6) If the project affects more than one agency:

(a) A separate technology budget and investment plan must be prepared for each agency; and

(b) The dashboard must contain a statewide project technology budget roll up that includes each affected agency at the subproject level.

(7) For any project that exceeds two million dollars in total funds to complete, requires more than one biennium to complete, or is financed through financial contracts, bonds, or other indebtedness:

(a) Quality assurance for the project must report independently the office of the chief information officer;

(b) The office of the chief information officer must review, and, if necessary, revise the proposed project to ensure it is flexible and adaptable to advances in technology;

(c) The technology budget must specifically identify the uses of any financing proceeds. No more than thirty percent of the financing proceeds may be used for payroll-related costs for state employees assigned to project management, installation, testing, or training;

(d) The agency must consult with the office of the state treasurer during the competitive procurement process to evaluate early in the process whether products and services to be solicited and the responsive bids from a solicitation may be financed; and

(e) The agency must consult with the contracting division of the department of enterprise services for a review of all contracts and agreements related to the project's information technology procurements.

(8) The office of the state chief information officer must evaluate the project at each stage and certify whether the project is planned, managed, and meeting deliverable targets as defined in the project's approved technology budget and investment plan.

(9) The office of the state chief information officer may suspend or terminate a project at any time if it determines that the project is not meeting or not expected to meet anticipated performance and technology outcomes. Once suspension or termination occurs, the agency shall unallot any unused funding and shall not make any expenditure for the project without the approval of the office of financial management. The office of the state chief information officer must report on July 1st and December 1st each calendar year, beginning July 1, 2020, any suspension or termination of a project in the previous six month period to legislative fiscal committees.

(10) The office of the state chief information officer, in consultation with the office of financial management, may identify additional projects to be subject to

this section, including projects that are not separately identified within an agency budget. The office of the state chief information officer must report on July 1st and December 1st each calendar year, beginning July 1, 2020, any additional projects to be subjected to this section that were identified in the previous six month period to legislative fiscal committees.

(11) The following department of transportation projects are subject to the conditions, limitations, and review provided in this section: Labor System Replacement, New Ferry Division Dispatch System, Maintenance Management System, Land Mobile Radio System Replacement, and New CSC System and Operator.

Sec. 702. RCW 46.68.310 and 2013 c 104 s 4 are each amended to read as follows:

The freight mobility multimodal account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for freight mobility projects that have been approved by the freight mobility strategic investment board in RCW 47.06A.020 and may include any principal and interest on bonds authorized for the projects or improvements. However, during the 2019-2021 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the freight mobility multimodal account to the multimodal transportation account.

Sec. 703. RCW 82.32.385 and 2015 3rd sp.s. c 44 s 420 are each amended to read as follows:

(1) Beginning September 2019 and ending (~~(June 2021))~~ December 2019, by the last day of September(~~(;))~~ and December(~~(, March, and June of each year))~~), the state treasurer must transfer from the general fund to the connecting Washington account created in RCW 46.68.395 thirteen million six hundred eighty thousand dollars.

(2) Beginning March 2020 and ending June 2021, by the last day of September, December, March, and June of each year, the state treasurer must transfer from the general fund to the multimodal transportation account created in RCW 47.66.070 thirteen million six hundred eighty thousand dollars.

(3) Beginning September 2021 and ending June 2023, by the last day of September, December, March, and June of each year, the state treasurer must transfer from the general fund to the connecting Washington account created in RCW 46.68.395 thirteen million eight hundred five thousand dollars.

(~~(3))~~ (4) Beginning September 2023 and ending June 2025, by the last day of September, December, March, and June of each year, the state treasurer must transfer from the general fund to the connecting Washington account created in RCW 46.68.395 thirteen million nine hundred eighty-seven thousand dollars.

(~~(4))~~ (5) Beginning September 2025 and ending June 2027, by the last day of September, December, March, and June of each year, the state treasurer must transfer from the general fund to the connecting Washington account created in RCW 46.68.395 eleven million six hundred fifty-eight thousand dollars.

(~~(5))~~ (6) Beginning September 2027 and ending June 2029, by the last day of September, December, March, and June of each year, the state treasurer must transfer from the general fund to the connecting Washington account created in RCW 46.68.395 seven million five hundred sixty-four thousand dollars.

~~((6))~~ (7) Beginning September 2029 and ending June 2031, by the last day of September, December, March, and June of each year, the state treasurer must transfer from the general fund to the connecting Washington account created in RCW 46.68.395 four million fifty-six thousand dollars.

Sec. 704. RCW 47.66.110 and 2015 3rd sp.s. c 11 s 4 are each amended to read as follows:

(1) The transit coordination grant program is created in the department. The purpose of the transit coordination grant program is to encourage joint planning and coordination on the part of central Puget Sound transit systems in order to improve the user experience, increase ridership, and make the most effective use of tax dollars. The department shall oversee, manage, score, select, and evaluate transit coordination grant program project applications, and shall select transit coordination grant recipients annually. A transit agency located in a county or counties with a population of seven hundred thousand or more that border Puget Sound is eligible to apply to the department for transit coordination grants.

(2) Projects eligible for transit coordination grants include, but are not limited to, projects that:

(a) Integrate marketing efforts;

(b) Align fare structures;

(c) Integrate service planning;

(d) Coordinate long-range planning, including capital projects planning and implementation;

(e) Integrate other administrative functions and internal business processes as appropriate; and

(f) Integrate certain customer-focused tools and initiatives.

(3) Transit coordination grants must, at a minimum, be proposed jointly by two or more eligible transit agencies and must include a description of the:

(a) Issue or problem to be addressed;

(b) Specific solution and measurable outcomes;

(c) Benefits such as cost savings, travel time improvements, improved coordination, and improved customer experience; and

(d) Performance measurements and an evaluation plan that includes the identification of milestones towards successful completion of the project.

(4) Transit coordination grant applications must include measurable outcomes for the project including, but not limited to, the following:

(a) Impacts on service, such as increased service, improved service delivery, and improved transfers and coordination across transit service;

(b) Impacts on customer service, such as: Improved reliability; improved outreach and coordination with customers, employers, and communities; improvements in customer service functions, such as customer response time and web-based and other communications; and

(c) Impacts on administration, such as improved marketing and outreach efforts, integrated customer-focused tools, and improved cross-agency communications.

(5) Transit coordination grant applications must also include:

(a) Project budget and cost details; and

(b) A commitment and description of local matching funding of at least ten percent of the project cost.

(6) Upon completion of the project, transit coordination grant recipients must provide a report to the department that includes an overview of the project, how the grant funds were spent, and the extent to which the identified project outcomes were met. In addition, such reports must include a description of best practices that could be transferred to other transit agencies faced with similar issues to those addressed by the transit coordination grant recipient. The department must report annually to the transportation committees of the legislature on the transit coordination grants that were awarded, and the report must include data to determine if completed transit coordination grant projects produced the anticipated outcomes included in the grant applications.

(7) This section expires (~~July 1, 2020~~) June 30, 2021.

Sec. 705. RCW 46.68.290 and 2019 c 416 s 707 are each amended to read as follows:

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

(2) The legislature finds that:

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

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

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

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

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

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

(4) Within the authorities and duties under chapter 43.09 RCW, the state auditor shall establish criteria and protocols for performance audits. Transportation-related agencies shall be audited using criteria that include generally accepted government auditing standards as well as legislative mandates and performance objectives established by state agencies. Mandates

include, but are not limited to, agency strategies, timelines, program objectives, and mission and goals as required in RCW 43.88.090.

