

**2010**

**SESSION LAWS**

OF THE

**STATE OF WASHINGTON**

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

SPECIAL SESSION  
SIXTY-FIRST LEGISLATURE  
Convened March 15, 2010. Adjourned April 13, 2010.



Published at Olympia by the Statute Law Committee under  
Chapter 44.20 RCW.

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Code Reviser

<http://www1.leg.wa.gov/codereviser>

**WASHINGTON SESSION LAWS  
GENERAL INFORMATION**

1. EDITIONS AVAILABLE.

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

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

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

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

3. PARTIAL VETOES.

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

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

5. EFFECTIVE DATE OF LAWS.

- (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 2010 regular session to be the first moment of June 10, 2010. The pertinent date for the Laws of the 2010 special session is July 13, 2010.
- (b) Laws that carry an emergency clause take effect immediately upon approval by the Governor.
- (c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES.

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## CHAPTER 272

[Substitute House Bill 2680]

## GUARDIANSHIP—FOSTER CARE

AN ACT Relating to implementing a guardianship program; amending RCW 13.34.232 and 13.34.234; reenacting and amending RCW 13.34.030 and 13.34.210; adding a new section to chapter 13.34 RCW; adding a new section to chapter 74.13 RCW; adding a new chapter to Title 13 RCW; creating a new section; and repealing RCW 13.34.230, 13.34.231, 13.34.236, and 13.34.238.

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

**NEW SECTION. Sec. 1.** The legislature finds that a guardianship is an appropriate permanent plan for a child who has been found to be dependent under chapter 13.34 RCW and who cannot safely be reunified with his or her parents. The legislature is concerned that parents not be pressured by the department into agreeing to the entry of a guardianship when further services would increase the chances that the child could be reunified with his or her parents. The legislature intends to create a separate guardianship chapter to establish permanency for children in foster care through the appointment of a guardian and dismissal of the dependency.

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

- (1) "Child" means any individual under the age of eighteen years.
- (2) "Dependent child" means a child who has been found by a court to be dependent in a proceeding under chapter 13.34 RCW.
- (3) "Department" means the department of social and health services.
- (4) "Guardian" means a person who: (a) Has been appointed by the court as the guardian of a child in a legal proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to court order. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under chapter 13.34 RCW for the purpose of assisting the court in supervising the dependency.
- (5) "Relative" means a person related to the child in the following ways: (a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great; (b) stepfather, stepmother, stepbrother, and stepsister; (c) a person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; (d) spouses of any persons named in (a), (b), or (c) of this subsection, even after the marriage is terminated; (e) relatives, as named in (a), (b), (c), or (d) of this subsection, of any half sibling of the child; or (f) extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);
- (6) "Suitable person" means a nonrelative with whom the child or the child's family has a preexisting relationship; who has completed all required criminal history background checks and otherwise appears to be suitable and competent

to provide care for the child; and with whom the child has been placed pursuant to RCW 13.34.130.

(7) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

NEW SECTION. Sec. 3. GUARDIANSHIP PETITION. (1) Any party to a dependency proceeding under chapter 13.34 RCW may request a guardianship be established for a dependent child by filing a petition in juvenile court under this chapter. All parties to the dependency and the proposed guardian must receive adequate notice of all proceedings under this chapter. For purposes of this chapter, a dependent child age twelve years or older is a party to the proceedings. A proposed guardian has the right to intervene in proceedings under this chapter.

(2) To be designated as a proposed guardian in a petition under this chapter, a person must be age twenty-one or over and must meet the minimum requirements to care for children as established by the department under RCW 74.15.030, including but not limited to licensed foster parents, relatives, and suitable persons.

(3) Every petition filed in proceedings under this chapter shall contain: (a) A statement alleging whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903. If the child is an Indian child as defined under the Indian child welfare act, the provisions of that act shall apply; (b) a statement alleging whether the federal servicemembers civil relief act of 2003, 50 U.S.C. Sec. 501 et seq. applies to the proceeding; and (c) a statement alleging whether the Washington service members' civil relief act, chapter 38.42 RCW, applies to the proceeding.

(4) Every order or decree entered in any proceeding under this chapter shall contain: (a) A finding that the Indian child welfare act does or does not apply. Where there is a finding that the Indian child welfare act does apply, the decree or order must also contain a finding that all notice requirements and evidentiary requirements under the Indian child welfare act have been satisfied; (b) a finding that the federal servicemembers civil relief act of 2003 does or does not apply; and (c) a finding that the Washington service members' civil relief act, chapter 38.42 RCW, does or does not apply.

NEW SECTION. Sec. 4. GUARDIANSHIP HEARING. (1) At the hearing on a guardianship petition, all parties have the right to present evidence and cross-examine witnesses. The rules of evidence apply to the conduct of the hearing. The hearing under this section to establish a guardianship or convert an existing dependency guardianship to a guardianship under this section is a stage of the dependency proceedings for purposes of RCW 13.34.090(2).

(2) A guardianship shall be established if:

(a) The court finds by a preponderance of the evidence that it is in the child's best interests to establish a guardianship, rather than to terminate the parent-child relationship and proceed with adoption, or to continue efforts to return custody of the child to the parent; and

(b) All parties agree to entry of the guardianship order and the proposed guardian is qualified, appropriate, and capable of performing the duties of guardian under section 5 of this act; or

(c)(i) The child has been found to be a dependent child under RCW 13.34.030;

(ii) A dispositional order has been entered pursuant to RCW 13.34.130;

(iii) At the time of the hearing on the guardianship petition, the child has or will have been removed from the custody of the parent for at least six consecutive months following a finding of dependency under RCW 13.34.030;

(iv) The services ordered under RCW 13.34.130 and 13.34.136 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided;

(v) There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

(vi) The proposed guardian has signed a statement acknowledging the guardian's rights and responsibilities toward the child and affirming the guardian's understanding and acceptance that the guardianship is a commitment to provide care for the child until the child reaches age eighteen.

(3) The court may not establish a guardianship for a child who has no legal parent unless the court, in addition to making the required findings set forth in subsection (2) of this section, finds one or more exceptional circumstances exist and the benefits for the child of establishing the guardianship outweigh any potential disadvantage to the child of having no legal parent. Exceptional circumstances may include but are not limited to:

(a) The child has special needs and a suitable guardian is willing to accept custody and able to meet the needs of the child to an extent unlikely to be achieved through adoption; or

(b) The proposed guardian has demonstrated a commitment to provide for the long-term care of the child and: (i) Is a relative of the child; (ii) has been a long-term caregiver for the child and has acted as a parent figure to the child and is viewed by the child as a parent figure; or (iii) the child's family has identified the proposed guardian as the preferred guardian, and, if the child is age twelve years or older, the child also has identified the proposed guardian as the preferred guardian.

(4) Upon the request of a dependency guardian appointed under chapter 13.34 RCW and the department or supervising agency, the court shall convert a dependency guardianship established under chapter 13.34 RCW to a guardianship under this chapter.

NEW SECTION. Sec. 5. GUARDIANSHIP ORDER. (1) If the court has made the findings required under section 4 of this act, the court shall issue an order establishing a guardianship for the child. If the guardian has not previously intervened, the guardian shall be made a party to the guardianship proceeding upon entry of the guardianship order. The order shall:

(a) Appoint a person to be the guardian for the child;

(b) Specify the guardian's rights and responsibilities concerning the care, custody, control, and nurturing of the child;

(c) Specify the guardian's authority, if any, to receive, invest, and expend funds, benefits, or property belonging to the child;

(d) Specify an appropriate frequency and type of contact between the parent or parents and the child, if applicable, and between the child and his or her siblings, if applicable; and

(e) Specify the need for and scope of continued oversight by the court, if any.

(2) The guardian shall maintain physical and legal custody of the child and have the following rights and duties under the guardianship:

(a) Duty to protect, nurture, discipline, and educate the child;

(b) Duty to provide food, clothing, shelter, education as required by law, and health care for the child, including but not limited to, medical, dental, mental health, psychological, and psychiatric care and treatment;

(c) Right to consent to health care for the child and sign a release authorizing the sharing of health care information with appropriate authorities, in accordance with state law;

(d) Right to consent to the child's participation in social and school activities; and

(e) Duty to notify the court of a change of address of the guardian and the child. Unless specifically ordered by the court, however, the standards and requirements for relocation in chapter 26.09 RCW do not apply to guardianships established under this chapter.

(3) If the child has independent funds or other valuable property under the control of the guardian, the guardian shall provide an annual written accounting, supported with appropriate documentation, to the court regarding receipt and expenditure by the guardian of any such funds or benefits. This subsection shall not be construed to require a guardian to account for any routine funds or benefits received from a public social service agency on behalf of the child.

(4) The guardianship shall remain in effect until the child reaches the age of eighteen years or until the court terminates the guardianship, whichever occurs sooner.

(5) Once the dependency has been dismissed pursuant to section 7 of this act, the court shall not order the department or other supervising agency to supervise or provide case management services to the guardian or the child as part of the guardianship order.

(6) The court shall issue a letter of guardianship to the guardian upon the entry of the court order establishing the guardianship under this chapter.

**NEW SECTION. Sec. 6. GUARDIANSHIP MODIFICATION.** (1) A guardian or a parent of the child may petition the court to modify the visitation provisions of a guardianship order by:

(a) Filing with the court a motion for modification and an affidavit setting forth facts supporting the requested modification; and

(b) Providing notice and a copy of the motion and affidavit to all other parties. The nonmoving parties may file and serve opposing affidavits.

(2) The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested modification should not be granted.

(3) If the court finds that a motion to modify a guardianship order has been brought in bad faith, the court may assess attorney's fees and court costs of the nonmoving party against the moving party.



**NEW SECTION. Sec. 7. GUARDIANSHIP TERMINATION.** (1) Any party to a guardianship proceeding may request termination of the guardianship by filing a petition and supporting affidavit alleging a substantial change has occurred in the circumstances of the child or the guardian and that the termination is necessary to serve the best interests of the child. The petition and affidavit must be served on the department or supervising agency and all parties to the guardianship.

(2) Except as provided in subsection (3) of this section, the court shall not terminate a guardianship unless it finds, upon the basis of facts that have arisen since the guardianship was established or that were unknown to the court at the time the guardianship was established, that a substantial change has occurred in the circumstances of the child or the guardian and that termination of the guardianship is necessary to serve the best interests of the child. The effect of a guardian's duties while serving in the military potentially impacting guardianship functions shall not, by itself, be a substantial change of circumstances justifying termination of a guardianship.

(3) The court may terminate a guardianship on the agreement of the guardian, the child, if the child is age twelve years or older, and a parent seeking to regain custody of the child if the court finds by a preponderance of the evidence and on the basis of facts that have arisen since the guardianship was established that:

(a) The parent has successfully corrected the parenting deficiencies identified by the court in the dependency action, and the circumstances of the parent have changed to such a degree that returning the child to the custody of the parent no longer creates a risk of harm to the child's health, welfare, and safety;

(b) The child, if age twelve years or older, agrees to termination of the guardianship and the return of custody to the parent; and

(c) Termination of the guardianship and return of custody of the child to the parent is in the child's best interests.

(4) Upon the entry of an order terminating a guardianship, the court shall enter an order:

(a) Granting the child's parent with legal and physical custody of the child;

(b) Granting a substitute guardian with legal and physical custody of the child; or

(c) Directing the child to be temporarily placed in the custody of the department for placement with a relative or other suitable person as defined in RCW 13.34.130(1)(b), if available, or in an appropriate licensed out-of-home placement, and directing that the department file a dependency petition on behalf of the child.

**NEW SECTION. Sec. 8. APPOINTMENT OF GUARDIAN AD LITEM OR ATTORNEY FOR THE CHILD.** In all proceedings to establish, modify, or terminate a guardianship order, the court shall appoint a guardian ad litem or attorney for the child. The court may appoint a guardian ad litem or attorney who represented the child in a prior proceeding under this chapter or under chapter 13.34 RCW, or may appoint an attorney to supersede an existing guardian ad litem.

NEW SECTION. **Sec. 9. GUARDIANSHIP SUBSIDY.** (1) A relative guardian who is a licensed foster parent at the time a guardianship is established under this chapter and who has been the child's foster parent for a minimum of six consecutive months preceding entry of the guardianship order is eligible for a relative guardianship subsidy on behalf of the child. The department may establish rules setting eligibility, application, and program standards consistent with applicable federal guidelines for expenditure of federal funds.

(2) Within amounts appropriated for this specific purpose, a guardian who is a licensed foster parent at the time a guardianship is established under this chapter and who has been the child's foster parent for a minimum of six consecutive months preceding entry of the guardianship order is eligible for a guardianship subsidy on behalf of the child.

**Sec. 10.** RCW 13.34.030 and 2009 c 520 s 21 and 2009 c 397 s 1 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child" and "juvenile" means any individual under the age of eighteen years.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

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

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

(7) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding (~~other than a proceeding under this chapter~~), including a guardian appointed pursuant to chapter 13.— RCW (the new chapter created in section 17 of this act); and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" (~~shall~~) does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, general assistance, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or ~~((an))~~ licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190 ~~((with whom the department)), that~~ has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

NEW SECTION. Sec. 11. A new section is added to chapter 13.34 RCW to read as follows:

(1) Notwithstanding the provisions of chapter 13.—RCW (the new chapter created in section 17 of this act), a dependency guardianship established by court order under this chapter and in force on the effective date of this section shall remain subject to the provisions of this chapter unless: (a) The dependency guardianship is modified or terminated under the provisions of this chapter; or (b) the dependency guardianship is converted by court order to a guardianship pursuant to a petition filed under section 3 of this act.

(2) A dependency guardian or the department or supervising agency may request the juvenile court to convert a dependency guardianship established under this chapter to a guardianship under chapter 13.—RCW (the new chapter created in section 17 of this act) by filing a petition under section 3 of this act. If

both the dependency guardian and the department or supervising agency agree that the dependency guardianship should be converted to a guardianship under this chapter, and if the court finds that such conversion is in the child's best interests, the court shall grant the petition and enter an order of guardianship in accordance with section 5 of this act.

(3) The court shall dismiss the dependency established under this chapter upon the entry of a guardianship order under chapter 13.— RCW (the new chapter created in section 17 of this act).

**NEW SECTION. Sec. 12.** A new section is added to chapter 74.13 RCW to read as follows:

(1) The department shall adopt rules consistent with federal regulations for the receipt and expenditure of federal funds and implement a subsidy program for eligible relatives appointed by the court as a guardian under section 5 of this act.

(2) For the purpose of licensing a relative seeking to be appointed as a guardian and eligible for a guardianship subsidy under this section, the department shall, on a case-by-case basis, and when determined to be in the best interests of the child:

(a) Waive nonsafety licensing standards; and

(b) Apply the list of disqualifying crimes in the adoption and safe families act, rather than the secretary's list of disqualifying crimes, unless doing so would compromise the child's safety, or would adversely affect the state's ability to continue to obtain federal funding for child welfare related functions.

(3) Relative guardianship subsidy agreements shall be designed to promote long-term permanency for the child, and may include provisions for periodic review of the subsidy amount and the needs of the child.

**Sec. 13.** RCW 13.34.210 and 2009 c 520 s 35 and 2009 c 152 s 2 are each reenacted and amended to read as follows:

If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department or a supervising agency willing to accept custody for the purpose of placing the child for adoption. If an adoptive home has not been identified, the department or supervising agency shall place the child in a licensed foster home, or take other suitable measures for the care and welfare of the child. The custodian shall have authority to consent to the adoption of the child consistent with chapter 26.33 RCW, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

If a child has not been adopted within six months after the date of the order and a guardianship of the child under (~~RCW 13.34.231~~) chapter 13.— RCW (the new chapter created in section 17 of this act) or chapter 11.88 RCW, or a permanent custody order under chapter 26.10 RCW, has not been entered by the court, the court shall review the case every six months until a decree of adoption is entered. The supervising agency shall take reasonable steps to ensure that the child maintains relationships with siblings as provided in RCW 13.34.130(3) and shall report to the court the status and extent of such relationships.

**Sec. 14.** RCW 13.34.232 and 1994 c 288 s 7 are each amended to read as follows:

(1) ~~((If the court has made a finding under RCW 13.34.231, it shall enter))~~  
An order establishing a dependency guardianship ~~((for the child. The order))~~  
 shall:

(a) Appoint a person or agency to serve as dependency guardian for the limited purpose of assisting the court to supervise the dependency;

(b) Specify the dependency guardian's rights and responsibilities concerning the care, custody, and control of the child. A dependency guardian shall not have the authority to consent to the child's adoption;

(c) Specify the dependency guardian's authority, if any, to receive, invest, and expend funds, benefits, or property belonging to the child;

(d) Specify an appropriate frequency of visitation between the parent and the child; and

(e) Specify the need for any continued involvement of the supervising agency and the nature of that involvement, if any.

(2) Unless the court specifies otherwise in the guardianship order, the dependency guardian shall maintain the physical custody of the child and have the following rights and duties:

(a) Protect, discipline, and educate the child;

(b) Provide food, clothing, shelter, education as required by law, and routine health care for the child;

(c) Consent to necessary health and surgical care and sign a release of health care information to appropriate authorities, pursuant to law;

(d) Consent to social and school activities of the child; and

(e) Provide an annual written accounting to the court regarding receipt by the dependency guardian of any funds, benefits, or property belonging to the child and expenditures made therefrom.

(3) As used in this section, the term "health care" includes, but is not limited to, medical, dental, psychological, and psychiatric care and treatment.

(4) The child shall remain dependent for the duration of the guardianship. While the guardianship remains in effect, the dependency guardian shall be a party to any dependency proceedings pertaining to the child.

(5) The guardianship shall remain in effect only until the child is eighteen years of age or until the court terminates the guardianship order, whichever occurs sooner.

**Sec. 15.** RCW 13.34.234 and 2009 c 235 s 6 are each amended to read as follows:

A dependency guardian who is a licensed foster parent at the time the guardianship is established under ~~((RCW 13.34.231 and 13.34.232))~~ this chapter and who has been the child's foster parent for a minimum of six consecutive months preceding entry of the guardianship order ~~((is))~~ may be eligible for a guardianship subsidy on behalf of the child. ~~((The department may establish rules setting eligibility, application, and program standards consistent with applicable federal guidelines.))~~

NEW SECTION. **Sec. 16.** The following acts or parts of acts are each repealed:

(1) RCW 13.34.230 (Guardianship for dependent child—Petition for—Notice to, intervention by, department or supervising agency) and 2009 c 520 s 37, 1981 c 195 s 1, & 1979 c 155 s 51;

(2) RCW 13.34.231 (Guardianship for dependent child—Hearing—Rights of parties—Rules of evidence—Guardianship established, when) and 2000 c 122 s 29, 1994 c 288 s 6, & 1981 c 195 s 2;

(3) RCW 13.34.236 (Guardianship for dependent child—Qualifications for dependency guardian—Consideration of preferences of parent) and 1994 c 288 s 10 & 1981 c 195 s 7; and

(4) RCW 13.34.238 (Guardianship for dependent child—Relative guardianship subsidies) and 2009 c 235 s 5.

**NEW SECTION. Sec. 17.** Sections 2 through 9 of this act constitute a new chapter in Title 13 RCW.

Passed by the House March 8, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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## CHAPTER 273

[Engrossed Second Substitute House Bill 3141]

### TEMPORARY ASSISTANCE TO NEEDY FAMILIES—WORKFIRST PROGRAM

AN ACT Relating to redesigning the delivery of temporary assistance for needy families; amending RCW 74.08A.285 and 74.08A.320; adding new sections to chapter 74.08A RCW; adding a new section to chapter 43.215 RCW; creating a new section; and repealing RCW 74.08A.200.

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

**\*NEW SECTION. Sec. 1.** *A new section is added to chapter 74.08A RCW to read as follows:*

*(1) The legislature finds that the goal of the Washington WorkFirst program is economic self-sufficiency for families through unsubsidized work. The legislature also finds that matching available resources with families' needs and developing a comprehensive plan assists families in attaining lasting self-sufficiency through work.*

*(2) The legislature also finds that the primary purposes of the temporary assistance for needy families program are: (a) To help job ready participants secure gainful employment; (b) to assist parents to prepare for and obtain sustainable employment that will lift the family out of poverty and lead to economic self-sufficiency; and (c) to provide basic income assistance and support to parents who are disabled or otherwise exempt from work activity requirements under federal law.*

*(3) The legislature further finds that parents who have adequate job skills and experiences should be referred to job search activities that will lead to employment.*

*(4) The legislature also finds that completion of appropriate educational and training programs is necessary for some families to achieve economic self-sufficiency through work because research demonstrates that without adequate levels of education or training, job search activities alone have no measurable impact on a family's ability to obtain and maintain paid work.*

(5) *The legislature further finds that while many families have been successful in permanently leaving the program of temporary assistance for needy families, statistics indicate that families continue to return to the program in the absence of adequate education and training.*

(6) *In order to provide work opportunities for parents with significant barriers to employment, the legislature intends to build upon the successes of the community jobs program and to provide subsidized work opportunities to parents who are unable to find employment after earnest efforts at job search or education and training activities.*

(7) *The legislature intends to reform components of Washington's subsidized childcare program by redesigning the eligibility determination process to promote: (a) Stability for children and (b) predictability for parents who are either working or preparing and searching for work and the childcare providers who are serving low-income families.*

*\*Sec. 1 was vetoed. See message at end of chapter.*

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.215 RCW to read as follows:

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures defined in RCW 74.08A.410 and the standards established in this section intended to promote continuity of care for children.

(2) Beginning in fiscal year 2011, for families with children enrolled in an early childhood education and assistance program, a head start program, or an early head start program, authorizations for the working connections child care subsidy shall be effective for twelve months unless a change in circumstances necessitates reauthorization sooner than twelve months.

(3) The department, in consultation with the department of social and health services, shall report to the legislature by September 1, 2011, with:

(a) An analysis of the impact of the twelve-month authorization period on the stability of child care, program costs, and administrative savings; and

(b) Recommendations for expanding the application of the twelve-month authorization period to additional populations of children in care.

\*NEW SECTION. **Sec. 3.** A new section is added to chapter 74.08A RCW to read as follows:

*The Washington WorkFirst subcabinet, in consultation with the governor, shall:*

(1) *Reevaluate the structure and policies of the WorkFirst program in the context of legislative intent expressed in section 1 of this act, and in consideration of the relevant research relating to family economic self-sufficiency and the completion of training and education programs shown to be correlated with increased earnings and career growth;*

(2) *Develop a proposal for redesigning the state's use of temporary assistance for needy families funds in a manner that makes optimum use of all funds available in the state to promote more families moving out of poverty to sustainable self-sufficiency. The subcabinet must report the proposal to the appropriate committees of the legislature by December 1, 2010. The proposal must include the following elements:*



(a) *A process for conducting a reassessment for persons who have been unable to achieve sustainable self-sufficiency through employment after receiving WorkFirst assistance for fifty-four months. The reassessment must be designed to determine if referral to community jobs or other services, including education and training opportunities, is appropriate or necessary to assist the person in attaining self-sufficiency for the family;*

(b) *A plan for referring persons who have been unsuccessful in finding sustainable employment to the community jobs program or other wage-subsidized employment program established under RCW 74.08A.320. Referrals should complement other activities that might be identified in a reassessment under (a) of this subsection; and*

(c) *A schedule for the development and implementation of three pathways to family self-sufficiency that will guide case management and engage parents early in developing a comprehensive plan to achieve self-sufficiency while addressing families' current basic needs. The pathways must address appropriate referrals for:*

(i) *Persons who have: (A) Marketable job skills, adequate education, or experience and attachment to the job force, (B) transportation, (C) safe child care arrangements in place, and (D) no unaddressed barriers to employment;*

(ii) *Persons who have: (A) Few or no marketable job skills, (B) little experience or attachment to the job force, (C) no high school diploma or equivalent, or (D) a need to complete adult basic education or other activities to remove barriers to employment; and*

(iii) *Persons who are: (A) Incapacitated and unemployable, (B) caring for a child with a disability, or (C) the primary caregiver for a family member with a disability; and*

(3)(a) *Adopt the goal of increasing the percentage of households receiving temporary assistance for needy families that move into the middle-income bracket or higher, and delineate specific program strategies within the proposal required in subsection (2) of this section to reach that goal.*

(b) *The proposal developed under subsection (2) of this section shall also include an estimate by the office of financial management, in consultation with other state agencies, of the percentage of Washington residents with incomes in the middle-income bracket or higher, and the percentage of WorkFirst clients who have historically moved into the middle-income bracket or higher. The office of financial management shall continue, by December 1 of every year thereafter, to estimate and report the percentage of Washington residents with incomes in the middle-income bracket or higher to the governor and the appropriate committees of the legislature.*

(c) *For purposes of this section, "middle-income bracket" means family incomes between two hundred and five hundred percent of the 2009 federal poverty level, as determined by the United States department of health and human services for a family of four, adjusted annually for inflation.*

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

*\*Sec. 4. RCW 74.08A.285 and 2003 c 383 s 3 are each amended to read as follows:*

*The WorkFirst program operated by the department to meet the federal work requirements specified in P.L. 104-193 shall contain a job search component. The component shall consist of instruction on how to secure a job*

*and assisted job search activities to locate and retain employment. Nonexempt recipients of temporary assistance for needy families shall participate in an initial job search for no more than twelve consecutive weeks, when appropriate, given the recipient's marketable job skills, attachment to the labor force, and level of education or training. Each recipient shall receive a work skills assessment upon referral to the job search program. The work skills assessment shall include but not be limited to education, employment history, employment strengths, and job skills. The recipient's ability to obtain employment will be reviewed periodically thereafter and, if it is clear at any time that further participation in a job search will not be productive, the department shall assess the recipient pursuant to RCW 74.08A.260. The department shall refer recipients unable to find employment through the initial job search period to ~~(work)~~ activities that will develop their skills or knowledge to make them more employable, including additional job search and job readiness assistance.*

\*Sec. 4 was vetoed. See message at end of chapter.

**Sec. 5.** RCW 74.08A.320 and 1997 c 58 s 325 are each amended to read as follows:

The department shall establish a wage subsidy program to be known as the community jobs program for recipients of temporary assistance for needy families who have barriers to employment, lack experience and attachment to the job force, or have been unsuccessful in securing employment leading to family self-sufficiency. The department shall give preference in job placements to private sector employers that have agreed to participate in the wage subsidy program. The department shall identify characteristics of employers who can meet the employment goals stated in RCW 74.08A.410. The department shall use these characteristics in identifying which employers may participate in the program. The department shall adopt rules for the participation of recipients of temporary assistance for needy families in the wage subsidy program. Participants in the program established under this section may not be employed if: (1) The employer has terminated the employment of any current employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with the participant; or (2) the participant displaces or partially displaces current employees. Employers providing positions created under this section shall meet the requirements of chapter 49.46 RCW. This section shall not diminish or result in the infringement of obligations or rights under chapters 41.06, 41.56, and 49.36 RCW and the national labor relations act, 29 U.S.C. Ch. 7. The department shall establish such local and statewide advisory boards, including business and labor representatives, as it deems appropriate to assist in the implementation of the wage subsidy program. Once the recipient is hired, the wage subsidy shall be authorized for up to nine months.

NEW SECTION. **Sec. 6.** RCW 74.08A.200 (Intent—Washington WorkFirst) and 1997 c 58 s 301 are each repealed.

NEW SECTION. **Sec. 7.** It is the intent of the legislature that this act be implemented within the funding appropriated in the 2009-11 biennial budget. No additional appropriations will be provided for its implementation.

Passed by the House March 6, 2010.

Passed by the Senate March 3, 2010.

Approved by the Governor April 1, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2010.

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

"I am returning, without my approval as to Sections 1, 3, and 4, Engrossed Second Substitute House Bill 3141 entitled:

"AN ACT Relating to redesigning the delivery of temporary assistance for needy families."

This bill directs significant changes to the Temporary Assistance for Needy Families program (TANF) known as the WorkFirst program. The WorkFirst program is an important safety net program for many of Washington's low-income families and children. As Washington addresses an economic downturn, our important and vital safety net programs must provide appropriate assistance to Washington residents. The WorkFirst program has been in existence for almost 13 years. In conversations with the Legislature, I expressed my support for reevaluation of the WorkFirst program to examine how to best meet the challenges for various Washington families to obtain work stability and family self-sufficiency.

Section 3 of the bill directs an executive cabinet level workgroup, the WorkFirst Subcabinet, to examine and report on the TANF program in the context of a reframed legislative intent set forth in Section 1. Section 4 makes a programmatic change in advance of any examination and report. The best way for an executive cabinet level workgroup to examine a broad, programmatic agenda of a \$900 million block grant program is under the direction of the Governor, without restrictions or initial assumptions.

Although I have vetoed Sections 1, 3 and 4, I am directing the WorkFirst Subcabinet to examine the best practices to meet the needs of WorkFirst families to obtain employment and achieve family self-sufficiency. The WorkFirst Subcabinet shall provide a report and plan to implement the best practices for WorkFirst families and children that are sustainable.

For these reasons, I have vetoed Sections 1, 3, and 4 of Engrossed Second Substitute House Bill 3141.

With the exception of Sections 1, 3, and 4, Engrossed Second Substitute House Bill 3141 is approved."

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## CHAPTER 274

[Engrossed Substitute House Bill 2777]

### DOMESTIC VIOLENCE

AN ACT Relating to modifying domestic violence provisions; amending RCW 10.31.100, 10.99.045, 26.50.020, 26.50.060, 26.50.070, 10.99.040, 9.94A.030, 9.94A.525, 3.66.068, 3.50.330, 35.20.255, 26.50.150, and 68.50.160; reenacting and amending RCW 9.94A.535; adding a new section to chapter 36.28A RCW; adding new sections to chapter 26.50 RCW; adding a new section to chapter 7.90 RCW; adding a new section to chapter 10.14 RCW; adding new sections to chapter 2.56 RCW; adding a new section to chapter 10.99 RCW; and creating a new section.

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

### PART ONE INTENT

**NEW SECTION. Sec. 101.** The legislature intends to improve the lives of persons who suffer from the adverse effects of domestic violence and to require reasonable, coordinated measures to prevent domestic violence from occurring. The legislature intends to give law enforcement and the courts better tools to identify violent perpetrators of domestic violence and hold them accountable.

The legislature intends to: Increase the safety afforded to individuals who seek protection of public and private agencies involved in domestic violence prevention; improve the ability of agencies to address the needs of victims and their children and the delivery of services; upgrade the quality of treatment programs; and enhance the ability of the justice system to respond quickly and fairly to domestic violence. In order to improve the lives of persons who have, or may suffer, the effects of domestic violence the legislature intends to achieve more uniformity in the decision-making processes at public and private agencies that address domestic violence by reducing inconsistencies and duplications allowing domestic violence victims to achieve safety and stability in their lives.

**PART TWO**  
**LAW ENFORCEMENT/ARREST PROVISIONS**

**Sec. 201.** RCW 10.31.100 and 2006 c 138 s 23 are each amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (10) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.90, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any

provision for which the foreign protection order specifically indicates that a violation will be a crime; or

(c) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence ~~((between the))~~ of each person(s) involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(f) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(6) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(7) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(8) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(9) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(10) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(11) Except as specifically provided in subsections (2), (3), (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(12) No police officer may be held criminally or civilly liable for making an arrest pursuant to (~~RCW 10.31.100~~) subsection (2) or (8) of this section if the police officer acts in good faith and without malice.

***\*NEW SECTION. Sec. 202. A new section is added to chapter 36.28A RCW to read as follows:***

***(1)(a) When funded, the Washington association of sheriffs and police chiefs shall convene a work group to develop a model policy regarding the reporting of domestic violence as defined in RCW 10.99.020 to law enforcement in cases where the victim is unable or unwilling to make a report in the jurisdiction where the alleged crime occurred.***

***(b) The model policy must include policies and procedures related to:***

***(i) Collecting and securing evidence; and***

***(ii) Creating interlocal agreements between law enforcement agencies.***

***(2) In developing the model policy under subsection (1)(a) of this section, the association shall consult with appropriate stakeholders and government agencies.***

*\*Sec. 202 was vetoed. See message at end of chapter.*

### PART THREE NO-CONTACT AND PROTECTION ORDERS

**Sec. 301.** RCW 10.99.045 and 2000 c 119 s 19 are each amended to read as follows:

(1) A defendant arrested for an offense involving domestic violence as defined by RCW 10.99.020 shall be required to appear in person before a magistrate within one judicial day after the arrest.

(2) A defendant who is charged by citation, complaint, or information with an offense involving domestic violence as defined by RCW 10.99.020 and not

arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(3)(a) At the time of the appearances provided in subsection (1) or (2) of this section, the court shall determine the necessity of imposing a no-contact order or other conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment. The court may include in the order any conditions authorized under RCW 9.41.800 and 10.99.040.

(b) For the purposes of (a) of this subsection, the prosecutor shall provide for the court's review:

(i) The defendant's criminal history, if any, that occurred in Washington or any other state;

(ii) If available, the defendant's criminal history that occurred in any tribal jurisdiction; and

(iii) The defendant's individual order history.

(c) For the purposes of (b) of this subsection, criminal history includes all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the period specified in (d) of this subsection before the date of the appearance.

(d) The periods applicable to previous convictions and orders of deferred prosecution are:

(i) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and

(ii) Seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For the purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis.

(4) Appearances required pursuant to this section are mandatory and cannot be waived.

(5) The no-contact order shall be issued and entered with the appropriate law enforcement agency pursuant to the procedures outlined in RCW 10.99.040 (2) and ~~((4))~~ (6).

**Sec. 302.** RCW 26.50.020 and 1992 c 111 s 8 are each amended to read as follows:

(1)(a) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

(b) Any person thirteen years of age or older may seek relief under this chapter by filing a petition with a court alleging that he or she has been the victim of violence in a dating relationship and the respondent is sixteen years of age or older.

(2)(a) A person under eighteen years of age who is sixteen years of age or older may seek relief under this chapter and is not required to seek relief by a guardian or next friend.

(b) A person under sixteen years of age who is seeking relief under subsection (1)(b) of this section is required to seek relief by a parent, guardian, guardian ad litem, or next friend.

(3) No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter who is under eighteen years of age if such respondent is sixteen years of age or older.

(4) The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent who is a party to an action under this chapter.

(5) The courts defined in RCW 26.50.010(~~((3))~~) (4) have jurisdiction over proceedings under this chapter. The jurisdiction of district and municipal courts under this chapter shall be limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents issues of residential schedule of and contact with children of the parties; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

(6) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

(7) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

(8) For the purposes of this section "next friend" means any competent individual, over eighteen years of age, chosen by the minor and who is capable of pursuing the minor's stated interest in the action.

NEW SECTION. Sec. 303. A new section is added to chapter 26.50 RCW to read as follows:

(1) The administrative office of the courts shall update the law enforcement information form which it provides for the use of a petitioner who is seeking an ex parte protection order in such a fashion as to prompt the person to disclose on the form whether the person who the petitioner is seeking to restrain has a disability, brain injury, or impairment requiring special assistance.

(2) Any peace officer who serves a protection order on a respondent with the knowledge that the respondent requires special assistance due to a disability, brain injury, or impairment shall make a reasonable effort to accommodate the needs of the respondent to the extent practicable without compromise to the safety of the petitioner.

**Sec. 304.** RCW 26.50.060 and 2009 c 439 s 2 are each amended to read as follows:



- (1) Upon notice and after hearing, the court may provide relief as follows:
- (a) Restrain the respondent from committing acts of domestic violence;
  - (b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;
  - (c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;
  - (d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;
  - (e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;
  - (f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;
  - (g) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees;
  - (h) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;
  - (i) Restrain the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260.
  - (j) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;
  - ~~((k))~~ (k) Consider the provisions of RCW 9.41.800;
  - ~~((l))~~ (l) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found; and
  - ~~((m))~~ (m) Order use of a vehicle.
- (2) If a protection order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under

chapter 26.09, 26.10, or 26.26 RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 or 26.26 RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(g) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial.

**Sec. 305.** RCW 26.50.070 and 2000 c 119 s 16 are each amended to read as follows:

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Restraining any party from going onto the grounds of or entering the dwelling that the parties share, from the residence, workplace, or school of the other, or from the day care or school of a child until further order of the court;

(c) Prohibiting any party from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court;

(e) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household; ~~((and))~~

(f) Considering the provisions of RCW 9.41.800; ~~and~~

(g) Restraining the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260.

(2) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(3) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication or by mail is permitted. Except as provided in RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(5) Any order issued under this section shall contain the date and time of issuance and the expiration date and shall be entered into a statewide judicial information system by the clerk of the court within one judicial day after issuance.

(6) If the court declines to issue an ex parte temporary order for protection the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte order of protection shall be filed with the court.

NEW SECTION. Sec. 306. A new section is added to chapter 26.50 RCW to read as follows:

(1) In a proceeding in which a petition for an order for protection under this chapter is sought, a court of this state may exercise personal jurisdiction over a nonresident individual if:

(a) The individual is personally served with a petition within this state;

(b) The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction;

(c) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred within this state;

(d)(i) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred outside this state and are part of an ongoing pattern of domestic violence or stalking that has an adverse effect on the petitioner or a member of the petitioner's family or household and the petitioner resides in this state; or

(ii) As a result of acts of domestic violence or stalking, the petitioner or a member of the petitioner's family or household has sought safety or protection in this state and currently resides in this state; or

(e) There is any other basis consistent with RCW 4.28.185 or with the Constitutions of this state and the United States.

(2) For jurisdiction to be exercised under subsection (1)(d)(i) or (ii) of this section, the individual must have communicated with the petitioner or a member of the petitioner's family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner's family while the petitioner or family member resides in this state. For the purposes of subsection (1)(d)(i) or (ii) of this section, "communicated or made known" includes, but is not limited to, through the mail, telephonically, or a posting on an electronic communication site or medium. Communication on any electronic medium that is generally available to any individual residing in the state shall be sufficient to exercise jurisdiction under subsection (1)(d)(i) or (ii) of this section.