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

(6) The audits may include:

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

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

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

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

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

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

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

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

(i) Identification and recognition of best practices;

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

(k) Evaluation of personnel systems operation and management;

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

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

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

(7) Within the authorities and duties under chapter 43.09 RCW, the state auditor must provide the preliminary performance audit reports to the audited state agency for comment. The auditor also may seek input on the preliminary report from other appropriate officials. Comments must be received within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the state auditor. The final performance audit report

shall include the objectives, scope, and methodology; the audit results, including findings and recommendations; the agency's response and conclusions; and identification of best practices.

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

(9) The audited transportation-related agency is responsible for follow-up and corrective action on all performance audit findings and recommendations. The audited agency's plan for addressing each audit finding and recommendation shall be included in the final audit report. The plan shall provide the name of the contact person responsible for each action, the action planned, and the anticipated completion date. If the audited agency does not agree with the audit findings and recommendations or believes action is not required, then the action plan shall include an explanation and specific reasons.

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

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

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

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

(12) During the 2017-2019 and the 2019-2021 fiscal biennia, the legislature may direct the state treasurer to make transfers of moneys in the transportation partnership account to the connecting Washington account (~~and~~), the motor vehicle fund, and the capital vessel replacement account.

Sec. 706. RCW 82.44.135 and 2006 c 318 s 9 are each amended to read as follows:

(1) Before a local government subject to this chapter may impose a motor vehicle excise tax, the local government must contract with the department for the collection of the tax. The department may charge a reasonable amount, not to exceed one percent of tax collections, or two and one-half percent during the 2019-2021 biennium, for the administration and collection of the tax.

(2) For fiscal year 2021, the department shall charge a minimum of seven million eight hundred two thousand dollars, which is the reasonable amount aimed at achieving full cost recovery for the administration and collection of a motor vehicle excise tax. The amount of the full reimbursement for the administration and collection of the motor vehicle excise tax must be deducted before distributing any revenues to a regional transit authority. Any reimbursement to ensure full cost recovery beyond the amount specified in this

subsection may be negotiated between the department and the regional transit authority if full cost recovery has not been achieved, or if based on emergent issues.

Sec. 707. RCW 46.68.395 and 2015 3rd sp.s. c 44 s 106 are each amended to read as follows:

(1) The connecting Washington account is created in the motor vehicle fund. Moneys in the account may be spent only after appropriation. Expenditures from the account must be used only for projects or improvements identified as connecting Washington projects or improvements in a transportation appropriations act, including any principal and interest on bonds authorized for the projects or improvements.

(2) Moneys in the connecting Washington account may not be expended on the state route number 99 Alaskan Way viaduct replacement project.

(3) During the 2019-2021 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the connecting Washington account to the motor vehicle fund.

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.

Passed by the House March 11, 2020.

Passed by the Senate March 11, 2020.

Approved by the Governor March 31, 2020, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 31, 2020.

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

"I am returning herewith, without my approval as to Sections 220(16); 301(3); 302, page 70, lines 33-37 and page 71, lines 1-2; 303(2); 305(35); 307(2); 308(11); 309(17); 310(26); 207(15); 208(35); 208(22); 208(23); 208(24); 208(25); and 208(27), Engrossed Substitute House Bill No. 2322 entitled:

"AN ACT Relating to transportation funding and appropriations."

Section 220(16), page 60, Department of Transportation, Public Transportation, Program V;

Section 301(3), page 70, Freight Mobility Strategic Investment Board;

Section 302, page 70, lines 33-37, and page 71, lines 1-2, County Road Administration Board;

Section 303(2), page 71, Transportation Improvement Board;

Section 305(35), page 86, Department of Transportation, Improvements, Program I;

Section 307(2), page 91, Department of Transportation, Traffic Operations, Program Q;

Section 308(11), page 94, Department of Transportation, Washington State Ferries, Program W;

Section 309(17), page 99, Department of Transportation, Rail, Program Y; and

Section 310(26), page 107, Department of Transportation, Local Programs, Program Z

These sections include language declaring the Legislature's intent that the projects in these sections should not be eliminated or substantially delayed due to revenue reductions taken in the budget as a short-term solution to balance the budget. In light of the economic downturn due to the COVID-19 pandemic, it may be necessary to delay or eliminate projects. For this reason, I have vetoed Sections 220(16); 301(3); 302, page 70, lines 33-37, and page 71, lines 1-2; 303(2); 305(35); 307(2); 308(11); 309(17); and 310(26).

Section 207(15), pages 21-22, Washington State Patrol, Agreement for Utility Connection and Reimbursement of Water Extension Expenses

This section requires the Washington State Patrol to terminate an agreement with the city of Shelton that requires latecomers to reimburse the Washington State Patrol if they connect to water and sewer infrastructure paid for with gas tax funds. Under the 18th Amendment to the state Constitution, infrastructure funded with gas taxes cannot be used by any entity for non-highway purposes unless the gas tax fund is reimbursed. Canceling the agreement would create a risk of unconstitutional use of the infrastructure without reimbursement. For this reason, I have vetoed Section 207(15).

Section 208(35), page 30, Department of Licensing, Office Relocations

This section directs the Department of Licensing to relocate or finish relocating the Lacey, Tacoma and Bellevue-Redmond licensing services offices, and to finish emergency repairs at the Vancouver office. Not enough funding was provided in the budget to complete all of these office moves and repairs to the Vancouver office. I am directing the department to initiate the office moves with the funding provided and seek emergency capital funds for the Vancouver office repairs. For this reason, I have vetoed Section 208(35).

I have vetoed the following sections related to bills that did not pass the Legislature, resulting in the lapse of funding. My veto of these sections will serve to clean up these unnecessary sections of the bill.

Section 208(22), page 28, Department of Licensing, SHB 1255, Patches Pal Special License Plate

Section 208(23), page 28, Department of Licensing, E2SHB 2050, Washington Wine Special License Plate

Section 208(24), page 28, Department of Licensing, ESHB 2085, Mt. St. Helens Special License Plate

Section 208(25), page 28, Department of Licensing, SHB 2187, Women Veterans Special License Plate

Section 208(27), page 29, Department of Licensing, SHB 2353, Fire Trailer Vehicle Registration License Plate Registration License Plate

For these reasons I have vetoed Sections 220(16); 301(3); 302, page 70, lines 33-37 and page 71, lines 1-2; 303(2); 305(35); 307(2); 308(11); 309(17); 310(26); 207(15); 208(35); 208(22); 208(23); 208(24); 208(25); and 208(27) of Engrossed Substitute House Bill No. 2322.

With the exception of Sections 220(16); 301(3); 302, page 70, lines 33-37 and page 71, lines 1-2; 303(2); 305(35); 307(2); 308(11); 309(17); 310(26); 207(15); 208(35); 208(22); 208(23); 208(24); 208(25); and 208(27), Engrossed Substitute House Bill No. 2322 is approved."

CHAPTER 220

[Engrossed Substitute House Bill 1023]

ADULT FAMILY HOMES--EIGHT BED CAPACITY

AN ACT Relating to allowing certain adult family homes to increase capacity to eight beds; amending RCW 70.128.060; reenacting and amending RCW 70.128.010; and adding a new section to chapter 70.128 RCW.