(3) For the purposes of this section, an act or acts that "occurred within this state" includes, but is not limited to, an oral or written statement made or published by a person outside of this state to any person in this state by means of the mail, interstate commerce, or foreign commerce. Oral or written statements sent by electronic mail or the internet are deemed to have "occurred within this state."

NEW SECTION. Sec. 307. A new section is added to chapter 7.90 RCW to read as follows:

(1) In a proceeding in which a petition for a sexual assault protection order is sought under this chapter, a court of this state may exercise personal jurisdiction over a nonresident individual if:

(a) The individual is personally served with a petition within this state;

(b) The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction;

(c) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of a sexual assault protection order occurred within this state;

(d)(i) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of a sexual assault protection order occurred outside this state and are part of an ongoing pattern of sexual assaults or stalking that has an adverse effect on the petitioner or a member of the petitioner's family or household and the petitioner resides in this state; or

(ii) As a result of acts of stalking or a sexual assault, the petitioner or a member of the petitioner's family or household has sought safety or protection in this state and currently resides in this state; or

(e) There is any other basis consistent with RCW 4.28.185 or with the constitutions of this state and the United States.

(2) For jurisdiction to be exercised under subsection (1)(d)(i) or (ii) of this section, the individual must have communicated with the petitioner or a member of the petitioner's family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner's family while the petitioner or family member resides in this state. For the purposes of subsection (1)(d)(i) or (ii) of this section, "communicated or made known" includes, but is not limited to, through the mail, telephonically, or a posting on an electronic communication site or medium. Communication on any electronic medium that is generally available to any individual residing in the state shall be sufficient to exercise jurisdiction under subsection (1)(d)(i) or (ii) of this section.

(3) For the purposes of this section, an act or acts that "occurred within this state" includes, but is not limited to, an oral or written statement made or published by a person outside of this state to any person in this state by means of the mail, interstate commerce, or foreign commerce. Oral or written statements sent by electronic mail or the internet are deemed to have "occurred within this state."

**NEW SECTION. Sec. 308.** A new section is added to chapter 10.14 RCW to read as follows:

(1) In a proceeding in which a petition for an order for protection under this chapter is sought, a court of this state may exercise personal jurisdiction over a nonresident individual if:

(a) The individual is personally served with a petition within this state;

(b) The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction;

(c) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred within this state;

(d)(i) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred outside this state and are part of an ongoing pattern of harassment that has an adverse effect on the petitioner or a member of the petitioner's family or household and the petitioner resides in this state; or

(ii) As a result of acts of harassment, the petitioner or a member of the petitioner's family or household has sought safety or protection in this state and currently resides in this state; or

(e) There is any other basis consistent with RCW 4.28.185 or with the constitutions of this state and the United States.

(2) For jurisdiction to be exercised under subsection (1)(d)(i) or (ii) of this section, the individual must have communicated with the petitioner or a member of the petitioner's family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner's family while the petitioner or family member resides in this state. For the purposes of subsection (1)(d)(i) or (ii) of this section, "communicated or made known" includes, but is not limited to, through the mail, telephonically, or a posting on an electronic communication site or medium. Communication on any electronic medium that is generally available to any individual residing in the state shall be sufficient to exercise jurisdiction under subsection (1)(d)(i) or (ii) of this section.

(3) For the purposes of this section, an act or acts that "occurred within this state" includes, but is not limited to, an oral or written statement made or published by a person outside of this state to any person in this state by means of the mail, interstate commerce, or foreign commerce. Oral or written statements sent by electronic mail or the internet are deemed to have "occurred within this state."

**Sec. 309.** RCW 10.99.040 and 2000 c 119 s 18 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2)(a) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(b) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(c) The no-contact order shall also be issued in writing as soon as possible. By January 1, 2011, the administrative office of the courts shall develop a pattern form for all no-contact orders issued under this chapter. A no-contact order issued under this chapter must substantially comply with the pattern form developed by the administrative office of the courts.

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended. The no-contact order shall terminate if the defendant is acquitted or the charges are dismissed. If a no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under subsection (2) or (3) of this section is punishable under RCW 26.50.110.

(b) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(c) A certified copy of the order shall be provided to the victim.

(5) If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer-based criminal intelligence information system in this state which is used by law enforcement agencies to list outstanding warrants.

(6) Whenever a no-contact order is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. Upon receipt of notice that an order has been terminated under subsection (3) of this section, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system.

(7) All courts shall develop policies and procedures by January 1, 2011, to grant victims a process to modify or rescind a no-contact order issued under this

chapter. The administrative office of the courts shall develop a model policy to assist the courts in implementing the requirements of this subsection.

NEW SECTION. Sec. 310. A new section is added to chapter 2.56 RCW to read as follows:

(1) The administrative office of the courts shall develop guidelines by December 1, 2011, for all courts to establish a process to reconcile duplicate or conflicting no-contact or protection orders issued by courts in this state.

(2) The guidelines developed under subsection (1) of this section must include:

(a) A process to allow any party named in a no-contact or protection order to petition for the purpose of reconciling duplicate or conflicting orders; and

(b) A procedure to address no-contact and protection order data sharing between court jurisdictions in this state.

(3) By January 1, 2011, the administrative office of the courts shall provide a report back to the legislature concerning the progress made to develop the guidelines required by this section.

#### PART FOUR SENTENCING REFORMS

**Sec. 401.** RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.



(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "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.

~~((21))~~ (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.

~~((22))~~ (23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

~~((23))~~ (24) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for

supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

~~((24))~~ (25) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

~~((25))~~ (26) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

~~((26))~~ (27) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

~~((27))~~ (28) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

~~((28))~~ (29) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

~~((29))~~ (30) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

- (k) Manslaughter in the first degree;
  - (l) Manslaughter in the second degree;
  - (m) Promoting prostitution in the first degree;
  - (n) Rape in the third degree;
  - (o) Robbery in the second degree;
  - (p) Sexual exploitation;
  - (q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;
  - (r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;
  - (s) Any other class B felony offense with a finding of sexual motivation;
  - (t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;
  - (u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;
  - (v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
  - (ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;
  - (w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under Title 9 or 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.
- ~~((30))~~ (31) "Nonviolent offense" means an offense which is not a violent offense.
- ~~((31))~~ (32) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer convicted of an offense included in RCW 9.94A.501(1) and ordered by a superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

~~((32))~~ (33) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

~~((33))~~ (34) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

~~((34))~~ (35) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection ~~((34))~~ (35)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

~~((35))~~ (36) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

~~((36))~~ (37) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

~~((37))~~ (38) "Public school" has the same meaning as in RCW 28A.150.010.

~~((38))~~ (39) "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, 26.26, 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.

(40) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

~~((39))~~ (41) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

~~((40))~~ (42) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

~~((41))~~ (43) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

~~((42))~~ (44) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(12);

- (ii) A violation of RCW 9A.64.020;
  - (iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or
  - (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;
  - (b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;
  - (c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or
  - (d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.
- ~~((43))~~ (45) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.
- ~~((44))~~ (46) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.
- ~~((45))~~ (47) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.
- ~~((46))~~ (48) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.
- ~~((47))~~ (49) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.
- ~~((48))~~ (50) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.
- ~~((49))~~ (51) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.
- ~~((50))~~ (52) "Violent offense" means:
- (a) Any of the following felonies:
    - (i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;
    - (ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;
    - (iii) Manslaughter in the first degree;
    - (iv) Manslaughter in the second degree;
    - (v) Indecent liberties if committed by forcible compulsion;
    - (vi) Kidnapping in the second degree;
    - (vii) Arson in the second degree;
    - (viii) Assault in the second degree;
    - (ix) Assault of a child in the second degree;



- (x) Extortion in the first degree;
- (xi) Robbery in the second degree;
- (xii) Drive-by shooting;
- (xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and
- (xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

~~((51))~~ (53) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

~~((52))~~ (54) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

~~((53))~~ (55) "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. 402.** RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9 are each reenacted and amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

## (1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(i) The current offense involved domestic violence, as defined in RCW 10.99.020, and the defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse.

## (2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury - Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of ~~((the))~~ a victim or multiple victims manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the

theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

**Sec. 403.** RCW 9.94A.525 and 2008 c 231 s 3 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is 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)), prior convictions of felony driving while under the influence of intoxicating liquor or any drug, felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, and serious traffic offenses shall be included in the offender score if: (i) The prior convictions were committed within five years since the last date of release from confinement (including full-time residential treatment) or entry of judgment and sentence; or (ii) the prior

convictions would be considered "prior offenses within ten years" as defined in RCW 46.61.5055.

(f) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult

nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(13) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130(11), count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction, excluding prior convictions for failure to register as a sex offender under RCW 9A.44.130(11), which shall count as one point.

(19) If the present conviction is for an offense committed while the offender was under community custody, add one point. For purposes of this subsection, community custody includes community placement or postrelease supervision, as defined in chapter 9.94B RCW.

(20) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in subsections (7) through (18) of this section; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

(21) If the present conviction is for a felony domestic violence offense where domestic violence as defined in RCW 9.94A.030 was plead and proven, count priors as in subsections (7) through (20) of this section; however, count points as follows:

(a) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was plead and proven after August 1, 2011, for the following offenses: A violation of a no contact order that is a felony offense, a violation of a protection order that is a felony offense, a felony domestic violence harassment offense, a felony domestic violence stalking offense, a domestic violence Burglary 1 offense, a domestic violence Kidnapping 1 offense, a domestic violence Kidnapping 2 offense, a domestic violence unlawful imprisonment offense, a domestic violence Robbery 1 offense, a domestic violence Robbery 2 offense, a domestic violence Assault 1 offense, a domestic violence Assault 2 offense, a domestic violence Assault 3 offense, a domestic violence Arson 1 offense, or a domestic violence Arson 2 offense; and

(b) Count one point for each second and subsequent juvenile conviction where domestic violence as defined in RCW 9.94A.030 was plead and proven after August 1, 2011, for the offenses listed in (a) of this subsection.

(c) Count one point for each adult prior conviction for a repetitive domestic violence offense as defined in RCW 9.94A.030, where domestic violence as defined in RCW 9.94A.030, was plead and proven after August 1, 2011.

(22) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the



sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence.

**NEW SECTION. Sec. 404.** A new section is added to chapter 10.99 RCW to read as follows:

(1) In sentencing for a crime of domestic violence as defined in this chapter, courts of limited jurisdiction shall consider, among other factors, whether:

(a) The defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse;

(b) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of a victim or multiple victims manifested by multiple incidents over a prolonged period of time; and

(c) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years.

(2)(a) In sentencing for a crime of domestic violence as defined in this chapter, the prosecutor shall provide for the court's review:

(i) The defendant's criminal history, if any, that occurred in Washington or any other state;

(ii) If available, the defendant's prior criminal history that occurred in any tribal jurisdiction; and

(iii) The defendant's individual order history.

(b) For the purposes of (a) of this subsection, criminal history includes all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the period specified in (c) of this subsection before the date of sentencing.

(c) The periods applicable to previous convictions and orders of deferred prosecution are:

(i) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and

(ii) Seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For the purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis.

**Sec. 405.** RCW 3.66.068 and 2001 c 94 s 2 are each amended to read as follows:

For a period not to exceed five years after imposition of sentence for a defendant sentenced for a domestic violence offense or under RCW 46.61.5055 and two years after imposition of sentence for all other offenses, the court has continuing jurisdiction and authority to suspend or defer the execution of all or any part of its sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or

her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW 46.20.720. For the purposes of this section, "domestic violence offense" means a crime listed in RCW 10.99.020 that is not a felony offense.

**Sec. 406.** RCW 3.50.330 and 2001 c 94 s 5 are each amended to read as follows:

For a period not to exceed five years after imposition of sentence for a defendant sentenced for a domestic violence offense or under RCW 46.61.5055 and two years after imposition of sentence for all other offenses, the court shall have continuing jurisdiction and authority to suspend or defer the execution of all or any part of the sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW 46.20.720. Any time before entering an order terminating probation, the court may modify or revoke its order suspending or deferring the imposition or execution of the sentence. For the purposes of this section, "domestic violence offense" means a crime listed in RCW 10.99.020 that is not a felony offense.

**Sec. 407.** RCW 35.20.255 and 2005 c 400 s 5 are each amended to read as follows:

(1) Judges of the municipal court, in their discretion, shall have the power in all criminal proceedings within their jurisdiction including violations of city ordinances, to defer imposition of any sentence, suspend all or part of any sentence including installment payment of fines, fix the terms of any such deferral or suspension, and provide for such probation as in their opinion is reasonable and necessary under the circumstances of the case, but in no case shall it extend for more than five years from the date of conviction for a defendant to be sentenced for a domestic violence offense or under RCW 46.61.5055 and two years from the date of conviction for all other offenses. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW 46.20.720. Any time before entering an order terminating probation, the court may modify or revoke its order suspending or deferring the imposition or execution of the sentence. For the purposes of this subsection, "domestic violence offense" means a crime listed in RCW 10.99.020 that is not a felony offense.

(2)(a) If a defendant whose sentence has been deferred requests permission to travel or transfer to another state, the director of probation services or a designee thereof shall determine whether such request is subject to RCW 9.94A.745, the interstate compact for adult offender supervision. If such request is subject to the compact, the director or designee shall:

- (i) Notify the department of corrections of the defendant's request;
  - (ii) Provide the department of corrections with the supporting documentation it requests for processing an application for transfer;
  - (iii) Notify the defendant of the fee due to the department of corrections for processing an application under the compact;
  - (iv) Cease supervision of the defendant while another state supervises the defendant pursuant to the compact;
  - (v) Resume supervision if the defendant returns to this state before the period of deferral expires.
- (b) The defendant shall receive credit for time served while being supervised by another state.
- (c) If the probationer is returned to the state at the request of the receiving state under rules of the interstate compact for adult offender supervision, the department of corrections is responsible for the cost of returning the probationer.
- (d) The state of Washington, the department of corrections and its employees, and any city and its employees are not liable for civil damages resulting from any act or omission authorized or required under this section unless the act or omission constitutes gross negligence.

**PART FIVE  
TREATMENT/SERVICES FOR PERPETRATORS AND VICTIMS**

**Sec. 501.** RCW 26.50.150 and 1999 c 147 s 1 are each amended to read as follows:

Any program that provides domestic violence treatment to perpetrators of domestic violence must be certified by the department of social and health services and meet minimum standards for domestic violence treatment purposes. The department of social and health services shall adopt rules for standards of approval of domestic violence perpetrator programs (~~(that accept perpetrators of domestic violence into treatment to satisfy court orders or that represent the programs as ones that treat domestic violence perpetrators)~~). The treatment must meet the following minimum qualifications:

(1) All treatment must be based upon a full, complete clinical intake including but not limited to: Current and past violence history; a lethality risk assessment; history of treatment from past domestic violence perpetrator treatment programs; a complete diagnostic evaluation; a substance abuse assessment; criminal history; assessment of cultural issues, learning disabilities, literacy, and special language needs; and a treatment plan that adequately and appropriately addresses the treatment needs of the individual.

(2) To facilitate communication necessary for periodic safety checks and case monitoring, the program must require the perpetrator to sign the following releases:

(a) A release for the program to inform the victim and victim's community and legal advocates that the perpetrator is in treatment with the program, and to provide information, for safety purposes, to the victim and victim's community and legal advocates;

(b) A release to prior and current treatment agencies to provide information on the perpetrator to the program; and

(c) A release for the program to provide information on the perpetrator to relevant legal entities including: Lawyers, courts, parole, probation, child protective services, and child welfare services.

(3) Treatment must be for a minimum treatment period defined by the secretary of the department by rule. The weekly treatment sessions must be in a group unless there is a documented, clinical reason for another modality. Any other therapies, such as individual, marital, or family therapy, substance abuse evaluations or therapy, medication reviews, or psychiatric interviews, may be concomitant with the weekly group treatment sessions described in this section but not a substitute for it.

(4) The treatment must focus primarily on ending the violence, holding the perpetrator accountable for his or her violence, and changing his or her behavior. The treatment must be based on nonvictim-blaming strategies and philosophies and shall include education about the individual, family, and cultural dynamics of domestic violence. If the perpetrator or the victim has a minor child, treatment must specifically include education regarding the effects of domestic violence on children, such as the emotional impacts of domestic violence on children and the long-term consequences that exposure to incidents of domestic violence may have on children.

(5) Satisfactory completion of treatment must be contingent upon the perpetrator meeting specific criteria, defined by rule by the secretary of the department, and not just upon the end of a certain period of time or a certain number of sessions.

(6) The program must have policies and procedures for dealing with reoffenses and noncompliance.

(7) All evaluation and treatment services must be provided by, or under the supervision of, qualified personnel.

(8) The secretary of the department may adopt rules and establish fees as necessary to implement this section.

(9) The department may conduct on-site monitoring visits as part of its plan for certifying domestic violence perpetrator programs and monitoring implementation of the rules adopted by the secretary of the department to determine compliance with the minimum qualifications for domestic violence perpetrator programs. The applicant or certified domestic violence perpetrator program shall cooperate fully with the department in the monitoring visit and provide all program and management records requested by the department to determine the program's compliance with the minimum certification qualifications and rules adopted by the department.

## PART SIX MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 601. A new section is added to chapter 2.56 RCW to read as follows:

(1)(a) The administrative office of the courts shall, within existing resources, convene a work group to address the issue of transmitting information regarding revocation of concealed pistol licenses, upon the entry of orders issued under chapter 10.99, 26.50, or 26.52 RCW.

(b) The work group must include a superior court judge, a district court judge, a municipal court judge, an attorney whose practice includes a significant amount of time representing defendants in criminal trials, and representatives from the following entities: The Washington state patrol, the Washington association of sheriffs and police chiefs, the prosecuting attorneys association, the department of licensing, and the county clerks. Other members may be added as deemed appropriate by the work group.

(2) The work group shall review the methods currently used to transfer information between the courts, the county clerks, the prosecutors, the department of licensing, the Washington state patrol, and local law enforcement agencies regarding the suspension and revocation of concealed pistol licenses.

(3) The goal of the work group is to identify methods to expedite the transfer of information to enhance the safety of law enforcement and the public.

(4) The work group shall report its recommendations to the affected entities and the legislature not later than December 1, 2010. All agency representatives shall cooperate fully with the work group's efforts.

**Sec. 602.** RCW 68.50.160 and 2007 c 156 s 24 are each amended to read as follows:

(1) A person has the right to control the disposition of his or her own remains without the predeath or postdeath consent of another person. A valid written document expressing the decedent's wishes regarding the place or method of disposition of his or her remains, signed by the decedent in the presence of a witness, is sufficient legal authorization for the procedures to be accomplished.

(2) Prearrangements that are prepaid, or filed with a licensed funeral establishment or cemetery authority, under RCW 18.39.280 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation or substantial revision by survivors. Absent actual knowledge of contrary legal authorization under this section, a licensed funeral establishment or cemetery authority shall not be held criminally nor civilly liable for acting upon such prearrangements.

(3) If the decedent has not made a prearrangement as set forth in subsection (2) of this section or the costs of executing the decedent's wishes regarding the disposition of the decedent's remains exceeds a reasonable amount or directions have not been given by the decedent, the right to control the disposition of the remains of a deceased person vests in, and the duty of disposition and the liability for the reasonable cost of preparation, care, and disposition of such remains devolves upon the following in the order named:

- (a) The surviving spouse or state registered domestic partner.
- (b) The surviving adult children of the decedent.
- (c) The surviving parents of the decedent.
- (d) The surviving siblings of the decedent.
- (e) A person acting as a representative of the decedent under the signed authorization of the decedent.

(4) If any person to whom the right of control has vested pursuant to subsection (3) of this section has been arrested or charged with first or second degree murder or first degree manslaughter in connection with the decedent's death, the right of control is relinquished and passed on in accordance with subsection (3) of this section.

(5) If a cemetery authority as defined in RCW 68.04.190 or a funeral establishment licensed under chapter 18.39 RCW has made a good faith effort to locate the person cited in subsection (3)(a) through (e) of this section or the legal representative of the decedent's estate, the cemetery authority or funeral establishment shall have the right to rely on an authority to bury or cremate the human remains, executed by the most responsible party available, and the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying or cremating the human remains. In the event any government agency provides the funds for the disposition of any human remains and the government agency elects to provide funds for cremation only, the cemetery authority or funeral establishment may not be held criminally or civilly liable for cremating the human remains.

~~((5))~~ (6) The liability for the reasonable cost of preparation, care, and disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred, in the order listed in subsection (3) of this section, and upon the estate of the decedent.

Passed by the House March 6, 2010.

Passed by the Senate March 3, 2010.

Approved by the Governor April 1, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2010.

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

"I am returning herewith, without my approval as to Section 202, Engrossed Substitute House Bill 2777 entitled:

"AN ACT Relating to modifying domestic violence provisions."

This bill makes a number of changes to the laws relating to domestic violence. Section 202 adds a new section to chapter 36.28A RCW. This section provides that "[w]hen funded" the Washington association of sheriffs and police chiefs shall convene a work group to develop a model policy regarding the reporting of domestic violence to law enforcement in cases where the victim is unable or unwilling to make a report in the jurisdiction where the alleged crime occurred. The Legislature has not provided funding for this work group. Rather than leave an inoperable section in statute, I have vetoed Section 202. If the Legislature makes funds available for this purpose in the future, the tasks and directions to the work group may be included in an appropriations bill.

For this reason, I have vetoed Section 202 of Engrossed Substitute House Bill 2777.

With the exception of Section 202, Engrossed Substitute House Bill 2777 is approved."

## CHAPTER 275

[Substitute House Bill 2775]

### STATE BUILDING CODE COUNCIL—MEMBERSHIP

AN ACT Relating to membership on the state building code council; and amending RCW 19.27.070.

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

**Sec. 1.** RCW 19.27.070 and 1995 c 399 s 8 are each amended to read as follows:

There is hereby established a state building code council, to be appointed by the governor.

(1) The state building code council shall consist of fifteen members~~(7)~~;

~~(a) Two ((of whom shall)) members must~~ be county elected legislative body members or elected executives ~~((and))~~;

~~(b) Two ((of whom shall)) members must~~ be city elected legislative body members or mayors~~((:))~~;

~~(c) One ((of the members shall)) member must~~ be a local government building code enforcement official ~~((and))~~;

~~(d) One ((of the members shall)) member must~~ be a local government fire service official~~((: Of the remaining nine members,))~~;

~~(e) One member shall represent general construction, specializing in commercial and industrial building construction;~~

~~(f) One member shall represent general construction, specializing in residential and multifamily building construction;~~

~~(g) One member shall represent the architectural design profession;~~

~~(h) One member shall represent the structural engineering profession;~~

~~(i) One member shall represent the mechanical engineering profession;~~

~~(j) One member shall represent the construction building trades;~~

~~(k) One member shall represent manufacturers, installers, or suppliers of building materials and components;~~

~~(l) One member ((shall)) must~~ be a person with a physical disability and shall represent the disability community; and

~~(m) One member shall represent the general public.~~

~~(2) At least six of these fifteen members shall reside east of the crest of the Cascade mountains.~~

~~(3) The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership.~~

~~(4)(a) Terms of office shall be for three years, or for so long as the member remains qualified for the appointment.~~

~~(b) The council shall elect a member to serve as chair of the council for one-year terms of office.~~

~~(c) Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment.~~

~~(d) Any member who is appointed to represent a specific private sector industry must maintain sufficiently similar employment or circumstances throughout the term of office to remain qualified to represent the specified industry. Retirement or unemployment is not cause for termination. However, if a councilmember enters into employment outside of the industry he or she has been appointed to represent, then he or she shall be removed from the council.~~

~~(e) Any member who no longer qualifies for appointment under this section may not vote on council actions, but may participate as an ex officio, nonvoting member until a replacement member is appointed. A member must notify the council staff and the governor's office within thirty days of the date the member no longer qualifies for appointment under this section. The governor shall appoint a qualified replacement for the member within sixty days of notice.~~

(5) Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests ~~((listed))~~ identified in this ~~((subsection))~~ section. ~~((Members serving on the council on July 28, 1985, may complete their terms of office. Any vacancy shall be filled by alternating appointments from governmental and nongovernmental entities or interests until the council is constituted as required by this subsection.~~

~~((2))~~ (6) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

~~((3))~~ (7) The department of ~~((community, trade, and economic development))~~ commerce shall provide administrative and clerical assistance to the building code council.

Passed by the House March 6, 2010.

Passed by the Senate March 4, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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## CHAPTER 276

[Engrossed House Bill 2805]

### PUBLIC WORKS—OFF-SITE PREFABRICATION

AN ACT Relating to public works involving off-site prefabrication; amending RCW 39.04.350; and adding a new section to chapter 39.04 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 39.04 RCW to read as follows:

(1) For any public work estimated to cost over one million dollars, the contract must contain a provision requiring the submission of certain information about off-site, prefabricated, nonstandard, project specific items produced under the terms of the contract and produced outside Washington. The information must be submitted to the department of labor and industries under subsection (2) of this section. The information that must be provided is:

(a) The estimated cost of the public works project;

(b) The name of the awarding agency and the title of the public works project;

(c) The contract value of the off-site, prefabricated, nonstandard, project specific items produced outside Washington, including labor and materials; and

(d) The name, address, and federal employer identification number of the contractor that produced the off-site, prefabricated, nonstandard, project specific items.

(2)(a) The required information under this section must be submitted by the contractor or subcontractor as a part of the affidavit of wages paid form filed with the department of labor and industries under RCW 39.12.040. This information is only required to be submitted by the contractor or subcontractor who directly contracted for the off-site, prefabricated, nonstandard, project specific items produced outside Washington.



(b) The department of labor and industries shall include requests for the information about off-site, prefabricated, nonstandard, project specific items produced outside Washington on the affidavit of wages paid form required under RCW 39.12.040.

(c) The department of general administration shall develop standard contract language to meet the requirements of subsection (1) of this section and make the language available on its web site.

(d) Failure to submit the information required in subsection (1) of this section as part of the affidavit of wages paid form does not constitute a violation of RCW 39.12.050.

(3) For the purposes of this section, "off-site, prefabricated, nonstandard, project specific items" means products or items that are: (a) Made primarily of architectural or structural precast concrete, fabricated steel, pipe and pipe systems, or sheet metal and sheet metal duct work; (b) produced specifically for the public work and not considered to be regularly available shelf items; (c) produced or manufactured by labor expended to assemble or modify standard items; and (d) produced at an off-site location.

(4) The department of labor and industries shall transmit information collected under this section to the capital projects advisory review board created in RCW 39.10.220 for review.

(5) This section applies to contracts entered into between September 1, 2010, and December 31, 2013.

(6) This section does not apply to department of transportation public works projects.

(7) This section does not apply to local transportation public works projects.

**Sec. 2.** RCW 39.04.350 and 2009 c 197 s 2 are each amended to read as follows:

(1) Before award of a public works contract, a bidder must meet the following responsibility criteria to be considered a responsible bidder and qualified to be awarded a public works project. The bidder must:

(a) At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;

(b) Have a current state unified business identifier number;

(c) If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW;

(d) Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3); ~~((and))~~

(e) If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation; ~~and~~

(f) Until December 31, 2013, not have violated section 1 of this act more than one time as determined by the department of labor and industries.

(2) In addition to the bidder responsibility criteria in subsection (1) of this section, the state or municipality may adopt relevant supplemental criteria for determining bidder responsibility applicable to a particular project which the bidder must meet.

(a) Supplemental criteria for determining bidder responsibility, including the basis for evaluation and the deadline for appealing a determination that a bidder is not responsible, must be provided in the invitation to bid or bidding documents.

(b) In a timely manner before the bid submittal deadline, a potential bidder may request that the state or municipality modify the supplemental criteria. The state or municipality must evaluate the information submitted by the potential bidder and respond before the bid submittal deadline. If the evaluation results in a change of the criteria, the state or municipality must issue an addendum to the bidding documents identifying the new criteria.

(c) If the bidder fails to supply information requested concerning responsibility within the time and manner specified in the bid documents, the state or municipality may base its determination of responsibility upon any available information related to the supplemental criteria or may find the bidder not responsible.

(d) If the state or municipality determines a bidder to be not responsible, the state or municipality must provide, in writing, the reasons for the determination. The bidder may appeal the determination within the time period specified in the bidding documents by presenting additional information to the state or municipality. The state or municipality must consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, the state or municipality may not execute a contract with any other bidder until two business days after the bidder determined to be not responsible has received the final determination.

(3) The capital projects advisory review board created in RCW 39.10.220 shall develop suggested guidelines to assist the state and municipalities in developing supplemental bidder responsibility criteria. The guidelines must be posted on the board's web site.

Passed by the House March 6, 2010.

Passed by the Senate March 3, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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## CHAPTER 277

[Substitute House Bill 2841]

### STANDARD HEALTH QUESTIONNAIRE—EXEMPTION

AN ACT Relating to the standard health questionnaire; and amending RCW 48.43.018.

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

**Sec. 1.** RCW 48.43.018 and 2009 c 42 s 1 are each amended to read as follows:

(1) Except as provided in (a) through (g) of this subsection, a health carrier may require any person applying for an individual health benefit plan and the health care authority shall require any person applying for nonsubsidized

enrollment in the basic health plan to complete the standard health questionnaire designated under chapter 48.41 RCW.

(a) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her change of residence from one geographic area in Washington state to another geographic area in Washington state where his or her current health plan is not offered, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of relocation.

(b) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee:

(i) Because a health care provider with whom he or she has an established care relationship and from whom he or she has received treatment within the past twelve months is no longer part of the carrier's provider network under his or her existing Washington individual health benefit plan; and

(ii) His or her health care provider is part of another carrier's or a basic health plan managed care system's provider network; and

(iii) Application for a health benefit plan under that carrier's provider network individual coverage or for basic health plan nonsubsidized enrollment is made within ninety days of his or her provider leaving the previous carrier's provider network; then completion of the standard health questionnaire shall not be a condition of coverage.

(c) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her having exhausted continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of exhaustion of continuation coverage. A health carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall accept an application without a standard health questionnaire from a person currently covered by such continuation coverage if application is made within ninety days prior to the date the continuation coverage would be exhausted and the effective date of the individual coverage applied for is the date the continuation coverage would be exhausted, or within ninety days thereafter.

(d) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to a change in employment status that would qualify him or her to purchase continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., but the person's employer is exempt under federal law from the requirement to offer such coverage, completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(e) If a person is seeking an individual health benefit plan, completion of the standard health questionnaire shall not be a condition of coverage if: (i) The

person had at least twenty-four months of continuous basic health plan coverage under chapter 70.47 RCW immediately prior to disenrollment; and (ii) application for coverage is made within ninety days of disenrollment from the basic health plan. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous basic health plan coverage if application is made no more than ninety days prior to the date of disenrollment and the effective date of the individual coverage applied for is the date of disenrollment, or within ninety days thereafter.

(f) If a person is seeking an individual health benefit plan due to a change in employment status that would qualify him or her to purchase continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire is not a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(g) If a person is seeking an individual health benefit plan due to their terminating continuation coverage under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of terminating the continuation coverage; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the termination. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of termination of the continuation coverage and the effective date of the individual coverage applied for is the date the continuation coverage is terminated, or within ninety days thereafter.

(h) If a person is seeking an individual health benefit plan because his or her employer, or former employer, discontinues group coverage due to the closure of the business, completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of the employer discontinuing group coverage due to closure of the business; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the termination. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of discontinuation of group coverage, and the effective date of the individual coverage applied for is the date the group coverage is discontinued, or within ninety days thereafter.

(2) If, based upon the results of the standard health questionnaire, the person qualifies for coverage under the Washington state health insurance pool, the following shall apply:

(a) The carrier may decide not to accept the person's application for enrollment in its individual health benefit plan and the health care authority, as administrator of basic health plan nonsubsidized coverage, shall not accept the person's application for enrollment as a nonsubsidized enrollee; and

(b) Within fifteen business days of receipt of a completed application, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall provide written notice of the decision not to accept the person's application for enrollment to both the person and the administrator of the Washington state health insurance pool. The notice to the person shall state that the person is eligible for health insurance provided by the Washington state health insurance pool, and shall include information about the Washington state health insurance pool and an application for such coverage. If the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage does not provide or postmark such notice within fifteen business days, the application is deemed approved.

(3) If the person applying for an individual health benefit plan: (a) Does not qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire; (b) does qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire and the carrier elects to accept the person for enrollment; or (c) is not required to complete the standard health questionnaire designated under this chapter under subsection (1)(a) or (b) of this section, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage, whichever entity administered the standard health questionnaire, shall accept the person for enrollment if he or she resides within the carrier's or the basic health plan's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The commissioner may grant a temporary exemption from this subsection if, upon application by a health carrier, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a health carrier is required to continue enrollment of additional eligible individuals.

Passed by the House March 6, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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## CHAPTER 278

[Engrossed Substitute House Bill 2986]

### PUBLIC TRANSPORTATION GOVERNANCE—MEMBERSHIP

AN ACT Relating to requiring the appointment of nonvoting labor members to public transportation governing bodies; and amending RCW 35.58.270, 36.57.030, and 36.57A.050.

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

**Sec. 1.** RCW 35.58.270 and 2009 c 549 s 2106 are each amended to read as follows:

(1) If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan transportation with a commission form of management, a metropolitan transit commission shall be formed prior to the effective date of the assumption of such function. Except as provided in this section, the metropolitan transit commission shall exercise all powers of the metropolitan municipal corporation with respect to metropolitan transportation facilities, including but not limited to the power to construct, acquire, maintain, operate, extend, alter, repair, control and manage a local public transportation system within and without the metropolitan area, to establish new passenger transportation services and to alter, curtail, or abolish any services as the commission may deem desirable and to fix tolls and fares.

(2) The comprehensive plan for public transportation service and any amendments thereof shall be adopted by the metropolitan council and the metropolitan transit commission shall provide transportation facilities and service consistent with such plan. The metropolitan transit commission shall authorize expenditures for transportation purposes within the budget adopted by the metropolitan council. Tolls and fares may be fixed or altered by the commission only after approval thereof by the metropolitan council. Bonds of the metropolitan municipal corporation for public transportation purposes shall be issued by the metropolitan council as provided in this chapter.

(3) The metropolitan transit commission shall consist of seven members. Six of such members shall be appointed by the metropolitan council and the seventh member shall be the chair of the metropolitan council who shall be ex officio the chair of the metropolitan transit commission. Three of the six appointed members of the commission shall be residents of the central city and three shall be residents of the metropolitan area outside of the central city. The three central city members of the first metropolitan transit commission shall be selected from the existing transit commission of the central city, if there be a transit commission in such city. The terms of first appointees shall be for one, two, three, four, five and six years, respectively. Thereafter, commissioners shall serve for a term of four years. Compensation of transit commissioners shall be determined by the metropolitan council.

(4) There is one nonvoting member of the metropolitan transit commission. 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 is appointed for a term of four years. The nonvoting member shall comply with all governing bylaws and policies of the commission. The chair or cochairs of the commission 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.

(5) The requirement to create a metropolitan transit commission shall not apply to a county that has assumed the rights, powers, functions, and obligations of the metropolitan municipal corporation under chapter 36.56 RCW.

**Sec. 2.** RCW 36.57.030 and 1974 ex.s. c 167 s 3 are each amended to read as follows:

Every county which undertakes the transportation function pursuant to RCW 36.57.020 shall create by resolution of the county legislative body a county transportation authority which shall be composed as follows:

(1) The elected officials of the county legislative body, not to exceed three such elected officials;

(2) The mayor of the most populous city within the county;

(3) The mayor of a city with a population less than five thousand, to be selected by the mayors of all such cities within the county;

(4) The mayor of a city with a population greater than five thousand, excluding the most populous city, to be selected by the mayors of all such cities within the county: PROVIDED, HOWEVER, That if there is no city with a population greater than five thousand, excluding the most populous city, then the sixth member who shall be an elected official, shall be selected by the other two mayors selected pursuant to subsections (2) and (3) of this section; and

(5) An individual recommended by the labor organization representing the public transportation employees within the county transportation authority. 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 cochair of the county transportation authority shall exclude the nonvoting member from attending any executive session held for the purpose of discussing negotiations with labor organizations. The chair or cochair may exclude the nonvoting member from attending any other executive session.

The members of the authority shall be selected within sixty days after the date of the resolution creating such authority.

Any member of the authority who is a mayor or an elected official selected pursuant to subsection (4) (~~above~~) of this section and whose office is not a full time position shall receive one hundred dollars for each day attending official meetings of the authority.

**Sec. 3.** RCW 36.57A.050 and 2009 c 549 s 4097 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. 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 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 cochair 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 cochair 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, 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.

Passed by the House March 6, 2010.

Passed by the Senate March 3, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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## CHAPTER 279

[Substitute House Bill 3016]

### CHILD SUPPORT ORDER MODIFICATIONS

AN ACT Relating to updating provisions concerning the modification, review, and adjustment of child support orders to improve access to justice and to ensure compliance with federal requirements; and amending RCW 26.09.170, 26.09.175, and 26.09.100.

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

**Sec. 1.** RCW 26.09.170 and 2008 c 6 s 1017 are each amended to read as follows:

(1) Except as otherwise provided in (~~subsection (7) of~~) RCW 26.09.070(7), the provisions of any decree respecting maintenance or support may be modified: (a) Only as to installments accruing subsequent to the petition for modification or motion for adjustment except motions to compel court-ordered adjustments, which shall be effective as of the first date specified in the decree for implementing the adjustment; and, (b) except as otherwise provided in (~~subsections (5), (6), (9), and (10) of~~) this section, only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance or registration of a new domestic partnership of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.

(4) Unless expressly provided by an order of the superior court or a court of comparable jurisdiction, provisions for the support (~~provisions of the order~~) of a child are terminated upon the marriage or registration of a domestic partnership to each other of parties to a paternity order, or upon the remarriage or registration of a domestic partnership to each other of parties to a decree of dissolution. The remaining provisions of the order, including provisions establishing paternity, remain in effect.