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

Sec. 1. RCW 70.128.010 and 2019 c 466 s 2 are each reenacted and amended to read as follows:

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

(1) "Adult family home" means a residential home in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services. An adult family home may provide services to up to eight adults upon approval from the department under section 2 of this act.

(2) "Adult family home licensee" means a provider as defined in this section who does not receive payments from the medicaid and state-funded long-term care programs.

(3) "Adult family home training network" means a nonprofit organization established by the exclusive bargaining representative of adult family homes designated under RCW 41.56.029 with the capacity to provide training, workforce development, and other services to adult family homes.

(4) "Adults" means persons who have attained the age of eighteen years.

(5) "Capacity" means the maximum number of persons in need of personal or special care permitted in an adult family home at a given time. This number shall include related children or adults in the home and who received special care.

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

(7) "Home" means an adult family home.

(8) "Imminent danger" means serious physical harm to or death of a resident has occurred, or there is a serious threat to resident life, health, or safety.

(9) "Provider" means any person who is licensed under this chapter to operate an adult family home. For the purposes of this section, "person" means any individual, partnership, corporation, association, or limited liability company.

(10) "Resident" means an adult in need of personal or special care in an adult family home who is not related to the provider.

(11) "Resident manager" means a person employed or designated by the provider to manage the adult family home.

(12) "Special care" means care beyond personal care as defined by the department, in rule.

NEW SECTION. Sec. 2. A new section is added to chapter 70.128 RCW to read as follows:

(1) An applicant requesting to increase bed capacity to seven or eight beds must successfully demonstrate to the department financial solvency and management experience for the home under its ownership and the ability to meet other relevant safety, health, and operating standards pertaining to the operation of an eight bed home, including the ability to meet the needs of all current and prospective residents and ways to mitigate the potential impact of vehicular traffic related to the operation of the home.

(2) The department may only accept and process an application to increase the bed capacity to seven or eight beds when:

(a) A period of no less than twenty-four months has passed since the issuance of the initial adult family home license;

(b) The home has been licensed for six residents for at least twelve months prior to application;

(c) The home has completed two full inspections that have resulted in no enforcement actions;

(d) The home has submitted an attestation that an increase in the number of beds will not adversely affect the health, safety, or quality of life of current residents of the home;

(e) The home has demonstrated to the department the ability to comply with the emergency evacuation standards established by the department in rule;

(f) The home has a residential sprinkler system in place in order to serve residents who require assistance during an evacuation; and

(g) The home has paid any fees associated with licensure or additional inspections.

(3) The department shall accept and process applications under RCW 70.128.060(13) for a seven or eight bed adult family home only if:

(a) The new provider is a provider of a currently licensed adult family home that has been licensed for a period of no less than twenty-four months since the issuance of the initial adult family home license;

(b) The new provider's current adult family home has been licensed for six or more residents for at least twelve months prior to application; and

(c) The adult family home has completed at least two full inspections, and the most recent two full inspections have resulted in no enforcement actions.

(4) Prior to issuing a license to operate a seven or eight bed adult family home, the department shall:

(a) Notify the local jurisdiction in which the home is located, in writing, of the applicant's request to increase bed capacity, and allow the local jurisdiction to provide any recommendations to the department as to whether or not the department should approve the applicant's request to increase its bed capacity to seven or eight beds; and

(b) Conduct an inspection to determine compliance with licensing standards and the ability to meet the needs of eight residents.

(5) In addition to the consideration of other criteria established in this section, the department shall consider comments received from current residents of the adult family home related to the quality of care and quality of life offered by the home, as well as their views regarding the addition of one or two more residents.

(6) Upon application for an initial seven or eight bed adult family home, a home must provide at least sixty days' notice to all residents and the residents' designated representatives that the home has applied for a license to admit up to seven or eight residents before admitting a seventh resident. The notice must be in writing and written in a manner or language that is understood by the residents and the residents' designated representatives.

(7) In the event of serious noncompliance in a seven or eight bed adult family home, in addition to, or in lieu of, the imposition of one or more actions listed in RCW 70.128.160(2), the department may revoke the adult family home's authority to accept more than six residents.

Sec. 3. RCW 70.128.060 and 2015 c 66 s 1 are each amended to read as follows:

(1) An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires.

(2) Subject to the provisions of this section, the department shall issue a license to an adult family home if the department finds that the applicant and the home are in compliance with this chapter and the rules adopted under this chapter. The department may not issue a license if (a) the applicant or a person affiliated with the applicant has prior violations of this chapter relating to the adult family home subject to the application or any other adult family home, or of any other law regulating residential care facilities within the past ten years that resulted in revocation, suspension, or nonrenewal of a license or contract with the department; or (b) the applicant or a person affiliated with the applicant has a history of significant noncompliance with federal, state, or local laws, rules, or regulations relating to the provision of care or services to vulnerable adults or to children. A person is considered affiliated with an applicant if the person is listed on the license application as a partner, officer, director, resident manager, or majority owner of the applying entity, or is the spouse of the applicant.

(3) The license fee shall be submitted with the application.

(4) Proof of financial solvency must be submitted when requested by the department.

(5) The department shall serve upon the applicant a copy of the decision granting or denying an application for a license. An applicant shall have the right to contest denial of his or her application for a license as provided in chapter 34.05 RCW by requesting a hearing in writing within twenty-eight days after receipt of the notice of denial.

(6) The department shall not issue a license to a provider if the department finds that the provider or spouse of the provider or any partner, officer, director, managerial employee, or majority owner has a history of significant noncompliance with federal or state regulations, rules, or laws in providing care or services to vulnerable adults or to children.

(7) The department shall license an adult family home for the maximum level of care that the adult family home may provide. The department shall define, in rule, license levels based upon the education, training, and caregiving experience of the licensed provider or staff.

(8) For adult family homes that serve residents with special needs such as dementia, developmental disabilities, or mental illness, specialty training is required of providers and resident managers consistent with RCW 70.128.230, and also is required for caregivers, with standardized competency testing for caregivers hired after July 28, 2013, as set forth by the department in rule. The department shall examine, with input from experts, providers, consumers, and advocates, whether the existing specialty training courses are adequate for providers, resident managers, and caregivers to meet these residents' special needs, are sufficiently standardized in curricula and instructional techniques, and are accompanied by effective tools to fairly evaluate successful student completion. The department may enhance the existing specialty training requirements by rule, and may update curricula, instructional techniques, and competency testing based upon its review and stakeholder input. In addition, the department shall examine, with input from experts, providers, consumers, and

advocates, whether additional specialty training categories should be created for adult family homes serving residents with other special needs, such as traumatic brain injury, skilled nursing, or bariatric care. The department may establish, by rule, additional specialty training categories and requirements for providers, resident managers, and caregivers, if needed to better serve residents with such special needs.

(9) The department shall establish, by rule, standards used to license nonresident providers and multiple facility operators.

(10) The department shall establish, by rule, for multiple facility operators educational standards substantially equivalent to recognized national certification standards for residential care administrators.

(11)(a)(i) At the time of an application for an adult family home license and upon the annual fee renewal date set by the department, the licensee shall pay a license fee. Beginning July 1, 2011, the per bed license fee and any processing fees, including the initial license fee, must be established in the omnibus appropriations act and any amendment or additions made to that act. The license fees established in the omnibus appropriations act and any amendment or additions made to that act may not exceed the department's annual licensing and oversight activity costs and must include the department's cost of paying providers for the amount of the license fee attributed to medicaid clients.