(5)(a) A party to an order of child support may petition for a modification based upon a showing of substantially changed circumstances at any time.

(b) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

(6) An order of child support may be modified one year or more after it has been entered without a showing ((a-substantial-change)) of substantially changed circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child;

(b) If a party requests an adjustment in an order for child support which was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based;

(c) If a child is still in high school, upon a finding that there is a need to extend support beyond the eighteenth birthday to complete high school; or

(d) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

~~((6) An order or decree entered prior to June 7, 1984, may be modified without showing a substantial change of circumstances if the requested modification is to:~~

~~(a) Require health insurance coverage for a child named therein; or~~

~~(b) Modify an existing order for health insurance coverage.~~

~~(7) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.))~~

(7)(a) If twenty-four months have passed from the date of the entry of the order or the last adjustment or modification, whichever is later, the order may be adjusted without a showing of substantially changed circumstances based upon:

(i) Changes in the income of the parents; or

(ii) Changes in the economic table or standards in chapter 26.19 RCW.

(b) Either party may initiate the adjustment by filing a motion and child support worksheets.

(c) If the court adjusts or modifies a child support obligation pursuant to this subsection by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a motion for another adjustment under this subsection may be filed.

(8)(a) The department of social and health services may file an action to modify or adjust an order of child support if public assistance money is being paid to or for the benefit of the child and the child support order is at least twenty-five percent ((or more)) above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011 and reasons for the deviation are not set forth in the findings of fact or order. ((The determination of twenty five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order.

~~(9)(a) All child support decrees may be adjusted once every twenty-four months based upon changes in the income of the parents without a showing of~~

~~substantially changed circumstances. Either party may initiate the adjustment by filing a motion and child support worksheets.~~

~~(b) A party may petition for modification in cases of substantially changed circumstances under subsection (1) of this section at any time. However, if relief is granted under subsection (1) of this section, twenty-four months must pass before a motion for an adjustment under (a) of this subsection may be filed.~~

~~(e) If, pursuant to (a) of this subsection or subsection (10) of this section, the court adjusts or modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a motion for an adjustment under (a) of this subsection may be filed.~~

~~(d) A parent who is receiving transfer payments who receives a wage or salary increase may not bring a modification action pursuant to subsection (1) of this section alleging that increase constitutes a substantial change of circumstances.~~

~~(e) The department of social and health services may file an action at any time to modify an order of child support in cases of substantially changed circumstances if public assistance money is being paid to or for the benefit of the child. The determination of the existence of substantially changed circumstances by the department that lead to the filing of an action to modify the order of child support is not binding upon the court.~~

~~(10) An order of child support may be adjusted twenty-four months from the date of the entry of the decree or the last adjustment or modification, whichever is later, based upon changes in the economic table or standards in chapter 26.19 RCW:))~~

~~(b) The department of social and health services may file an action to modify or adjust an order of child support in a nonassistance case if:~~

~~(i) The child support order is at least twenty-five percent above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011;~~

~~(ii) The department has determined the case meets the department's review criteria; and~~

~~(iii) A party to the order or another state or jurisdiction has requested a review.~~

~~(c) The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order.~~

~~(9) The department of social and health services may file an action to modify or adjust an order of child support under subsections (5) through (7) of this section if:~~

~~(a) Public assistance money is being paid to or for the benefit of the child;~~

~~(b) A party to the order in a nonassistance case has requested a review; or~~

~~(c) Another state or jurisdiction has requested a modification of the order.~~

~~(10) If testimony other than affidavit is required in any proceeding under this section, a court of this state shall permit a party or witness to be deposed or~~

to testify under penalty of perjury by telephone, audiovisual means, or other electronic means, unless good cause is shown.

**Sec. 2.** RCW 26.09.175 and 2002 c 199 s 2 are each amended to read as follows:

(1) A proceeding for the modification of an order of child support shall commence with the filing of a petition and worksheets. The petition shall be in the form prescribed by the administrator for the courts. There shall be a fee of twenty dollars for the filing of a petition for modification of dissolution.

(2)(a) The petitioner shall serve upon the other party the summons, a copy of the petition, and the worksheets in the form prescribed by the administrator for the courts. If the modification proceeding is the first action filed in this state, service shall be made by personal service. If the decree to be modified was entered in this state, service shall be by personal service or by any form of mail requiring a return receipt. Proof of service shall be filed with the court.

(b) If the support obligation has been assigned to the state pursuant to RCW 74.20.330 or the state has a subrogated interest under RCW 74.20A.030, the summons, petition, and worksheets shall also be served on the attorney general; except that notice shall be given to the office of the prosecuting attorney for the county in which the action is filed in lieu of the office of the attorney general in those counties and in the types of cases as designated by the office of the attorney general by letter sent to the presiding superior court judge of that county. ~~((Proof of service shall be filed with the court.))~~

(3) ~~((The))~~ As provided for under RCW 26.09.170, the department of social and health services may file an action to modify or adjust an order of child support if:

(a) Public assistance money is being paid to or for the benefit of the child;

(b) A party to the order in a nonassistance case has requested a review; or

(c) Another state or jurisdiction has requested a modification of the order.

(4) A responding party's answer and worksheets shall be served and the answer filed within twenty days after service of the petition or sixty days if served out of state. ~~((The))~~ A responding party's failure to file an answer within the time required shall result in entry of a default judgment for the petitioner.

~~((4))~~ (5) At any time after responsive pleadings are filed, ~~((either))~~ any party may schedule the matter for hearing.

~~((5))~~ (6) Unless ~~((both))~~ all parties stipulate to arbitration or the presiding judge authorizes oral testimony pursuant to subsection ~~((6))~~ (7) of this section, a petition for modification of an order of child support shall be heard by the court on affidavits, the petition, answer, and worksheets only.

~~((6))~~ (7) A party seeking authority to present oral testimony on the petition to modify a support order shall file an appropriate motion not later than ten days after the time of notice of hearing. Affidavits and exhibits setting forth the reasons oral testimony is necessary to a just adjudication of the issues shall accompany the petition. The affidavits and exhibits must demonstrate the extraordinary features of the case. Factors which may be considered include, but are not limited to: (a) Substantial questions of credibility on a major issue; (b) insufficient or inconsistent discovery materials not correctable by further discovery; or (c) particularly complex circumstances requiring expert testimony.

(8) If testimony other than affidavit is required in any proceeding under this section, a court of this state shall permit a party or witness to be deposed or to

testify under penalty of perjury by telephone, audiovisual means, or other electronic means, unless good cause is shown.

**Sec. 3.** RCW 26.09.100 and 2008 c 6 s 1013 are each amended to read as follows:

(1) In a proceeding for dissolution of marriage or domestic partnership, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to misconduct, the court shall order either or both parents owing a duty of support to any child of the marriage or the domestic partnership dependent upon either or both spouses or domestic partners to pay an amount determined under chapter 26.19 RCW.

(2) The court may require automatic periodic adjustments or modifications of child support. That portion of any decree that requires periodic adjustments or modifications of child support shall use the provisions in chapter 26.19 RCW as the basis for the adjustment or modification. Provisions in the decree for periodic adjustment or modification shall not conflict with RCW 26.09.170 except that the decree may require periodic adjustments or modifications of support more frequently than the time periods established pursuant to RCW 26.09.170.

(3) Upon motion of a party and without a substantial change of circumstances, the court shall modify the decree to comply with subsection (2) of this section as to installments accruing subsequent to entry of the court's order on the motion for modification.

(4) The adjustment or modification provision may be modified by the court due to economic hardship consistent with the provisions of RCW 26.09.170(~~((5))~~) (6)(a).

Passed by the House March 8, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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## CHAPTER 280

[Second Substitute House Bill 3076]

### INVOLUNTARY TREATMENT ACT—EVALUATIONS

AN ACT Relating to evaluations of persons under the involuntary treatment act; amending RCW 71.05.212 and 71.05.245; adding a new section to chapter 71.05 RCW; adding a new section to chapter 9.94A RCW; creating new sections; providing an effective date; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** (1) The Washington institute for public policy shall, in collaboration with the department of social and health services and other applicable entities, undertake a search for a validated mental health assessment tool or combination of tools to be used by designated mental health professionals when undertaking assessments of individuals for detention, commitment, and revocation under the involuntary treatment act pursuant to chapter 71.05 RCW.

(2) This section expires June 30, 2011.

**Sec. 2.** RCW 71.05.212 and 1999 c 214 s 5 are each amended to read as follows:

(1) Whenever a (~~county~~) designated mental health professional or professional person is conducting an evaluation under this chapter, consideration shall include all reasonably available information from credible witnesses and records regarding:

~~((1))~~ (a) Prior recommendations for evaluation of the need for civil commitments when the recommendation is made pursuant to an evaluation conducted under chapter 10.77 RCW;

~~((2))~~ (b) Historical behavior, including history of one or more violent acts;

~~((3))~~ (c) Prior determinations of incompetency or insanity under chapter 10.77 RCW; and

~~((4))~~ (d) Prior commitments under this chapter.

(2) Credible witnesses may include family members, landlords, neighbors, or others with significant contact and history of involvement with the person. If the designated mental health professional relies upon information from a credible witness in reaching his or her decision to detain the individual, then he or she must provide contact information for any such witness to the prosecutor. The designated mental health professional or prosecutor shall provide notice of the date, time, and location of the probable cause hearing to such a witness.

(3) Symptoms and behavior of the respondent which standing alone would not justify civil commitment may support a finding of grave disability or likelihood of serious harm when:

(a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts;

(b) These symptoms or behavior represent a marked and concerning change in the baseline behavior of the respondent; and

(c) Without treatment, the continued deterioration of the respondent is probable.

~~(In addition,)~~ (4) When conducting an evaluation for offenders identified under RCW 72.09.370, the (~~county~~) designated mental health professional or professional person shall consider an offender's history of judicially required or administratively ordered antipsychotic medication while in confinement.

**Sec. 3.** RCW 71.05.245 and 1999 c 13 s 6 are each amended to read as follows:

(1) In making a determination of whether a person is gravely disabled or presents a likelihood of serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320, the court must consider the symptoms and behavior of the respondent in light of all available evidence concerning the respondent's historical behavior.

(2) Symptoms or behavior which standing alone would not justify civil commitment may support a finding of grave disability or likelihood of serious harm when: (a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts; (b) these symptoms or behavior represent a marked and concerning change in the baseline behavior of the respondent; and (c) without treatment, the continued deterioration of the respondent is probable.

(3) In making a determination of whether there is a likelihood of serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320, the court shall

give great weight to any evidence before the court regarding whether the person has: ~~((1))~~ (a) A recent history of one or more violent acts; or ~~((2))~~ (b) a recent history of one or more commitments under this chapter or its equivalent provisions under the laws of another state which were based on a likelihood of serious harm. The existence of prior violent acts or commitments under this chapter or its equivalent shall not be the sole basis for determining whether a person presents a likelihood of serious harm.

For the purposes of this ~~(section)~~ subsection "recent" refers to the period of time not exceeding three years prior to the current hearing.

NEW SECTION. Sec. 4. A new section is added to chapter 71.05 RCW to read as follows:

(1) Whenever a person who is the subject of an involuntary commitment order under this chapter is discharged from an evaluation and treatment facility or state hospital, the evaluation and treatment facility or state hospital shall provide notice of the person's discharge to the designated mental health professional office responsible for the initial commitment and the designated mental health professional office that serves the county in which the person is expected to reside. The evaluation and treatment facility or state hospital must also provide these offices with a copy of any less restrictive order or conditional release order entered in conjunction with the discharge of the person, unless the evaluation and treatment facility or state hospital has entered into a memorandum of understanding obligating another entity to provide these documents.

(2) The notice and documents referred to in subsection (1) of this section shall be provided as soon as possible and no later than one business day following the discharge of the person. Notice is not required under this section if the discharge is for the purpose of transferring the person for continued detention and treatment under this chapter at another treatment facility.

(3) The department shall maintain and make available an updated list of contact information for designated mental health professional offices around the state.

NEW SECTION. Sec. 5. Sections 2 and 3 of this act take effect January 1, 2012.

NEW SECTION. Sec. 6. A new section is added to chapter 9.94A RCW to read as follows:

(1) Before imposing any legal financial obligations upon a defendant who suffers from a mental health condition, other than restitution or the victim penalty assessment under RCW 7.68.035, a judge must first determine that the defendant, under the terms of this section, has the means to pay such additional sums.

(2) For the purposes of this section, a defendant suffers from a mental health condition when the defendant has been diagnosed with a mental disorder that prevents the defendant from participating in gainful employment, as evidenced by a determination of mental disability as the basis for the defendant's enrollment in a public assistance program, a record of involuntary hospitalization, or by competent expert evaluation.

NEW SECTION. Sec. 7. If specific funding for the purposes of sections 1, 2, and 3 of this act, referencing the specific section of this act by section number

and by bill or chapter number, is not provided by June 30, 2010, in the omnibus appropriations act, each section not referenced is null and void.

Passed by the House March 10, 2010.

Passed by the Senate March 9, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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## CHAPTER 281

[Senate Bill 6855]

### COMMUNITY CENTERS—TAXATION

AN ACT Relating to exempting community centers from property taxation and imposing leasehold excise taxes on such property; amending RCW 84.36.010, 82.29A.010, and 82.29A.030; and creating a new section.

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

**Sec. 1.** RCW 84.36.010 and 2004 c 236 s 1 are each amended to read as follows:

(1) All property belonging exclusively to the United States, the state, or any county or municipal corporation; all property belonging exclusively to any federally recognized Indian tribe located in the state, if that property is used exclusively for essential government services; all state route number 16 corridor transportation systems and facilities constructed under chapter 47.46 RCW; ~~((and))~~ all property under a financing contract pursuant to chapter 39.94 RCW or recorded agreement granting immediate possession and use to the public bodies listed in this section or under an order of immediate possession and use pursuant to RCW 8.04.090; and, for a period of forty years from acquisition, all property of a community center; is exempt from taxation. All property belonging exclusively to a foreign national government is exempt from taxation if that property is used exclusively as an office or residence for a consul or other official representative of the foreign national government, and if the consul or other official representative is a citizen of that foreign nation.

(2) For the purposes of this section~~((;))~~ the following definitions apply unless the context clearly requires otherwise.

(a) "Community center" means property, including a building or buildings, determined to be surplus to the needs of a district by a local school board, and purchased or acquired by a nonprofit organization for the purposes of converting them into community facilities for the delivery of nonresidential coordinated services for community members. The community center may make space available to businesses, individuals, or other parties through the loan or rental of space in or on the property.

(b) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services.

**Sec. 2.** RCW 82.29A.010 and 1999 c 220 s 1 are each amended to read as follows:

(1)(a) The legislature hereby recognizes that properties of the state of Washington, counties, school districts, and other municipal corporations are exempted by Article 7, section 1 of the state Constitution from property tax



obligations, but that private lessees of such public properties receive substantial benefits from governmental services provided by units of government.

(b) The legislature further recognizes that a uniform method of taxation should apply to such leasehold interests in publicly owned property.

(c) The legislature finds that lessees of publicly owned property or community centers are entitled to those same governmental services and does hereby provide for a leasehold excise tax to fairly compensate governmental units for services rendered to such lessees of publicly owned property or community centers. For the purposes of this subsection, "community center" has the same meaning as provided in RCW 84.36.010.

(2) The legislature further finds that experience gained by lessors, lessees, and the department of revenue since enactment of the leasehold excise tax under this chapter has shed light on areas in the leasehold excise statutes that need explanation and clarification. The purpose of chapter 220, Laws of 1999 is to make those changes.

**Sec. 3.** RCW 82.29A.030 and 1983 2nd ex.s. c 3 s 18 are each amended to read as follows:

(1)(a) There is (~~hereby~~) levied and (~~shall be~~) collected a leasehold excise tax on the act or privilege of occupying or using publicly owned real or personal property or real or personal property of a community center through a leasehold interest on and after January 1, 1976, at a rate of twelve percent of taxable rent (~~PROVIDED, That~~). However, after the computation of the tax (~~there shall be~~) a credit is allowed (~~credit~~) for any tax collected pursuant to RCW 82.29A.040.

(b) For the purposes of this subsection, "community center" has the same meaning as provided in RCW 84.36.010.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section.

NEW SECTION. Sec. 4. This act applies to taxes levied for collection in 2011 and thereafter.

Passed by the Senate March 10, 2010.

Passed by the House March 11, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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## CHAPTER 282

[Engrossed Substitute House Bill 3178]

### STATE GOVERNMENT—EFFICIENCIES IN TECHNOLOGY

AN ACT Relating to creating efficiencies in the use of technology in state government; amending RCW 43.88.560, 43.105.041, 43.105.180, and 43.105.160; adding new sections to chapter 43.105 RCW; adding a new section to chapter 43.88 RCW; adding a new section to chapter 2.68 RCW; adding a new section to chapter 44.68 RCW; creating new sections; repealing RCW 43.105.017; 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 43.105 RCW to read as follows:

(1) The legislature finds that the provision of information technology in state government lacks strategic coordination, transparency, and meaningful

enterprise-wide direction and oversight. It is no longer economically sustainable or technically feasible for state agencies to obtain and provide large-scale, commonly utilized information technology products and services on an individual, agency-by-agency basis without coordination. Instead, the state needs a strong, enterprise-based information technology strategy to ensure the public's needs are being met and the state is receiving the highest quality information technology products and services at the best price from public or private providers. Developing a strong enterprise-wide strategy also includes establishing clear lines of authority and accountability within state agencies so that those services unique to individual agencies receive the support required to effectively and efficiently provide services to citizens. To accomplish these objectives, the state needs to develop an open, transparent process for determining the total cost of ownership for the information technology products and services it provides, and to provide such information in an easily accessible, public fashion. It is in the state's interest to ensure that the wide range of disparate networks, systems, services, and structures across state government become more closely coordinated, organized, and structured. This type of coordinating effort is already underway in the area of higher education through the efforts of the higher education technology transformation task force and informally within other areas. When more transparent technical and financial information is readily available, the state can make sound policy decisions about what information technology services should be provided centrally on a shared services basis, and what products and services may be best suited for either contracting with private providers or for maintenance at the agency level. Furthermore, if attractive pricing models and service level agreements are developed for enterprise-based information technology services, the legislative and judicial branches will have an incentive to participate in those services as well.

(2) It is the intent of the legislature to organize, consolidate, and, where appropriate, contract with private providers for technology systems and resources in a strategic fashion that is based upon sound, objective, nonpolitical, and independent technical and financial criteria. The state needs to develop a clear, enterprise-based statewide strategy for information technology to ensure that there is transparency and accountability regarding how information technology resources are being allocated, how decisions are being made, and who is accountable for on-time, on-budget delivery.

NEW SECTION. Sec. 2. A new section is added to chapter 43.105 RCW to read as follows:

(1) State agencies that are purchasing wireless devices or services must make such purchases through the state master contract, unless the state agency provides to the office of financial management evidence that the state agency is securing its wireless devices or services from another source for a lower cost than through participation in the state master contract.