(ii) In addition to the fees established in (a)(i) of this subsection, the department shall charge the licensee a nonrefundable fee to increase bed capacity at the adult family home to seven or eight beds or in the event of a change in ownership of the adult family home. The fee must be established in the omnibus appropriations act and any amendment or additions made to that act.

(b) The department may authorize a one-time waiver of all or any portion of the licensing, processing, or change of ownership fees required under this subsection (11) in any case in which the department determines that an adult family home is being relicensed because of exceptional circumstances, such as death or incapacity of a provider, and that to require the full payment of the licensing, processing, or change of ownership fees would present a hardship to the applicant.

(12) A provider who receives notification of the department's initiation of a denial, suspension, nonrenewal, or revocation of an adult family home license may, in lieu of appealing the department's action, surrender or relinquish the license. The department shall not issue a new license to or contract with the provider, for the purposes of providing care to vulnerable adults or children, for a period of twenty years following the surrendering or relinquishment of the former license. The licensing record shall indicate that the provider relinquished or surrendered the license, without admitting the violations, after receiving notice of the department's initiation of a denial, suspension, nonrenewal, or revocation of a license.

(13) The department shall establish, by rule, the circumstances requiring a change in the licensed provider, which include, but are not limited to, a change in ownership or control of the adult family home or provider, a change in the provider's form of legal organization, such as from sole proprietorship to partnership or corporation, and a dissolution or merger of the licensed entity with another legal organization. The new provider is subject to the provisions of this chapter, the rules adopted under this chapter, and other applicable law. In

order to ensure that the safety of residents is not compromised by a change in provider, the new provider is responsible for correction of all violations that may exist at the time of the new license.

Passed by the House March 9, 2020.

Passed by the Senate March 4, 2020.

Approved by the Governor March 31, 2020.

Filed in Office of Secretary of State March 31, 2020.

CHAPTER 221

[Substitute House Bill 1154]

OFFICE OF THE CHEHALIS BASIN--FUNDING

AN ACT Relating to financing of Chehalis basin flood damage reduction and habitat restoration projects; reenacting and amending RCW 43.84.092; adding new sections to chapter 43.21A RCW; 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 the office of Chehalis basin, established in RCW 43.21A.730, is faithfully carrying out one of the prime directives of legislative intent from chapter 194, Laws of 2016, by drafting a strategic plan and accompanying environmental assessments, as the legislation called for a Chehalis basin strategy that "must include an implementation schedule and quantified measures for evaluating the success of implementation."

(2) The legislature also finds that the office of Chehalis basin has been successful in its initial work to secure both state and federal funds for projects in the near term. However, specificity is needed for consideration of the long-term funding needs.

(3) In enacted appropriations to date, the legislature has provided significant funding for projects of the office of Chehalis basin, and it is the intent of the legislature to continue to do so.

NEW SECTION. Sec. 2. A new section is added to chapter 43.21A RCW to read as follows:

(1) The office of Chehalis basin shall, based on the anticipation of completing the strategic plan with an implementation schedule, submit agency decision packages in preparation for the 2021-2023 fiscal biennium omnibus capital appropriations act, with a report of out-biennia detail, containing:

- (a) A specific list of projects;
- (b) Project costs and suggested fund sources;
- (c) Location information; and
- (d) A time frame, including initiation and completion.

(2) The total cost for all submitted projects are expected to be consistent with biennial amounts of prior requests, which were fifty million dollars in state bonds in 2017-2019 and seventy-three million two hundred thousand dollars in 2019-2021 in state bonds.

NEW SECTION. Sec. 3. A new section is added to chapter 43.21A RCW to read as follows:

The office of Chehalis basin shall submit a report by January 1, 2021, to the legislature that meets the requirement of a finalized strategic plan containing an

implementation schedule and quantified measures for evaluating the success of implementation, and the appropriate policy and fiscal committees of the legislature shall, within one hundred twenty days of the receipt, conduct a joint hearing for the purposes of: (1) Receiving a report from the office of Chehalis basin; and (2) considering potential funding strategies to achieve the implementation schedule.

NEW SECTION. Sec. 4. A new section is added to chapter 43.21A RCW to read as follows:

The Chehalis basin taxable account is created in the state treasury. All receipts from the proceeds of taxable bonds for the office of Chehalis basin, as well as other moneys directed to the account, must be deposited in the account. Interest earned by deposits in the account will be retained in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes set out in RCW 43.21A.730 and for the payment of expenses incurred in the issuance and sale of the bonds.

Sec. 5. RCW 43.84.092 and 2019 c 421 s 15, 2019 c 403 s 14, 2019 c 365 s 19, 2019 c 287 s 19, and 2019 c 95 s 6 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 abandoned recreational vehicle disposal account, the aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct

replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement 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 Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of licensing tuition recovery trust fund, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle 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 mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the industrial insurance premium refund account, the Interstate 405 and state route number 167 express toll lanes 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 marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability 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 mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, 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 state wildlife account, the statewide broadband account, the statewide tourism marketing account, the student achievement council tuition recovery trust fund, 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 toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, 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 voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education 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 administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond 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, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(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.

Passed by the House March 12, 2020.

Passed by the Senate March 12, 2020.

Approved by the Governor March 31, 2020.

Filed in Office of Secretary of State March 31, 2020.

CHAPTER 222

[House Bill 1590]

AFFORDABLE HOUSING SALES AND USE TAX--COUNCILMANIC AUTHORITY

AN ACT Relating to allowing the local sales and use tax for affordable housing to be imposed by a councilmanic authority; and amending RCW 82.14.530.

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

Sec. 1. RCW 82.14.530 and 2015 3rd sp.s. c 24 s 701 are each amended to read as follows:

(1)(a)(i) A county legislative authority may submit an authorizing proposition to the county voters at a special or general election and, if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used. The rate of tax under this section may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(ii) As an alternative to the authority provided in (a)(i) of this subsection, a county legislative authority may impose, without a proposition approved by a majority of persons voting, a sales and use tax in accordance with the terms of this chapter. The rate of tax under this section may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(b)(i) If a county (~~(with a population of one million five hundred thousand or less has not imposed)~~ does not impose the full tax rate authorized under (a) of this subsection (~~(within two years of October 9, 2015)~~ by September 30, 2020, any city legislative authority located in that county may (~~submit~~):

(A) Submit an authorizing proposition to the city voters at a special or general election and, if the proposition is approved by a majority of persons voting, impose the whole or remainder of the sales and use tax rate in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used;

(B) Impose, without a proposition approved by a majority of persons voting, the whole or remainder of the sales and use tax rate in accordance with the terms of this chapter.

(ii) The rate of tax under this section may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

~~((ii) If a)~~ (iii) A county with a population of greater than one million five hundred thousand (~~(has not imposed the full)~~ may impose the tax authorized under (a)(ii) of this subsection (~~(within three years of October 9, 2015, any city legislative authority)~~ only if the county plans to spend at least thirty percent of the moneys collected under this section that are attributable to taxable activities

~~or events within any city with a population greater than sixty thousand located in that county ((may submit an authorizing proposition to the city voters at a special or general election and, if the proposition is approved by a majority of persons voting, impose the whole or remainder of the sales and use tax rate in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used. The rate of tax under this section may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax)) within that city's boundaries.~~

(c) If a county imposes a tax authorized under (a) of this subsection after a city located in that county has imposed the tax authorized under (b) of this subsection, the county must provide a credit against its tax for the full amount of tax imposed by a city.

(d) The taxes authorized in this subsection are in addition to any other taxes authorized by law and must be collected from persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county for a county's tax and within a city for a city's tax.

(2)(a) Notwithstanding subsection (4) of this section, a minimum of sixty percent of the moneys collected under this section must be used for the following purposes:

(i) Constructing affordable housing, which may include new units of affordable housing within an existing structure, and facilities providing housing-related services; or

(ii) Constructing mental and behavioral health-related facilities; or

(iii) Funding the operations and maintenance costs of new units of affordable housing and facilities where housing-related programs are provided, or newly constructed evaluation and treatment centers.

(b) The affordable housing and facilities providing housing-related programs in (a)(i) of this subsection may only be provided to persons within any of the following population groups whose income is at or below sixty percent of the median income of the county imposing the tax:

(i) Persons with ~~((mental illness))~~ behavioral health disabilities;

(ii) Veterans;

(iii) Senior citizens;

(iv) Homeless, or at-risk of being homeless, families with children;

(v) Unaccompanied homeless youth or young adults;

(vi) Persons with disabilities; or

(vii) Domestic violence survivors.

(c) The remainder of the moneys collected under this section must be used for the operation, delivery, or evaluation of mental and behavioral health treatment programs and services or housing-related services.

(3) A county that imposes the tax under this section must consult with a city before the county may construct any of the facilities authorized under subsection (2)(a) of this section within the city limits.

(4) A county that has not imposed the tax authorized under RCW 82.14.460 prior to October 9, 2015, but imposes the tax authorized under this section after a city in that county has imposed the tax authorized under RCW 82.14.460 prior to October 9, 2015, must enter into an interlocal agreement with that city to

determine how the services and provisions described in subsection (2) of this section will be allocated and funded in the city.

(5) To carry out the purposes of subsection (2)(a) and (b) of this section, the legislative authority of the county or city imposing the tax has the authority to issue general obligation or revenue bonds within the limitations now or hereafter prescribed by the laws of this state, and may use, and is authorized to pledge, up to fifty percent of the moneys collected under this section for repayment of such bonds, in order to finance the provision or construction of affordable housing, facilities where housing-related programs are provided, or evaluation and treatment centers described in subsection (2)(a)(iii) of this section.

(6)(a) Moneys collected under this section may be used to offset reductions in state or federal funds for the purposes described in subsection (2) of this section.

(b) No more than ten percent of the moneys collected under this section may be used to supplant existing local funds.

Passed by the House March 9, 2020.

Passed by the Senate March 6, 2020.

Approved by the Governor March 31, 2020.

Filed in Office of Secretary of State March 31, 2020.

CHAPTER 223

[Engrossed Substitute House Bill 1754]

RELIGIOUS ORGANIZATIONS--HOSTING OF THE HOMELESS

AN ACT Relating to the hosting of the homeless by religious organizations; amending RCW 36.01.290, 35.21.915, and 35A.21.360; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature makes the following findings:

(a) Residents in temporary settings hosted by religious organizations are a particularly vulnerable population that do not have access to the same services as citizens with more stable housing.

(b) Residents in these settings, including outdoor uses such as outdoor encampments, indoor overnight shelters, temporary small houses on-site, and homeless-occupied vehicle resident safe parking, can be at increased risk of exploitation, theft, unsanitary living conditions, and physical harm.

(c) Furthermore, the legislature finds and declares that hosted outdoor encampments, indoor overnight shelters, temporary small houses on-site, and homeless-occupied vehicle resident safe parking serve as pathways for individuals experiencing homelessness to receive services and achieve financial stability, health, and permanent housing.

(2) The legislature intends that local municipalities have the discretion to protect the health and safety of both residents in temporary settings that are hosted by religious organizations and the surrounding community. The legislature encourages local jurisdictions and religious organizations to work together collaboratively to protect the health and safety of residents and the surrounding community while allowing religious organizations to fulfill their mission to serve the homeless. The legislature further intends to monitor the implementation of this act and continue to refine it to achieve these goals.

Sec. 2. RCW 36.01.290 and 2010 c 175 s 2 are each amended 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) Except as provided in subsection (7) of this section, 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, such as an outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking, for homeless persons on property owned or controlled 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. A county has discretion to reduce or waive permit fees for a religious organization that is hosting the homeless;

(d) Specifically limits a religious organization's availability to host an outdoor encampment on its property or property controlled by the religious organization to fewer than six months during any calendar year. However, a county may enact an ordinance or regulation that requires a separation of time of no more than three months between subsequent or established outdoor encampments at a particular site;

(e) Specifically limits a religious organization's outdoor encampment hosting term to fewer than four consecutive months;

(f) Limits the number of simultaneous religious organization outdoor encampment hostings within the same municipality during any given period of time. Simultaneous and adjacent hostings of outdoor encampments by religious organizations may be limited if located within one thousand feet of another outdoor encampment concurrently hosted by a religious organization;

(g) Limits a religious organization's availability to host safe parking efforts at its on-site parking lot, including limitations on any other congregationally sponsored uses and the parking available to support such uses during the hosting, except for limitations that are in accord with the following criteria that would govern if enacted by local ordinance or memorandum of understanding between the host religious organization and the jurisdiction:

(i) No less than one space may be devoted to safe parking per ten on-site parking spaces;

(ii) Restroom access must be provided either within the buildings on the property or through use of portable facilities, with the provision for proper disposal of waste if recreational vehicles are hosted; and

(iii) Religious organizations providing spaces for safe parking must continue to abide by any existing on-site parking minimum requirement so that the provision of safe parking spaces does not reduce the total number of

available parking spaces below the minimum number of spaces required by the county, but a county may enter into a memorandum of understanding with a religious organization that reduces the minimum number of on-site parking spaces required;

(h) Limits a religious organization's availability to host an indoor overnight shelter in spaces with at least two accessible exits due to lack of sprinklers or other fire-related concerns, except that:

(i) If a county fire official finds that fire-related concerns associated with an indoor overnight shelter pose an imminent danger to persons within the shelter, the county may take action to limit the religious organization's availability to host the indoor overnight shelter; and

(ii) A county may require a host religious organization to enter into a memorandum of understanding for fire safety that includes local fire district inspections, an outline for appropriate emergency procedures, a determination of the most viable means to evacuate occupants from inside the host site with appropriate illuminated exit signage, panic bar exit doors, and a completed fire watch agreement indicating:

(A) Posted safe means of egress;

(B) Operable smoke detectors, carbon monoxide detectors as necessary, and fire extinguishers;

(C) A plan for monitors who spend the night awake and are familiar with emergency protocols, who have suitable communication devices, and who know how to contact the local fire department; or

(i) Limits a religious organization's ability to host temporary small houses on land owned or controlled by the religious organization, except for recommendations that are in accord with the following criteria:

(i) A renewable one-year duration agreed to by the host religious organization and local jurisdiction via a memorandum of understanding;

(ii) Maintaining a maximum unit square footage of one hundred twenty square feet, with units set at least six feet apart;

(iii) Electricity and heat, if provided, must be inspected by the local jurisdiction;

(iv) Space heaters, if provided, must be approved by the local fire authority;

(v) Doors and windows must be included and be lockable, with a recommendation that the managing agency and host religious organization also possess keys;

(vi) Each unit must have a fire extinguisher;

(vii) Adequate restrooms must be provided, including restrooms solely for families if present, along with handwashing and potable running water to be available if not provided within the individual units, including accommodating black water;

(viii) A recommendation for the host religious organization to partner with regional homeless service providers to develop pathways to permanent housing.