(2) For the purposes of this section, "state agency" means any office, department, board, commission, or other unit of state government, but does not include a unit of state government headed by a statewide elected official, an institution of higher education as defined in RCW 28B.10.016, the higher education coordinating board, the state board for community and technical colleges, or agencies of the legislative or judicial branches of state government.

NEW SECTION. Sec. 3. A new section is added to chapter 43.88 RCW to read as follows:

(1) As part of the biennial budget process, the office of financial management shall collect from agencies, and agencies shall provide, information to produce reports, summaries, and budget detail sufficient to allow review, analysis, and documentation of all current and proposed expenditures for information technology by state agencies. Information technology budget detail must be included as part of the budget submittal documentation required pursuant to RCW 43.88.030.

(2) The office of financial management must collect, and present as part of the biennial budget documentation, information for all existing information technology projects as defined by information services board policy. The office of financial management must work with the department of information services to maximize the ability to draw this information from the information technology portfolio management data collected by the department of information services pursuant to RCW 43.105.170. Connecting project information collected through the portfolio management process with financial data developed under subsection (1) of this section provides transparency regarding expenditure data for existing technology projects.

(3) The biennial budget documentation submitted by the office of financial management pursuant to RCW 43.88.030 must include an information technology plan identifying proposed large information technology projects. This plan must be presented using a method similar to the capital budget, identifying project costs through stages of the project and across fiscal periods and biennia from project initiation to implementation. This information must be submitted electronically, in a format to be determined by the office of financial management and the legislative evaluation and accountability program committee.

(4) The office of financial management shall also institute a method of accounting for information technology-related expenditures, including creating common definitions for what constitutes an information technology investment.

**Sec. 4.** RCW 43.88.560 and 1992 c 20 s 7 are each amended to read as follows:

The director of financial management shall establish policies and standards governing the funding of major information technology projects as required under RCW 43.105.190(2). The director of financial management shall also direct the collection of additional information on information technology projects and submit an information technology plan as required under section 3 of this act.

*\*Sec. 5. RCW 43.105.041 and 2009 c 486 s 13 are each amended to read as follows:*

*(1) The board shall have the following powers and duties related to information services:*

*(a) To develop standards and procedures governing the acquisition and disposition of equipment, proprietary software and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data. The board shall coordinate with the office of financial management to develop contracting standards for*

information technology acquisition and purchased services and must work with state agencies to ensure deployment of standardized contracts;

(b) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: PROVIDED, That, agencies and institutions of state government are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200, except that the board, the department, and state agencies, as delegated, must post notices of technology procurement bids on the state's common vendor registration and bid notification system. This subsection (1)(b) does not apply to the legislative branch;

(c) To develop statewide or interagency technical policies, standards, and procedures;

(d) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a statewide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(e) To provide direction concerning strategic planning goals and objectives for the state. The board shall seek input from the legislature and the judiciary;

(f) To develop and implement a process for the resolution of appeals by:

(i) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(ii) A customer agency concerning the provision of services by the department or by other state agency providers;

(g) To establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education; and

(iii) Project management;

(h) To set its meeting schedules and convene at scheduled times, or meet at the request of a majority of its members, the chair, or the director;

(i) To review and approve that portion of the ~~((department's))~~ budget ~~((requests))~~ that ~~((provides for))~~ may provide independent, technical staff support to the board; and

(j) To develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington

*small businesses to the maximum extent practicable and consistent with international trade agreement commitments.*

*(2) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The board shall:*

*(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems. Local governments are strongly encouraged to follow the standards established by the board; and*

*(b) Require agencies to consider electronic public access needs when planning new information systems or major upgrades of systems.*

*In developing these standards, the board is encouraged to include the state library, state archives, and appropriate representatives of state and local government.*

*(3)(a) The board, in consultation with the K-20 board, has the duty to govern, operate, and oversee the technical design, implementation, and operation of the K-20 network including, but not limited to, the following duties: Establishment and implementation of K-20 network technical policy, including technical standards and conditions of use; review and approval of network design; procurement of shared network services and equipment; and resolving user/provider disputes concerning technical matters. The board shall delegate general operational and technical oversight to the K-20 network technical steering committee as appropriate.*

*(b) The board has the authority to adopt rules under chapter 34.05 RCW to implement the provisions regarding the technical operations and conditions of use of the K-20 network.*

*(4) The board shall review all information technology efforts under its purview based on independent technical and financial information, regardless of whether the projects or services are being provided by public or private providers. This review must be conducted by independent, technical staff support, subject to funds appropriated for this specific purpose.*

*(5) In reviewing these efforts, the board, in consultation with the office of financial management, shall review state agency information technology budgets. The board may acquire project management assistance to assist in its efforts under this act.*

\*Sec. 5 was vetoed. See message at end of chapter.

Sec. 6. RCW 43.105.180 and 1999 c 80 s 11 are each amended to read as follows:

~~((Upon request of the office of financial management,))~~ (1) The department, in coordination with the information services board and the office of financial management, shall evaluate agency budget requests for major information technology projects identified under RCW 43.105.190, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The department shall submit recommendations for funding all or part of such requests to the office of financial management and to the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of

representatives. The department shall also submit recommendations regarding consolidation of similar proposals or other efficiencies it finds in reviewing proposals.

(2) The department, with the advice and approval of the office of financial management and the information services board, shall establish criteria, consistent with portfolio-based information technology management, for the evaluation of agency budget requests under this section. These budget requests shall be made in the context of an agency's information technology portfolio; technology initiatives underlying budget requests are subject to board review. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with the state strategic information technology plan, consistency with information technology portfolios, appropriate provision for public electronic access to information, evidence of business process streamlining and gathering of business and technical requirements, and services, costs, and benefits.

(3) For the purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official.

**NEW SECTION. Sec. 7.** A new section is added to chapter 2.68 RCW to read as follows:

The administrative office of the courts, under the direction of the judicial information system committee, shall:

(1) Develop a judicial information system information technology portfolio consistent with the provisions of RCW 43.105.172;

(2) Participate in the development of an enterprise-based statewide information technology strategy as defined in section 10 of this act;

(3) Ensure the judicial information system 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 judicial information system 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 department of information services.

**NEW SECTION. Sec. 8.** A new section is added to chapter 44.68 RCW 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 43.105.172;

(2) Participate in the development of an enterprise-based statewide information technology strategy as defined in section 10 of this act;

(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 department of information services.

**Sec. 9.** RCW 43.105.160 and 2005 c 319 s 110 are each amended to read as follows:

(1) The department shall prepare a state strategic information technology plan which shall establish a statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services. The plan shall be developed in accordance with the standards and policies established by the board and shall be submitted to the board for review, modification as necessary, and approval. The department shall seek the advice of the board in the development of this plan.

The plan approved under this section shall be updated as necessary and submitted to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives.

(2) The department shall prepare a biennial state performance report on information technology based on agency performance reports required under RCW 43.105.170 and other information deemed appropriate by the department. The report shall include, but not be limited to:

(a) An analysis, based upon agency portfolios, of the state's information technology infrastructure, including its value, condition, and capacity;

(b) An evaluation of performance relating to information technology;

(c) An assessment of progress made toward implementing the state strategic information technology plan, including progress toward electronic access to public information and enabling citizens to have two-way access to public records, information, and services;

(d) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under RCW 43.105.190. At a minimum, the portion of the report regarding major technology projects must include:

(i) Final total cost of ownership budget data for the entire life-cycle of the project, including capital and operational costs, broken down by staffing costs, contracted service, hardware purchase or lease, software purchase or lease, travel, and training. The original budget must also be shown for comparison;

(ii) The original proposed project schedule and the final actual project schedule;

(iii) Data regarding progress towards meeting the original goals and performance measures of the project, particularly as it relates to operating budget savings;

(iv) Discussion of lessons learned on the project, performance of any contractors used, and reasons for project delays or cost increases; and

~~((e))~~ (v) Identification of benefits, cost avoidance, and cost savings generated by major information technology projects developed under RCW 43.105.190; and

~~((f))~~ (e) An inventory of state information services, equipment, and proprietary software.

Copies of the report shall be distributed biennially to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives. The major technology section of the report must examine major information technology projects completed in the

previous biennium to determine the performance of the implementing agency, cost and value effectiveness, and timeliness and other performance metrics necessary to assess the quality and value of the investment. The report must also examine projects two years after completion for progress toward meeting performance goals and operating budget savings. The first report is due December 15, 2011, and every two years thereafter.

NEW SECTION. Sec. 10. A new section is added to chapter 43.105 RCW to read as follows:

(1) The board, in consultation with the department and the office of financial management, shall develop an enterprise-based strategy for information technology in state government informed by information technology expenditure information collected from state agencies pursuant to section 3 of this act.

(2) In developing an enterprise-based strategy for the state, the board is encouraged to consider the following strategies as possible opportunities for achieving greater efficiency:

(a) Developing personal computer replacement policies for the state, with consideration given to alternative models of personal computer usage for state government use, such as thin client, software as a service, browser-based functionality, mobile computing, and other models that are less dependent upon traditional computing;

(b) Pursuing shared services initiatives across functional areas, which may include services such as e-mail, telephony, and data storage;

(c) Pursuing pilot programs, such as a pilot to demonstrate the value of application management services, to identify opportunities to achieve operational efficiencies;

(d) Developing data storage policies and record retention requirements and schedules for state agencies, in consultation with the office of the secretary of state, the state archivist, and the state records committee, where appropriate;

(e) Reviewing existing software maintenance contracts to identify opportunities to renegotiate the price of those contracts or the level of service; and

(f) Partnering with private providers for commonly utilized information technology products and services.

(3) The legislative and judicial branches are encouraged to coordinate with, and participate in, shared services initiatives, pilot programs, and development of the enterprise-based strategy, where appropriate.

NEW SECTION. Sec. 11. (1) The office of financial management, with the assistance of the department of information services, must identify areas of potential savings that will achieve the savings identified in the omnibus appropriations act. These areas shall include, but not be limited to, wireless service, telephony, desktop computers, electronic mail services, and data storage.

(2) The office of financial management shall work with the appropriate state agencies, including the department of information services, to generate savings that arise pursuant to this act from the improved acquisition and delivery of information technology products and services. To accomplish this objective, state agencies must provide timely, accurate total cost of ownership data to the



office of financial management upon request regarding information technology products and services. The savings must be at least equal to those specified in the omnibus appropriations act. The office of financial management shall reduce agency allotments by the amounts specified in the omnibus appropriations act to reflect these savings. The allotment reductions shall be placed in unallotted status and remain unexpended.

(3) For the purposes of this section, "state agency" means any office, department, board, commission, or other unit of state government, but does not include a unit of state government headed by a statewide elected official, an institution of higher education as defined in RCW 28B.10.016, the higher education coordinating board, the state board for community and technical colleges, or agencies of the legislative or judicial branches of state government.

(4) This section expires June 30, 2011.

**NEW SECTION. Sec. 12.** A new section is added to chapter 43.105 RCW to read as follows:

(1) The department, in collaboration with state agencies, shall conduct an inventory from existing data sets of information technology assets owned or leased by state agencies. This inventory must be used to inform the development of a state information technology asset management process. Prior to implementation of any state information technology asset management process, the department must submit its recommended approach, including an estimate of the associated implementation costs, to the board for approval.

(2) For the purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official, and offices in the legislative and judicial branches of state government, notwithstanding the provisions of RCW 44.68.105.

***\*NEW SECTION. Sec. 13. (1) The office of financial management, in consultation with the department of information services and the information services board, shall develop and execute a pilot program to contract with one or more private providers for the delivery, support, maintenance, and operation of information technology through application managed services or other similar programs across one or more functional areas of information technology, or for the information technology needs of one or more state agencies. In selecting a private provider for the pilot program, the office of financial management must engage in a competitive bid process or request for proposals process.***

***(2) The objective of the pilot program will be to assess: (a) Each agency's information technology application portfolio; (b) opportunities to use best practices and tools; and (c) whether the agency should proceed with application managed services or other similar programs based on the results of the assessment.***

***(3) The department of information services and the office of financial management shall prepare a report of the findings of the pilot assessments by September 1, 2010, and a final report of the pilot results by June 30, 2011. The final report must include the following: Identification of short and long-term costs, risks, benefits, and other organizational impacts of implementing application managed services or other similar programs within the pilot***

*agencies. The final report must also identify opportunities for other state agencies to benefit from application managed services or other similar programs. The results of the pilot program must be provided to the information services board, the governor, the senate committee on ways and means, and the house of representatives committee on ways and means.*

\*Sec. 13 was vetoed. See message at end of chapter.

**\*NEW SECTION. Sec. 14.** *The department of information services shall, by November 1, 2010, report on the efforts to develop a centralized information project management office pursuant to section 142, chapter 522, Laws of 2007. The report shall address the current status of the effort, lessons learned, and recommended changes to the program.*

\*Sec. 14 was vetoed. See message at end of chapter.

**\*NEW SECTION. Sec. 15. (1)** *The office of financial management shall contract with an independent consultant to:*

*(a) Conduct a technical and financial analysis of the state's plan for the consolidated state data center and office building; and*

*(b) Develop a strategic business plan outlining the various options for use of the site that maximize taxpayer value consistent with the terms of the finance lease and related agreements.*

*(2) The analysis must consist of, at a minimum, an assessment of the following issues:*

*(a) The total capital and operational costs for the proposed data center and office building;*

*(b) The occupancy rate for the consolidated state data center, as compared to total capacity, that will result in revenue exceeding total capital and operating expenses;*

*(c) The potential reallocation of resources that could result from the consolidation of state data centers and office space; and*

*(d) The potential return on investment for the consolidated state data center and office building that may be realized without impairing any existing contractual rights under the terms of the financing lease and related agreements.*

*(3) This review must build upon the analysis and migration strategy for the consolidated state data center being prepared for the department of information services.*

*(4) The strategic plan must be submitted to the governor and the legislature by December 1, 2010.*

\*Sec. 15 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 16. (1)** *The department of information services and the office of financial management shall review existing statutes, procedures, data, and organizational structures to identify opportunities to increase efficiency, customer service, and transparency in information technology. This effort shall include:*

*(a) Identifying and addressing financial data needed to comprehensively evaluate information technology spending from an enterprise perspective;*

*(b) A review of best practices in information technology governance, including private sector practices and lessons learned from other states; and*

(c) A review of existing statutes regarding information technology governance, standards, and financing to identify inconsistencies between current law and best practices.

(2) The department of information services and the office of financial management shall report findings and recommendations to the governor and the appropriate committees of the legislature by December 1, 2010.

NEW SECTION. Sec. 17. RCW 43.105.017 (Legislative intent) and 1992 c 20 s 6, 1990 c 208 s 2, & 1987 c 504 s 2 are each repealed.

NEW SECTION. Sec. 18. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2010, in the omnibus appropriations act, this act is null and void.

Passed by the House March 11, 2010.

Passed by the Senate March 10, 2010.

Approved by the Governor April 1, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2010.

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

"I am returning herewith, without my approval as to Sections 5, 13, 14 and 15, Engrossed Substitute House Bill 3178 entitled:

"AN ACT Relating to creating efficiencies in the use of technology in state government."

Section 5 requires the Information Services Board to develop standardized contracts and to review state agency information technology budgets. I am vetoing Section 5 because the Department of Information Services already has the authority to standardize its contracts and has already implemented many standardized contracts. In developing a statewide enterprise-based information technology strategy, the Office of Financial Management and Department of Information Services can determine if additional contract standardization is required. In addition, it is premature to vest additional authority and staff in the Information Services Board prior to the information technology governance review called for in Section 16 of this bill. Finally, no funding was provided to implement these subsections.

Section 13 requires the Office of Financial Management to develop and execute a pilot program to contract with private providers for the delivery, support, maintenance, and operation of information technology projects and report on the findings. I am vetoing this section because funding has not been provided for this purpose in the omnibus appropriations act and the Office of Financial Management cannot absorb the cost.

Section 14 requires the Department of Information Services to report on the efforts to develop a centralized project management office by November 1, 2010. I am vetoing this section because it codifies a requirement for the Department to produce a one-time report on the status of the establishment of a Centralized Information Technology Project Management Office that was funded as part of the 2007 Supplemental Budget. The Department has already completed the report and will submit it to the Legislature.

Section 15 requires the Office of Financial Management to contract with an independent consultant to conduct a technical and financial analysis of the state's plan for the Consolidated State Data Center and Office Building and to develop a business plan outlining the various options for use of the site. I am vetoing this section because funding was not provided for this purpose in the omnibus appropriations act and the Office of Financial Management cannot absorb the cost.

For these reasons, I have vetoed Sections 5, 13, 14 and 15 of Engrossed Substitute House Bill 3178.

With the exception of Sections 5, 13, 14 and 15, Engrossed Substitute House Bill 3178 is approved."

## CHAPTER 283

[Engrossed Substitute House Bill 3209]

## FERRY SYSTEM—COSTS

AN ACT Relating to managing costs of the ferry system; amending RCW 47.60.355, 47.60.365, 47.60.375, 47.60.385, 47.28.030, 47.64.120, 47.64.170, 47.64.200, 47.64.270, 47.64.280, 47.64.320, and 41.80.020; amending 2010 c . . . (ESSB 6381) ss 222 and 306 (uncodified); adding new sections to chapter 47.60 RCW; creating new sections; repealing RCW 47.61.010, 47.61.020, 47.61.030, 47.61.040, 47.61.050, 47.61.060, 47.61.070, 47.61.080, 47.61.090, 47.61.100, 47.61.110, 47.60.395, 47.60.649, 47.60.652, 47.60.654, 47.60.658, 47.60.770, 47.60.772, 47.60.774, 47.60.776, 47.60.778, 47.60.780, and 47.64.220; providing contingent effective dates; providing expiration dates; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** The legislature finds that the Washington state ferry system is a critical component of the state's highway system. The legislature further finds that ferry system revenues are inadequate to support the capital requirements of aging vessels and terminals, and operating cost growth is fast outpacing the growth of fare revenue and gas tax revenue dedicated to the ferry system. As such, and drawing on more than four consecutive years of legislative analysis and operating policy reforms, the legislature finds that a realignment of the ferry compensation policy framework is an appropriate next step toward the legislature's long-term goal of assuring sustainable, cost-effective ferry service. The legislature further intends to address increased costs of ferry system operations in a manner that balances the interests of the ferry system, ferry workforce, and fare payers. It is the intent of the legislature that final recommendations from the joint transportation committee ferry study, submitted to the legislature during the 2009 regular legislative session, be enacted by the legislature and implemented by the department of transportation as soon as practicable in order to benefit from the efficiencies and cost savings identified in the recommendations. It is also the intent of the legislature to make various additional policy changes aimed at further efficiencies and cost savings. Since the study began in 2006, recommendations have been made with regard to long range planning and implementing the most efficient and effective balance between ferry capital and operating investments. It is intended that this act, the 2009-2011 omnibus transportation appropriations act, and subsequent transportation appropriations acts serve as vehicles for enacting these recommendations in order to maximize the utilization of existing capacity and to make the most efficient use of existing assets and tax dollars.

NEW SECTION. **Sec. 2.** (1) The office of financial management shall convene an expert panel of ferry operators to conduct a management review of the Washington state department of transportation, ferries division. The panel must have between three and five members and must represent both management and operations specialists, as well as public and private ferry operators that can bring best practices and state-of-the-art knowledge to this effort. The panel shall review past studies, conduct its own review, and make recommendations of the ferries division's management. The study must be completed and submitted to the transportation committees of the senate and house of representatives by August 1, 2010, and must include:

(a) A review and comment on the studies and audits conducted on the ferries division over the past four years in areas of overhead and management

organization structure and costs, maintenance practices, scheduling, and prioritization of preservation of vessels and terminals to ensure they represent current best practices;

(b) A report on the implementation of the recommendations in the studies and audits described in (a) of this subsection, and a report on their effectiveness compared to national best practices; and

(c) A review and report on the procedures for crew and service scheduling and recommendations on opportunities for improvement to provide the least cost of operations while maintaining service schedules that meet the needs of ferries customers.

(2) This section expires July 1, 2011.

**Sec. 3.** RCW 47.60.355 and 2007 c 512 s 11 are each amended to read as follows:

(1) Terminal and vessel preservation funding requests shall only be for assets in the life-cycle cost model.

(2) Terminal and vessel preservation funding requests that exceed five million dollars per project must be accompanied by a predesign study. The predesign study must include all elements required by the office of financial management.

**Sec. 4.** RCW 47.60.365 and 2007 c 512 s 12 are each amended to read as follows:

The department shall develop terminal and vessel design standards that:

(1) Adhere to vehicle level of service standards as described in RCW 47.06.140;

(2) Adhere to operational strategies as described in RCW 47.60.327; and

(3) Choose the most efficient balance between capital and operating investments by using a life-cycle cost analysis.

**Sec. 5.** RCW 47.60.375 and 2008 c 124 s 3 are each amended to read as follows:

(1) The capital plan must adhere to the following:

(a) A current ridership demand forecast;

(b) Vehicle level of service standards as described in RCW 47.06.140;

(c) Operational strategies as described in RCW 47.60.327; and

(d) Terminal and vessel design standards as described in RCW 47.60.365.

(2) The capital plan must include the following:

(a) A current vessel preservation plan;

(b) A current systemwide vessel rebuild and replacement plan as described in RCW 47.60.377;

(c) A current vessel deployment plan; and

(d) A current terminal preservation plan that adheres to the life-cycle cost model on capital assets as described in RCW 47.60.345.

**Sec. 6.** RCW 47.60.385 and 2008 c 124 s 6 are each amended to read as follows:

(1) Terminal improvement, vessel improvement, and vessel acquisition project funding requests must adhere to the capital plan(=

~~(2) Requests for terminal improvement design and construction funding must~~), include route-based planning, and be submitted with a predesign study that:

- (a) Includes all elements required by the office of financial management;
- (b) Separately identifies basic terminal and vessel elements essential for operation and their costs;
- (c) Separately identifies additional elements to provide ancillary revenue and customer comfort and their costs;
- (d) Includes construction phasing options that are consistent with forecasted ridership increases;
- (e) Separately identifies additional elements requested by local governments and the cost and proposed funding source of those elements;
- (f) Separately identifies multimodal elements and the cost and proposed funding source of those elements; ~~((and))~~
- (g) Identifies all contingency amounts(~~(-~~
- ~~(h)(3)] When planning for new vessel acquisitions, the department must evaluate the long-term vessel operating costs related to fuel efficiency and staffing).~~
- (h) Identifies any terminal, vessel, or other capital modifications that would be required as a result of the proposed capital project.
- (i) Includes planned service modifications as a result of the proposed capital project, and the consistency of those service modifications with the capital plan; and
- (j) Demonstrates the evaluation of long-term operating costs including fuel efficiency, staffing, and preservation.
- (2) The department shall prioritize vessel preservation and acquisition funding requests over vessel improvement funding requests.

NEW SECTION. Sec. 7. A new section is added to chapter 47.60 RCW to read as follows:

- (1) In addition to the requirements of RCW 47.60.385(1), initial requests for, and substantial modification requests to, vessel acquisition funding must be submitted with a predesign study that:
  - (a) Includes a business decision case on vessel sizing;
  - (b) Includes an updated vessel deployment plan demonstrating maximum use of existing vessels, and an updated systemwide vessel rebuild and replacement plan;
  - (c) Includes an analysis that demonstrates that acquiring a new vessel or improving an existing vessel is more cost-effective than other alternatives considered. At a minimum, alternatives explored must include:
    - (i) Alternatives to new vessel construction that increase capacity of existing vessels;
    - (ii) Service level changes in lieu of adding vessel capacity; and
    - (iii) Acquiring existing vessels or existing vessel plans rather than wholly new vessels or vessel plans; and
  - (d) Demonstrates that the vessel proposed for improvement, construction, or purchase, if intended to replace an existing vessel or to place an existing vessel into inactive or reserve status, is consistent with the scheduled replacements in the rebuild and replacement plan.
- (2) In addition to the requirements of RCW 47.60.385(1), initial requests for, and substantial modification requests to, vessel improvement funding must be submitted with a predesign study that includes:

(a) An explanation of any regulatory changes necessitating the improvement;

(b) The requirements under subsection (1) of this section, if the improvement modifies the capacity of a vessel;

(c) A cost-benefit analysis of any modifications designed to improve fuel efficiency, including potential impacts on vessel maintenance and repair; and

(d) An assessment of out-of-service time associated with making the improvement and ongoing preservation of the improvement.

NEW SECTION. Sec. 8. (1) Signage must be prominently displayed at each terminal and on each vessel that informs the public that assaults on Washington state employees will be prosecuted to the full extent of the law.

(2) The department shall investigate the frequency, severity, and prosecutorial results of assaults on Washington state ferries employees and, if appropriate, make recommendations to the transportation committees of the senate and house of representatives during the 2011 legislative session regarding methods to decrease the number of assaults on employees and procedures for prosecuting those who assault employees.

(3) This section expires June 30, 2011.

Sec. 9. RCW 47.28.030 and 2007 c 218 s 90 are each amended to read as follows:

(1)(a) A state highway shall be constructed, altered, repaired, or improved, and improvements located on property acquired for right-of-way purposes may be repaired or renovated pending the use of such right-of-way for highway purposes, by contract or state forces. The work or portions thereof may be done by state forces when the estimated costs thereof are less than fifty thousand dollars and effective July 1, 2005, sixty thousand dollars(~~(= PROVIDED, That)~~).

(b) When delay of performance of such work would jeopardize a state highway or constitute a danger to the traveling public, the work may be done by state forces when the estimated cost thereof is less than eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

(c) When the department of transportation determines to do the work by state forces, it shall enter a statement upon its records to that effect, stating the reasons therefor.

(d) To enable a larger number of small businesses, and minority, and women contractors to effectively compete for department of transportation contracts, the department may adopt rules providing for bids and award of contracts for the performance of work, or furnishing equipment, materials, supplies, or operating services whenever any work is to be performed and the engineer's estimate indicates the cost of the work would not exceed eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

(2) The rules adopted under this section:

~~((1))~~ (a) Shall provide for competitive bids to the extent that competitive sources are available except when delay of performance would jeopardize life or property or inconvenience the traveling public; and

~~((2))~~ (b) Need not require the furnishing of a bid deposit nor a performance bond, but if a performance bond is not required then progress payments to the contractor may be required to be made based on submittal of paid invoices to substantiate proof that disbursements have been made to

laborers, material suppliers, mechanics, and subcontractors from the previous partial payment; and

~~((3))~~ (c) May establish prequalification standards and procedures as an alternative to those set forth in RCW 47.28.070, but the prequalification standards and procedures under RCW 47.28.070 shall always be sufficient.

(3) The department of transportation shall comply with such goals and rules as may be adopted by the office of minority and women's business enterprises to implement chapter 39.19 RCW with respect to contracts entered into under this chapter. The department may adopt such rules as may be necessary to comply with the rules adopted by the office of minority and women's business enterprises under chapter 39.19 RCW.

(4)(a) For the period of March 15, 2010, through June 30, 2011, work for less than one hundred twenty thousand dollars may be performed on ferry vessels and terminals by state forces.

(b) The department shall hire a disinterested, third party to conduct an independent analysis to identify methods of reducing out-of-service times for vessel maintenance, preservation, and improvement projects. The analysis must include options that consider consolidating work while vessels are at shipyards by having state forces perform services traditionally performed at Eagle Harbor at the shipyard and decreasing the allowable time at shipyards. The analysis must also compare the out-of-service vessel times of performing services by state forces versus contracting out those services which in turn must be used to form a recommendation as to what the threshold of work performed on ferry vessels and terminals by state forces should be. This analysis must be presented to the transportation committees of the senate and house of representatives by December 1, 2010.

(c) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the senate and house of representatives by December 1, 2010. The proposed program must:

(i) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(ii) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards; and

(iii) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

(d) In developing the proposed ferry vessel maintenance, preservation, and improvement program, the department shall consider the following, related to reducing vessel out-of-service time:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is underway, tied up between sailings, or not deployed;



(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

(vii) Coordination with required United States coast guard dry dockings;

(viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and

(ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects.

**Sec. 10.** RCW 47.64.120 and 2006 c 164 s 3 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the employer and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times(;) to negotiate in good faith with respect to wages, hours, working conditions, and insurance, ((and health care benefits as limited by RCW 47.64.270;)) and other matters mutually agreed upon. Employer funded retirement benefits shall be provided under the public employees retirement system under chapter 41.40 RCW and shall not be included in the scope of collective bargaining. Except as provided under RCW 47.64.270, the employer is not required to bargain over health care benefits. Any retirement system or retirement benefits shall not be subject to collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

(3) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

**Sec. 11.** RCW 47.64.170 and 2007 c 160 s 1 are each amended to read as follows:

(1) Any ferry employee organization certified as the bargaining representative shall be the exclusive representative of all ferry employees in the bargaining unit and shall represent all such employees fairly.

(2) A ferry employee organization or organizations and the governor may each designate any individual as its representative to engage in collective bargaining negotiations.

(3) Negotiating sessions, including strategy meetings of the employer or employee organizations, mediation, and the deliberative process of arbitrators are exempt from the provisions of chapter 42.30 RCW. Hearings conducted by arbitrators may be open to the public by mutual consent of the parties.

(4) Terms of any collective bargaining agreement may be enforced by civil action in Thurston county superior court upon the initiative of either party.

(5) Ferry system employees or any employee organization shall not negotiate or attempt to negotiate directly with anyone other than the person who has been appointed or authorized a bargaining representative for the purpose of bargaining with the ferry employees or their representative.

(6)(a) Within ten working days after the first Monday in September of every odd-numbered year, the parties shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. If the parties cannot agree on an arbitrator within the ten-day period, either party may request a list of seven arbitrators from the federal mediation and conciliation service. The parties shall select an interest arbitrator using the coin toss/alternate strike method within thirty calendar days of receipt of the list. Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for potential arbitration 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 for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration. This subsection (6)(a) imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(b) The negotiation of a proposed collective bargaining agreement by representatives of the employer and a ferry employee organization shall commence on or about February 1st of every even-numbered year.

(c) For negotiations covering the 2009-2011 biennium and subsequent biennia, the time periods specified in this section, and in RCW 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of all agreements on or before October 1st of the even-numbered year next preceding the biennial budget period during which the agreement should take effect. These time periods may only be altered by mutual agreement of the parties in writing. Any such agreement and any impasse procedures agreed to by the parties under RCW 47.64.200 must include an agreement regarding the new time periods that will allow final resolution by negotiations or arbitration by October 1st of each even-numbered year.

(7) ~~((Until a new collective bargaining agreement is in effect, the terms and conditions of the previous collective bargaining agreement shall remain in force.))~~ It is the intent of this section that the collective bargaining agreement or arbitrator's award shall commence on July 1st of each odd-numbered year and shall terminate on June 30th of the next odd-numbered year to coincide with the ensuing biennial budget year, as defined by RCW 43.88.020(7), to the extent

practical. It is further the intent of this section that all collective bargaining agreements be concluded by October 1st of the even-numbered year before the commencement of the biennial budget year during which the agreements are to be in effect. After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(8) The office of financial management shall conduct a salary survey, for use in collective bargaining and arbitration, which must be conducted through a contract with a firm nationally recognized in the field of human resources management consulting.

(9)(a) The governor shall submit a request either for funds necessary to implement the collective bargaining agreements including, but not limited to, the compensation and fringe benefit provisions or for legislation necessary to implement the agreement, or both. Requests for funds necessary to implement the collective bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(b) The governor shall submit a request either for funds necessary to implement the arbitration awards or for legislation necessary to implement the arbitration awards, or both. Requests for funds necessary to implement the arbitration awards shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(c) The legislature shall approve or reject the submission of the request for funds necessary to implement the collective bargaining agreements or arbitration awards as a whole for each agreement or award. The legislature shall not consider a request for funds to implement a collective bargaining agreement or arbitration award unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement and award or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 47.64.210 and 47.64.300.

~~((9))~~ (10) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

**Sec. 12.** RCW 47.64.200 and 2006 c 164 s 7 are each amended to read as follows:

As the first step in the performance of their duty to bargain, the employer and the employee organization shall endeavor to agree upon impasse procedures. Unless otherwise agreed to by the employee organization and the employer in their impasse procedures, the arbitrator or panel ~~((is limited to selecting the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties. The employee organization and the employer may mutually agree to the impasse procedure under which the arbitrator or panel may))~~ shall issue a decision it deems just and appropriate with respect to each impasse item. If the parties fail to agree upon impasse procedures under this section, the impasse procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320 apply. It is unlawful for either party to refuse to participate in the impasse procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320.

**Sec. 13.** RCW 47.64.270 and 2006 c 164 s 17 are each amended to read as follows:

(1) The employer and one coalition of all the exclusive bargaining representatives subject to this chapter and chapter 41.80 RCW shall conduct negotiations regarding the dollar amount expended on behalf of each employee for health care benefits.

(2) Absent a collective bargaining agreement to the contrary, the department of transportation shall provide contributions to insurance and health care plans for ferry system employees and dependents, as determined by the state health care authority, under chapter 41.05 RCW~~((; and))~~.

~~(3) The employer and employee organizations may collectively bargain for ((other)) insurance ((and health care)) plans other than health care benefits, and employer contributions may exceed that of other state agencies as provided in RCW 41.05.050. ((To the extent that ferry employees by bargaining unit have absorbed the required offset of wage increases by the amount that the employer's contribution for employees' and dependents' insurance and health care plans exceeds that of other state general government employees in the 1985-87 fiscal biennium, employees shall not be required to absorb a further offset except to the extent the differential between employer contributions for those employees and all other state general government employees increases during any subsequent fiscal biennium. If such differential increases in the 1987-89 fiscal biennium or the 1985-87 offset by bargaining unit is insufficient to meet the required deduction, the amount available for compensation shall be reduced by bargaining unit by the amount of such increase or the 1985-87 shortage in the required offset. Compensation shall include all wages and employee benefits.))~~

**Sec. 14.** RCW 47.64.280 and 2006 c 164 s 18 are each amended to read as follows:

(1) There is created the marine employees' commission. The governor shall appoint the commission with the consent of the senate. The commission shall consist of three members: One member to be appointed from labor, one member from industry, and one member from the public who has significant knowledge of maritime affairs. The public member shall be chair of the commission. One of the original members shall be appointed for a term of three years, one for a

term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Commission members are eligible for reappointment. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission. Members of the commission shall be compensated in accordance with RCW 43.03.250 and shall receive reimbursement for official travel and other expenses at the same rate and on the same terms as provided for the transportation commission by RCW 47.01.061. The payments shall be made from the Puget Sound ferry operations account.

(2) The commission shall: (a) Adjust all complaints, grievances, and disputes between labor and management arising out of the operation of the ferry system as provided in RCW 47.64.150; (b) provide for impasse mediation as required in RCW 47.64.210; and (c) ~~((provide salary surveys as required in RCW 47.64.220; and (d))~~ perform those duties required in RCW 47.64.300.

(3)(a) In adjudicating all complaints, grievances, and disputes, the party claiming labor disputes shall, in writing, notify the commission, which shall make careful inquiry into the cause thereof and issue an order advising the ferry employee, or the ferry employee organization representing him or her, and the department of transportation, as to the decision of the commission.

(b) The parties are entitled to offer evidence relating to disputes at all hearings conducted by the commission. The orders and awards of the commission are final and binding upon any ferry employee or employees or their representative affected thereby and upon the department.

(c) The commission shall adopt rules of procedure under chapter 34.05 RCW.

(d) The commission has the authority to subpoena any ferry employee or employees, or their representatives, and any member or representative of the department, and any witnesses. The commission may require attendance of witnesses and the production of all pertinent records at any hearings held by the commission. The subpoenas of the commission are enforceable by order of any superior court in the state of Washington for the county within which the proceeding may be pending. The commission may hire staff as necessary, appoint consultants, enter into contracts, and conduct studies as reasonably necessary to carry out this chapter.

**Sec. 15.** RCW 47.64.320 and 2006 c 164 s 14 are each amended to read as follows:

(1) The mediator, arbitrator, or arbitration panel may consider only matters that are subject to bargaining under this chapter, except that health care benefits are not subject to interest arbitration.

(2) The decision of an arbitrator or arbitration panel is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefit provisions of an arbitrated collective bargaining agreement, is not binding on the state, the department of transportation, or the ferry employee organization.

(3) In making its determination, the arbitrator or arbitration panel shall be mindful of the legislative purpose under RCW 47.64.005 and 47.64.006 and, as

additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

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

(b) Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;

~~((b))~~ (c) The constitutional and statutory authority of the employer;

~~((c))~~ (d) Stipulations of the parties;

~~((d))~~ (e) The results of the salary survey as required in RCW ~~((47.64.220))~~ 47.64.170(8);

~~((e))~~ (f) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved;

~~((f))~~ (g) Changes in any of the foregoing circumstances during the pendency of the proceedings;

~~((g))~~ (h) The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature; ~~((and~~

~~((h))~~ (i) The ability of the state to retain ferry employees;

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

(k) Other factors that are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under this chapter.

(4) This section applies to any matter before the respective mediator, arbitrator, or arbitration panel.

**Sec. 16.** RCW 41.80.020 and 2002 c 354 s 303 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, and other terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

(2) The employer is not required to bargain over matters pertaining to:

(a) Health care benefits or other employee insurance benefits, except as required in subsection (3) of this section;

(b) Any retirement system or retirement benefit; or

(c) Rules of the director of personnel or the Washington personnel resources board adopted under section 203, chapter 354, Laws of 2002.

(3) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining representatives subject to this

chapter. The exclusive bargaining representatives for employees that are subject to chapter 47.64 RCW shall bargain the dollar amount expended on behalf of each employee for health care benefits with the employer as part of the coalition under this subsection. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be bargained under the provisions of RCW 41.80.010(4).