(3)(a) A county may enact an ordinance or regulation or take any other action that requires a host religious organization and a distinct managing agency using the religious organization's property, owned or controlled by the religious organization, for hostings to include outdoor encampments, temporary small houses on-site, indoor overnight shelters, or vehicle resident safe parking to enter into a memorandum of understanding to protect the public health and

safety of both the residents of the particular hosting and the residents of the county.

(b) At a minimum, the agreement must include information regarding: The right of a resident in an outdoor encampment, vehicle resident safe parking, temporary small house on-site, or indoor overnight shelter to seek public health and safety assistance, the resident's ability to access social services on-site, and the resident's ability to directly interact with the host religious organization, including the ability to express any concerns regarding the managing agency to the religious organization; a written code of conduct agreed to by the managing agency, if any, host religious organization, and all volunteers working with residents of the outdoor encampment, temporary small house on-site, indoor overnight shelter, or vehicle resident safe parking; and when a publicly funded managing agency exists, the ability for the host religious organization to interact with residents of the outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking using a release of information.

(4) If required to do so by the county, any host religious organization performing any hosting of an outdoor encampment, vehicle resident safe parking, or indoor overnight shelter, or the host religious organization's managing agency, must ensure that the county or local law enforcement agency has completed sex offender checks of all adult residents and guests. The host religious organization retains the authority to allow such offenders to remain on the property. A host religious organization or host religious organization's managing agency performing any hosting of vehicle resident safe parking must inform vehicle residents how to comply with laws regarding the legal status of vehicles and drivers, and provide a written code of conduct consistent with area standards.

(5) Any host religious organization performing any hosting of an outdoor encampment, vehicle resident safe parking, temporary small house on-site, or indoor overnight shelter, with a publicly funded managing agency, must work with the county to utilize Washington's homeless client management information system, as provided for in RCW 43.185C.180. When the religious organization does not partner with a managing agency, the religious organization is encouraged to partner with a local homeless services provider using the Washington homeless client managing information system. Any managing agency receiving any funding from local continuum of care programs must utilize the homeless client management information system. Temporary, overnight, extreme weather shelter provided in religious organization buildings does not need to meet this requirement.

(6) For the purposes of this section((:);

(a) "Managing agency" means an organization such as a religious organization or other organized entity that has the capacity to organize and manage a homeless outdoor encampment, temporary small houses on-site, indoor overnight shelter, and a vehicle resident safe parking program.

(b) "Outdoor encampment" means any temporary tent or structure encampment, or both.

(c) "Religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(d) "Temporary" means not affixed to land permanently and not using underground utilities.

((4)) (7)(a) Subsection (2) of this section does not affect a county policy, ordinance, memorandum of understanding, or applicable consent decree that regulates religious organizations' hosting of the homeless if such policies, ordinances, memoranda of understanding, or consent decrees:

(i) Exist prior to the effective date of this section;

(ii) Do not categorically prohibit the hosting of the homeless by religious organizations; and

(iii) Have not been previously ruled by a court to violate the religious land use and institutionalized persons act, 42 U.S.C. Sec. 2000cc.

(b) If such policies, ordinances, memoranda of understanding, and consent decrees are amended after the effective date of this section, those amendments are not affected by subsection (2) of this section if those amendments satisfy (a)(ii) and (iii) of this subsection.

(8) 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.

(9) A religious organization hosting outdoor encampments, vehicle resident safe parking, or indoor overnight shelters for the homeless that receives funds from any government agency may not refuse to host any resident or prospective resident because of age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or 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, as these terms are defined in RCW 49.60.040.

(10)(a) Prior to the opening of an outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking, a religious organization hosting the homeless on property owned or controlled by the religious organization must host a meeting open to the public for the purpose of providing a forum for discussion of related neighborhood concerns, unless the use is in response to a declared emergency. The religious organization must provide written notice of the meeting to the county legislative authority at least one week if possible but no later than ninety-six hours prior to the meeting. The notice must specify the time, place, and purpose of the meeting.

(b) A county must provide community notice of the meeting described in (a) of this subsection by taking at least two of the following actions at any time prior to the time of the meeting:

(i) Delivering to each local newspaper of general circulation and local radio or television station that has on file with the governing body a written request to be notified of special meetings;

(ii) Posting on the county's web site. A county is not required to post a special meeting notice on its web site if it: (A) Does not have a web site; (B) employs fewer than ten full-time equivalent employees; or (C) does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the web site;

(iii) Prominently displaying, on signage at least two feet in height and two feet in width, one or more meeting notices that can be placed on or adjacent to the main arterials in proximity to the location of the meeting; or

(iv) Prominently displaying the notice at the meeting site.

Sec. 3. RCW 35.21.915 and 2010 c 175 s 3 are each amended 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) Except as provided in subsection (7) of this section, 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, such as an outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking, for homeless persons on property owned or controlled 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. A city or town has discretion to reduce or waive permit fees for a religious organization that is hosting the homeless;

(d) Specifically limits a religious organization's availability to host an outdoor encampment on its property or property controlled by the religious organization to fewer than six months during any calendar year. However, a city or town may enact an ordinance or regulation that requires a separation of time of no more than three months between subsequent or established outdoor encampments at a particular site;

(e) Specifically limits a religious organization's outdoor encampment hosting term to fewer than four consecutive months;

(f) Limits the number of simultaneous religious organization outdoor encampment hostings within the same municipality during any given period of time. Simultaneous and adjacent hostings of outdoor encampments by religious organizations may be limited if located within one thousand feet of another outdoor encampment concurrently hosted by a religious organization;

(g) Limits a religious organization's availability to host safe parking efforts at its on-site parking lot, including limitations on any other congregationally sponsored uses and the parking available to support such uses during the hosting, except for limitations that are in accord with the following criteria that would govern if enacted by local ordinance or memorandum of understanding between the host religious organization and the jurisdiction:

(i) No less than one space may be devoted to safe parking per ten on-site parking spaces;

(ii) Restroom access must be provided either within the buildings on the property or through use of portable facilities, with the provision for proper disposal of waste if recreational vehicles are hosted; and

(iii) Religious organizations providing spaces for safe parking must continue to abide by any existing on-site parking minimum requirement so that the provision of safe parking spaces does not reduce the total number of available parking spaces below the minimum number of spaces required by the city or town, but a city or town may enter into a memorandum of understanding with a religious organization that reduces the minimum number of on-site parking spaces required;

(h) Limits a religious organization's availability to host an indoor overnight shelter in spaces with at least two accessible exits due to lack of sprinklers or other fire-related concerns, except that:

(i) If a city or town fire official finds that fire-related concerns associated with an indoor overnight shelter pose an imminent danger to persons within the shelter, the city or town may take action to limit the religious organization's availability to host the indoor overnight shelter; and

(ii) A city or town may require a host religious organization to enter into a memorandum of understanding for fire safety that includes local fire district inspections, an outline for appropriate emergency procedures, a determination of the most viable means to evacuate occupants from inside the host site with appropriate illuminated exit signage, panic bar exit doors, and a completed fire watch agreement indicating:

(A) Posted safe means of egress;

(B) Operable smoke detectors, carbon monoxide detectors as necessary, and fire extinguishers;

(C) A plan for monitors who spend the night awake and are familiar with emergency protocols, who have suitable communication devices, and who know how to contact the local fire department; or

(i) Limits a religious organization's ability to host temporary small houses on land owned or controlled by the religious organization, except for recommendations that are in accord with the following criteria:

(i) A renewable one-year duration agreed to by the host religious organization and local jurisdiction via a memorandum of understanding;

(ii) Maintaining a maximum unit square footage of one hundred twenty square feet, with units set at least six feet apart;

(iii) Electricity and heat, if provided, must be inspected by the local jurisdiction;

(iv) Space heaters, if provided, must be approved by the local fire authority;

(v) Doors and windows must be included and be lockable, with a recommendation that the managing agency and host religious organization also possess keys;

(vi) Each unit must have a fire extinguisher;

(vii) Adequate restrooms must be provided, including restrooms solely for families if present, along with handwashing and potable running water to be available if not provided within the individual units, including accommodating black water;

(viii) A recommendation for the host religious organization to partner with regional homeless service providers to develop pathways to permanent housing.

(3)(a) A city or town may enact an ordinance or regulation or take any other action that requires a host religious organization and a distinct managing agency using the religious organization's property, owned or controlled by the religious organization, for hostings to include outdoor encampments, temporary small houses on-site, indoor overnight shelters, or vehicle resident safe parking to enter into a memorandum of understanding to protect the public health and safety of both the residents of the particular hosting and the residents of the city or town.

(b) At a minimum, the agreement must include information regarding: The right of a resident in an outdoor encampment, vehicle resident safe parking, temporary small house on-site, or indoor overnight shelter to seek public health and safety assistance, the resident's ability to access social services on-site, and the resident's ability to directly interact with the host religious organization, including the ability to express any concerns regarding the managing agency to the religious organization; a written code of conduct agreed to by the managing agency, if any, host religious organization, and all volunteers working with residents of the outdoor encampment, temporary small house on-site, indoor overnight shelter, or vehicle resident safe parking; and when a publicly funded managing agency exists, the ability for the host religious organization to interact with residents of the outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking using a release of information.

(4) If required to do so by a city or town, any host religious organization performing any hosting of an outdoor encampment, vehicle resident safe parking, or indoor overnight shelter, or the host religious organization's managing agency, must ensure that the city or town or local law enforcement agency has completed sex offender checks of all adult residents and guests. The host religious organization retains the authority to allow such offenders to remain on the property. A host religious organization or host religious organization's managing agency performing any hosting of vehicle resident safe parking must inform vehicle residents how to comply with laws regarding the legal status of vehicles and drivers, and provide a written code of conduct consistent with area standards.

(5) Any host religious organization performing any hosting of an outdoor encampment, vehicle resident safe parking, temporary small house on-site, or indoor overnight shelter, with a publicly funded managing agency, must work with the city or town to utilize Washington's homeless client management information system, as provided for in RCW 43.185C.180. When the religious organization does not partner with a managing agency, the religious organization is encouraged to partner with a local homeless services provider using the Washington homeless client managing information system. Any managing agency receiving any funding from local continuum of care programs must utilize the homeless client management information system. Temporary, overnight, extreme weather shelter provided in religious organization buildings does not need to meet this requirement.

(6) For the purposes of this section(5):

(a) "Managing agency" means an organization such as a religious organization or other organized entity that has the capacity to organize and

manage a homeless outdoor encampment, temporary small houses on-site, indoor overnight shelter, and a vehicle resident safe parking program.

(b) "Outdoor encampment" means any temporary tent or structure encampment, or both.

(c) "Religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(d) "Temporary" means not affixed to land permanently and not using underground utilities.

((4)) (7)(a) Subsection (2) of this section does not affect a city or town policy, ordinance, memorandum of understanding, or applicable consent decree that regulates religious organizations' hosting of the homeless if such policies, ordinances, memoranda of understanding, or consent decrees:

(i) Exist prior to the effective date of this section;

(ii) Do not categorically prohibit the hosting of the homeless by religious organizations; and

(iii) Have not been previously ruled by a court to violate the religious land use and institutionalized persons act, 42 U.S.C. Sec. 2000cc.

(b) If such policies, ordinances, memoranda of understanding, and consent decrees are amended after the effective date of this section, those amendments are not affected by subsection (2) of this section if those amendments satisfy (a)(ii) and (iii) of this subsection.

(8) 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.

(9) A religious organization hosting outdoor encampments, vehicle resident safe parking, or indoor overnight shelters for the homeless that receives funds from any government agency may not refuse to host any resident or prospective resident because of age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or 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, as these terms are defined in RCW 49.60.040.

(10)(a) Prior to the opening of an outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking, a religious organization hosting the homeless on property owned or controlled by the religious organization must host a meeting open to the public for the purpose of providing a forum for discussion of related neighborhood concerns, unless the use is in response to a declared emergency. The religious organization must provide written notice of the meeting to the city or town legislative authority at least one week if possible but no later than ninety-six hours prior to the meeting. The notice must specify the time, place, and purpose of the meeting.

(b) A city or town must provide community notice of the meeting described in (a) of this subsection by taking at least two of the following actions at any time prior to the time of the meeting:

(i) Delivering to each local newspaper of general circulation and local radio or television station that has on file with the governing body a written request to be notified of special meetings;

(ii) Posting on the city or town's web site. A city or town is not required to post a special meeting notice on its web site if it: (A) Does not have a web site; (B) employs fewer than ten full-time equivalent employees; or (C) does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the web site;

(iii) Prominently displaying, on signage at least two feet in height and two feet in width, one or more meeting notices that can be placed on or adjacent to the main arterials in proximity to the location of the meeting; or

(iv) Prominently displaying the notice at the meeting site.

Sec. 4. RCW 35A.21.360 and 2010 c 175 s 4 are each amended 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) Except as provided in subsection (7) of this section, 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, such as an outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking, for homeless persons on property owned or controlled 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. A code city has discretion to reduce or waive permit fees for a religious organization that is hosting the homeless;

(d) Specifically limits a religious organization's availability to host an outdoor encampment on its property or property controlled by the religious organization to fewer than six months during any calendar year. However, a code city may enact an ordinance or regulation that requires a separation of time of no more than three months between subsequent or established outdoor encampments at a particular site;

(e) Specifically limits a religious organization's outdoor encampment hosting term to fewer than four consecutive months;

(f) Limits the number of simultaneous religious organization outdoor encampment hostings within the same municipality during any given period of time. Simultaneous and adjacent hostings of outdoor encampments by religious organizations may be limited if located within one thousand feet of another outdoor encampment concurrently hosted by a religious organization;

(g) Limits a religious organization's availability to host safe parking efforts at its on-site parking lot, including limitations on any other congregationally

sponsored uses and the parking available to support such uses during the hosting, except for limitations that are in accord with the following criteria that would govern if enacted by local ordinance or memorandum of understanding between the host religious organization and the jurisdiction:

(i) No less than one space may be devoted to safe parking per ten on-site parking spaces;

(ii) Restroom access must be provided either within the buildings on the property or through use of portable facilities, with the provision for proper disposal of waste if recreational vehicles are hosted; and

(iii) Religious organizations providing spaces for safe parking must continue to abide by any existing on-site parking minimum requirement so that the provision of safe parking spaces does not reduce the total number of available parking spaces below the minimum number of spaces required by the code city, but a code city may enter into a memorandum of understanding with a religious organization that reduces the minimum number of on-site parking spaces required;

(h) Limits a religious organization's availability to host an indoor overnight shelter in spaces with at least two accessible exits due to lack of sprinklers or other fire-related concerns, except that:

(i) If a code city fire official finds that fire-related concerns associated with an indoor overnight shelter pose an imminent danger to persons within the shelter, the code city may take action to limit the religious organization's availability to host the indoor overnight shelter; and

(ii) A code city may require a host religious organization to enter into a memorandum of understanding for fire safety that includes local fire district inspections, an outline for appropriate emergency procedures, a determination of the most viable means to evacuate occupants from inside the host site with appropriate illuminated exit signage, panic bar exit doors, and a completed fire watch agreement indicating:

(A) Posted safe means of egress;

(B) Operable smoke detectors, carbon monoxide detectors as necessary, and fire extinguishers;

(C) A plan for monitors who spend the night awake and are familiar with emergency protocols, who have suitable communication devices, and who know how to contact the local fire department; or

(i) Limits a religious organization's ability to host temporary small houses on land owned or controlled by the religious organization, except for recommendations that are in accord with the following criteria:

(i) A renewable one-year duration agreed to by the host religious organization and local jurisdiction via a memorandum of understanding;

(ii) Maintaining a maximum unit square footage of one hundred twenty square feet, with units set at least six feet apart;

(iii) Electricity and heat, if provided, must be inspected by the local jurisdiction;

(iv) Space heaters, if provided, must be approved by the local fire authority;

(v) Doors and windows must be included and be lockable, with a recommendation that the managing agency and host religious organization also possess keys;

(vi) Each unit must have a fire extinguisher;

(vii) Adequate restrooms must be provided, including restrooms solely for families if present, along with handwashing and potable running water to be available if not provided within the individual units, including accommodating black water;

(viii) A recommendation for the host religious organization to partner with regional homeless service providers to develop pathways to permanent housing.

(3)(a) A code city may enact an ordinance or regulation or take any other action that requires a host religious organization and a distinct managing agency using the religious organization's property, owned or controlled by the religious organization, for hostings to include outdoor encampments, temporary small houses on-site, indoor overnight shelters, or vehicle resident safe parking to enter into a memorandum of understanding to protect the public health and safety of both the residents of the particular hosting and the residents of the code city.

(b) At a minimum, the agreement must include information regarding: The right of a resident in an outdoor encampment, vehicle resident safe parking, temporary small house on-site, or indoor overnight shelter to seek public health and safety assistance, the resident's ability to access social services on-site, and the resident's ability to directly interact with the host religious organization, including the ability to express any concerns regarding the managing agency to the religious organization; a written code of conduct agreed to by the managing agency, if any, host religious organization, and all volunteers working with residents of the outdoor encampment, temporary small house on-site, indoor overnight shelter, or vehicle resident safe parking; and when a publicly funded managing agency exists, the ability for the host religious organization to interact with residents of the outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking using a release of information.

(4) If required to do so by a code city, any host religious organization performing any hosting of an outdoor encampment, vehicle resident safe parking, or indoor overnight shelter, or the host religious organization's managing agency, must ensure that the code city or local law enforcement agency has completed sex offender checks of all adult residents and guests. The host religious organization retains the authority to allow such offenders to remain on the property. A host religious organization or host religious organization's managing agency performing any hosting of vehicle resident safe parking must inform vehicle residents how to comply with laws regarding the legal status of vehicles and drivers, and provide a written code of conduct consistent with area standards.

(5) Any host religious organization performing any hosting of an outdoor encampment, vehicle resident safe parking, temporary small house on-site, or indoor overnight shelter, with a publicly funded managing agency, must work with the code city to utilize Washington's homeless client management information system, as provided for in RCW 43.185C.180. When the religious organization does not partner with a managing agency, the religious organization is encouraged to partner with a local homeless services provider using the Washington homeless client managing information system. Any managing agency receiving any funding from local continuum of care programs must utilize the homeless client management information system. Temporary,

overnight, extreme weather shelter provided in religious organization buildings does not need to meet this requirement.

(6) For the purposes of this section((:):

(a) "Managing agency" means an organization such as a religious organization or other organized entity that has the capacity to organize and manage a homeless outdoor encampment, temporary small houses on-site, indoor overnight shelter, and a vehicle resident safe parking program.

(b) "Outdoor encampment" means any temporary tent or structure encampment, or both.

(c) "Religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(d) "Temporary" means not affixed to land permanently and not using underground utilities.

~~((4))~~ (7)(a) Subsection (2) of this section does not affect a code city policy, ordinance, memorandum of understanding, or applicable consent decree that regulates religious organizations' hosting of the homeless if such policies, ordinances, memoranda of understanding, or consent decrees:

(i) Exist prior to the effective date of this section;

(ii) Do not categorically prohibit the hosting of the homeless by religious organizations; and

(iii) Have not been previously ruled by a court to violate the religious land use and institutionalized persons act, 42 U.S.C. Sec. 2000cc.

(b) If such policies, ordinances, memoranda of understanding, and consent decrees are amended after the effective date of this section, those amendments are not affected by subsection (2) of this section if those amendments satisfy (a)(ii) and (iii) of this subsection.

(8) 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.

(9) A religious organization hosting outdoor encampments, vehicle resident safe parking, or indoor overnight shelters for the homeless that receives funds from any government agency may not refuse to host any resident or prospective resident because of age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or 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, as these terms are defined in RCW 49.60.040.

(10)(a) Prior to the opening of an outdoor encampment, indoor overnight shelter, temporary small house on-site, or vehicle resident safe parking, a religious organization hosting the homeless on property owned or controlled by the religious organization must host a meeting open to the public for the purpose of providing a forum for discussion of related neighborhood concerns, unless the use is in response to a declared emergency. The religious organization must provide written notice of the meeting to the code city legislative authority at

least one week if possible but no later than ninety-six hours prior to the meeting. The notice must specify the time, place, and purpose of the meeting.

(b) A code city must provide community notice of the meeting described in (a) of this subsection by taking at least two of the following actions at any time prior to the time of the meeting:

(i) Delivering to each local newspaper of general circulation and local radio or television station that has on file with the governing body a written request to be notified of special meetings;

(ii) Posting on the code city's web site. A code city is not required to post a special meeting notice on its web site if it: (A) Does not have a web site; (B) employs fewer than ten full-time equivalent employees; or (C) does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the web site;

(iii) Prominently displaying, on signage at least two feet in height and two feet in width, one or more meeting notices that can be placed on or adjacent to the main arterials in proximity to the location of the meeting; or

(iv) Prominently displaying the notice at the meeting site.

Passed by the House March 7, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 31, 2020.

Filed in Office of Secretary of State March 31, 2020.

AUTHENTICATION

I, Kathleen Buchli, 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 2020 session (66th Legislature), chapters 81 through 223, 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 24th day of April, 2020.

A handwritten signature in black ink, appearing to read "Kathleen Buchli". The signature is fluid and cursive, written over a blank space.

Kathleen Buchli
Code Reviser