(4) The employer and the exclusive bargaining representative shall not agree to any proposal that would prevent the implementation of approved affirmative action plans or that would be inconsistent with the comparable worth agreement that provided the basis for the salary changes implemented beginning with the 1983-1985 biennium to achieve comparable worth.

(5) The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in RCW 41.80.040.

(6) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

(7) This section does not prohibit bargaining that affects contracts authorized by RCW 41.06.142.

***\*NEW SECTION. Sec. 17. A new section is added to chapter 47.60 RCW to read as follows:***

***Upon expiration of the collective bargaining agreements in existence as of the effective date of this section, the department shall not allow free passage on any ferry vessel operated by the department to:***

- (1) Any department employee unless it is directly related to the employee's job duties, directly reporting to duty, or directly returning home from duty;***
- (2) Any former department employee or their families; or***
- (3) Any department employee's family members.***

*\*Sec. 17 was vetoed. See message at end of chapter.*

***\*Sec. 18. 2010 c ... (ESSB 6381) s 222 (uncodified) is amended to read as follows:***

***FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—  
PROGRAM X  
Puget Sound Ferry Operations Account—State***

***Appropriation .....((~~\$425,922,000~~))  
\$425,252,000***

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

- (1) \$78,754,952 of the Puget Sound ferry operations account—state appropriation is provided solely for auto ferry vessel operating fuel in the 2009-11 fiscal biennium. This appropriation is contingent upon the enactment of ((sections 716 and 701 of this act)) section 701, chapter . . . (ESSB 6381), Laws of 2010. All fuel purchased by the Washington state ferries at Harbor***

*Island truck terminal for the operation of the Washington state ferries diesel powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent.*

*(2) To protect the waters of Puget Sound, the department shall investigate nontoxic alternatives to fuel additives and other commercial products that are used to operate, maintain, and preserve vessels.*

*(3) If, after the department's review of fares and pricing policies, the department proposes a fuel surcharge, the department must evaluate other cost savings and fuel price stabilization strategies that would be implemented before the imposition of a fuel surcharge. The department shall report to the legislature and transportation commission on its progress of implementing new fuel forecasting and budgeting practices, price hedging contracts for fuel purchases, and fuel conservation strategies by November 30, 2010.*

*(4) The department shall strive to significantly reduce the number of injuries suffered by Washington state ferries employees. By December 15, 2009, the department shall submit to the office of financial management and the transportation committees of the legislature its implementation plan to reduce such injuries.*

*(5) The department shall continue to provide service to Sidney, British Columbia. The department may place a Sidney terminal departure surcharge on fares for out of state residents riding the Washington state ferry route that runs between Anacortes, Washington and Sidney, British Columbia, if the cost for landing/license fee, taxes, and additional amounts charged for docking are in excess of \$280,000 CDN. The surcharge must be limited to recovering amounts above \$280,000 CDN.*

*(6) The department shall analyze operational solutions to enhance service on the Bremerton to Seattle ferry run. The Washington state ferries shall report its analysis to the transportation committees of the legislature by December 1, 2009.*

*(7) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2011-13 omnibus transportation appropriations act request, as determined jointly by the office of financial management, the Washington state ferries, and the legislative transportation committees.*

*(8) (~~(\$4,794,000)~~) \$4,124,000 of the Puget Sound ferry operations account—state appropriation is provided solely for commercial insurance for ferry assets. The office of financial management, after consultation with the transportation committees of the legislature, must present a business plan for the Washington state ferry system's insurance coverage to the 2010 legislature. The business plan must include a cost-benefit analysis of Washington state ferries' current commercial insurance purchased for ferry assets and a review of self-insurance for noncatastrophic events.*

*(9) \$1,100,000 of the Puget Sound ferry operations account—state appropriation is provided solely for a marketing program. The department shall present a marketing program proposal to the transportation committees of the legislature during the 2010 legislative session before implementing this program. Of this amount, \$10,000 is for the city of Port Townsend and*



*\$10,000 is for the town of Coupeville for mitigation expenses related to only one vessel operating on the Port Townsend/Keystone ferry route. The moneys provided to the city of Port Townsend and town of Coupeville are not contingent upon the required marketing proposal.*

*(10) \$350,000 of the Puget Sound ferry operations account—state appropriation is provided solely for two extra trips per day during the summer of 2009 season, beyond the current schedule, on the Port Townsend/Keystone route.*

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

*(12) The legislature finds that measuring the performance of Washington state ferries requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently, the department must develop a set of metrics that measure that performance and report to the transportation committees of the legislature and to the office of financial management on the development of these measurements along with recommendations to the 2010 legislature on which measurements must become a part of the next omnibus transportation appropriations act.*

*(13) As a priority task, the department is directed to propose a comprehensive incident and accident investigation policy and appropriate procedures, and to provide the proposal to the legislature by November 1, 2009, using existing resources and staff expertise. In addition to consulting with ferry system unions and the United States coast guard, the Washington state ferries is encouraged to solicit independent outside expertise on incident and accident investigation best practices as they may be found in other organizations with a similar concern for marine safety. It is the intent of the legislature to enact the policies into law and to publish that law and procedures as a manual for Washington state ferries' accident/incident investigations. Until that time, the Washington state ferry system must exercise particular diligence to assure that any incident or accident investigations are conducted within the spirit of the guidelines of this act. The proposed policy must contain, at a minimum:*

*(a) The definition of an incident and an accident and the type of investigation that is required by both types of events;*

*(b) The process for appointing an investigating officer or officers and a description of the authorities and responsibilities of the investigating officer or officers. The investigating officer or officers must:*

*(i) Have the appropriate training and experience as determined by the policy;*

*(ii) Not have been involved in the incident or accident so as to avoid any conflict of interest;*

*(iii) Have full access to all persons, records, and relevant organizations that may have information about or may have contributed to, directly or indirectly, the incident or accident under investigation, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW;*

*(iv) Be provided with, if requested by the investigating officer or officers, appropriate outside technical expertise; and*

*(v) Be provided with staff and legal support by the Washington state ferries as may be appropriate to the type of investigation;*

*(c) The process of working with the affected employee or employees in accordance with the employee's or employees' respective collective bargaining agreement and the appropriate union officials, within protocols afforded to all public employees;*

*(d) The process by which the United States coast guard is kept informed of, interacts with, and reviews the investigation;*

*(e) The process for review, approval, and implementation of any approved recommendations within the department; and*

*(f) The process for keeping the public informed of the investigation and its outcomes, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW.*

*(14) \$7,300,000 of the Puget Sound ferry operations account—state appropriation is provided solely for the purposes of travel time associated with Washington state ferries employees. However, if Engrossed Substitute House Bill No. 3209 (managing costs of ferry system) is enacted by June 30, 2010, containing an appropriation for purposes of travel time associated with Washington state ferries employees, the amount provided in this subsection lapses.*

*(15) \$50,000 of the Puget Sound ferry operations account—state appropriation is provided solely to implement a mechanism to report on-time performance statistics.*

*(a) The department shall conduct a study to identify process changes that would improve on-time performance on a route-by-route basis. The study must include looking into the slowing down of vessels for fuel economy purposes and touch-and-go sailings on peak runs. The department shall report its findings to the transportation committees of the senate and house of representatives by December 1, 2010.*

*(b) The department shall, by November 1, 2010, report to the transportation committees of the legislature statistics regarding its on-time arrival and departure status on a route-by-route and month-by-month basis, as well as an annual route-by-route and systemwide basis, weighted by the number of customers on each sailing and distinguishing peak period on-time performance. The statistics must include reasons for any delays over ten minutes from the scheduled time. The statistics must be prominently displayed on the Washington state ferries' web site. Each Washington state ferries vessel and terminal must prominently display the statistics as they relate to their specific route.*

*(16) The department shall investigate outsourcing the call center functions planned for the ferry reservation system and report its findings to the transportation committees of the senate and house of representatives by December 15, 2010.*

*(17) By July 1, 2010, the department shall provide to the governor and the transportation committees of the senate and house of representatives a listing of all benefits that Washington state ferries union employees receive that other state employees do not traditionally receive. The listing must include any costs associated with these benefits.*

\*Sec. 18 was vetoed. See message at end of chapter.

Sec. 19. 2010 c ... (ESSB 6381) s 306 (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. . . . .	\$126,824,000
Puget Sound Capital Construction Account—Federal	
Appropriation. . . . .	\$60,364,000
Puget Sound Capital Construction Account—Local	
Appropriation. . . . .	\$200,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation. . . . .	\$51,734,000
Transportation Partnership Account—State	
Appropriation. . . . .	\$66,879,000
Multimodal Transportation Account—State	
Appropriation. . . . .	\$149,000
TOTAL APPROPRIATION . . . . .	\$306,150,000

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

(1) \$126,824,000 of the Puget Sound capital construction account—state appropriation, \$60,364,000 of the Puget Sound capital construction account—federal appropriation, \$200,000 of the Puget Sound capital construction account—local appropriation, \$66,879,000 of the transportation partnership account—state appropriation, \$51,734,000 of the transportation 2003 account (nickel account)—state appropriation, and \$149,000 of the multimodal transportation account—state appropriation are provided solely for ferry capital projects, project support, and administration as listed in LEAP Transportation Document ALL PROJECTS 2010-2 as developed March 8, 2010, Program - Ferries Construction Program (W). Of the total appropriation, a maximum of \$10,627,000 may be used for administrative support, a maximum of \$8,184,000 may be used for terminal project support, and a maximum of \$4,497,000 may be used for vessel project support. Of the total appropriation, \$5,851,000 is provided solely for a reservation system and associated communications projects.

(2) \$51,734,000 of the transportation 2003 account (nickel account)—state appropriation, \$63,100,000 of the transportation partnership account—state appropriation, and \$10,164,000 of the Puget Sound capital construction account—state appropriation are provided solely for the acquisition of three new Island Home class ferry vessels subject to the conditions of RCW 47.56.780. The department shall pursue a contract for the second and third Island Home class ferry vessels with an option to purchase a fourth Island Home class ferry vessel. However, if sufficient resources are available to build one 144-auto vessel prior to exercising the option to build the fourth Island Home class ferry vessel, procurement of the fourth Island Home class ferry vessel will be postponed and the department shall pursue procurement of a 144-auto vessel.

(a) The first two Island Home class ferry vessels must be placed on the Port Townsend-Keystone route.

(b) The department may add additional passenger capacity to one of the Island Home class ferry vessels to make it more flexible within the system in the future, if doing so does not require additional staffing on the vessel.

(c) Cost savings from the following initiatives will be included in the funding of these vessels: The department's review and update of the vessel life-cycle cost model as required under this section; and the implementation of technology efficiencies as required under section 602 of this act.

(3)(a) \$8,450,000 of the Puget Sound capital construction account—state appropriation and \$2,450,000 of the transportation partnership account—state appropriation are provided solely for the following projects related to the design of a 144-vehicle vessel class: (i) \$1,380,000 is provided solely for completion of the contract for owner-furnished equipment; (ii) \$8,320,000 is provided solely for completion of the technical design, detail design, and production drawings, all of which must plan for an aluminum superstructure; (iii) \$480,000 is provided solely for the storage of owner-furnished equipment; and (iv) a maximum of \$720,000 is for construction engineering. In completing the contract for owner-furnished equipment, the department shall use as much of the already procured equipment as is practicable on the Island Home class ferry vessels if it is likely to be obsolete before it is used in procured 144-vehicle vessels.

(b) The department shall conduct a cost-benefit study on alternative furnishings and fittings for the 144-vehicle vessel class. The study must review the proposed interior furnishings and fittings for the long-term maintenance and out-of-service vessel costs and, if appropriate, propose alternative interior furnishings and fittings that will decrease long-term maintenance and out-of-service vessel costs. The study must include a projection of out-of-service time and a life-cycle cost analysis of planned out-of-service time, including the impact on fleet size. The department must submit the study to the joint transportation committee by August 1, 2010.

(c) The department shall identify costs for any additional detail design and production drawings costs related to incorporating the aluminum superstructure and any changes in the proposed furnishings and fittings.

(4) \$6,300,000 of the Puget Sound capital construction account—state appropriation is provided solely for emergency capital costs.

(5) \$3,000,000 of the Puget Sound capital construction account—federal appropriation is provided solely for completing the Anacortes terminal design up to the maximum allowable construction cost phase. Beyond preparing environmental work, these funds may be spent only after the following conditions have been met: (a) A value engineering process is conducted on the existing design and the concept of a terminal building smaller than preferred alternative; (b) the office of financial management participates in the value engineering process; (c) the office of financial management concurs with the recommendations of the value engineering process; and (d) the office of financial management gives its approval to proceed with the design work.

(6) \$3,965,000 of the Puget Sound capital construction account—state appropriation is provided solely for the following vessel projects: Waste heat recovery pilot project for the Issaquah; jumbo Mark I class steering gear ventilation pilot project; and improvements to the Yakima and Kaleetan propulsion controls to allow for two engine operation. Before beginning these

projects, the Washington state ferries must ensure the vessels' out-of-service time does not negatively impact service to the system.

(7) The department shall pursue purchasing a foreign-flagged vessel for service on the Anacortes, Washington to Sidney, British Columbia ferry route.

(8) The department shall provide to the office of financial management and the legislature quarterly reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2009-11 fiscal biennium. Elements must include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS). The quarterly report regarding the status of projects identified on the list referenced in subsection (1) of this section must be developed according to an earned value method of project monitoring.

(9) The department shall review and adjust its capital program staffing levels to ensure staffing is at the most efficient level necessary to implement the capital program in the omnibus transportation appropriations act. The Washington state ferries shall report this review and adjustment to the office of financial management and the house and senate transportation committees of the legislature by July 2009.

(10) \$1,200,000 of the total appropriation is provided solely for improving the toll booth configuration at the Port Townsend and Keystone ferry terminals.

(11) \$2,636,000 of the total appropriation is provided solely for continued permitting work on the Mukilteo ferry terminal. The department shall seek additional federal funding for this project.

(12) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the legislature by July 1, 2010. The proposal must:

(a) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(b) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards. At a minimum, the department shall consider the following:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is underway, tied up between sailings, or not deployed;

(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

- (vii) Coordination with required United States coast guard dry dockings;
  - (viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and
  - (ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects; and
- (c) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

(13) \$247,000 of the Puget Sound capital construction account—state appropriation is provided solely for the Washington state ferries to review and update its vessel life-cycle cost model and report the results to the house of representatives and senate transportation committees of the legislature by ~~(March 15)~~ December 1, 2010. This review will evaluate the impact of the planned out-of-service periods scheduled for each vessel on the ability of the overall system to deliver uninterrupted service and will assess the risk of service disruption from unscheduled maintenance or longer than planned maintenance periods.

(14) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

(15) The Puget Sound capital construction account—state appropriation includes up to \$114,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(16) The Puget Sound capital construction account—state appropriation reflects the reduction of three terminal positions due to decreased terminal activity and funding.

(17) The department shall provide data to the transportation committees of the senate and house of representatives for a transparent analysis of travel pay policies.

**NEW SECTION. Sec. 20.** The following acts or parts of acts are each repealed:

- (1) RCW 47.61.010 (Authority to enter into agreement and apply for financial assistance) and 1984 c 7 s 338 & 1965 ex.s. c 56 s 1;
- (2) RCW 47.61.020 (Bonds for matching funds—Issuance and sale) and 1965 ex.s. c 56 s 2;
- (3) RCW 47.61.030 (Term of bonds—Terms and conditions) and 1965 ex.s. c 56 s 3;
- (4) RCW 47.61.040 (Bonds—Signatures—Registration—Where payable—Negotiable instruments) and 1965 ex.s. c 56 s 4;
- (5) RCW 47.61.050 (Bonds—Denominations—Manner and terms of sale—Legal investment for state funds) and 1965 ex.s. c 56 s 5;
- (6) RCW 47.61.060 (Proceeds of bonds—Deposit and use) and 1965 ex.s. c 56 s 6;
- (7) RCW 47.61.070 (Statement describing nature of bond obligation—Pledge of excise taxes) and 1965 ex.s. c 56 s 7;
- (8) RCW 47.61.080 (Bonds to reflect terms and conditions of grant agreement) and 1965 ex.s. c 56 s 8;

(9) RCW 47.61.090 (Designation of funds to repay bonds and interest) and 1984 c 7 s 339 & 1965 ex.s. c 56 s 9;

(10) RCW 47.61.100 (Bond repayment procedure—Highway bond retirement fund) and 1965 ex.s. c 56 s 10;

(11) RCW 47.61.110 (Sums in excess of bond retirement requirements—Use) and 1965 ex.s. c 56 s 11;

(12) RCW 47.60.395 (Evaluation of cost allocation methodology and preservation and improvement costs—Exception) and 2009 c 470 s 707 & 2007 c 512 s 15;

(13) RCW 47.60.649 (Passenger-only ferry service—Finding) and 1998 c 166 s 1;

(14) RCW 47.60.652 (Passenger-only ferry service—Vessel and terminal acquisition, procurement, and construction) and 1998 c 166 s 2;

(15) RCW 47.60.654 (Passenger-only ferry service—Contingency) and 1998 c 166 s 3;

(16) RCW 47.60.658 (Passenger-only ferry service between Vashon and Seattle) and 2007 c 223 s 8 & 2006 c 332 s 3;

(17) RCW 47.60.770 (Jumbo ferry construction—Notice) and 1993 c 493 s 1;

(18) RCW 47.60.772 (Jumbo ferry construction—Bidding documents) and 1993 c 493 s 2;

(19) RCW 47.60.774 (Jumbo ferry construction—Procedure on conclusion of evaluation) and 1993 c 493 s 4;

(20) RCW 47.60.776 (Jumbo ferry construction—Contract) and 1993 c 493 s 5;

(21) RCW 47.60.778 (Jumbo ferry construction—Bid deposits—Low bidder claiming error) and 1996 c 18 s 9 & 1993 c 493 s 6;

(22) RCW 47.60.780 (Jumbo ferry construction—Propulsion system acquisition) and 1994 c 181 s 2; and

(23) RCW 47.64.220 (Salary survey) and 2006 c 164 s 10, 2005 c 274 s 308, 1999 c 256 s 1, 1989 c 327 s 2, & 1983 c 15 s 13.

**NEW SECTION. Sec. 21.** Section 18 of this act takes effect if section 222, chapter . . . (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is enacted into law. If section 222, chapter . . . (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is not enacted into law, section 18 of this act is void in its entirety.

**NEW SECTION. Sec. 22.** Section 19 of this act takes effect if section 306, chapter . . . (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is enacted into law. If section 306, chapter . . . (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is not enacted into law, section 19 of this act is void in its entirety.

**NEW SECTION. Sec. 23.** 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. 24.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 11, 2010.

Passed by the Senate March 10, 2010.

Approved by the Governor April 1, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2010.

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

"I am returning herewith, without my approval as to Sections 17 and 18, Engrossed Substitute House Bill 3209 entitled:

"AN ACT Relating to managing costs of the ferry system."

Section 17 eliminates ferry passes for current employees, retirees, and their family members at the end of the current collective bargaining agreements. The issuance of ferry passes is a subject of collective bargaining and should be dealt with as part of the overall compensation package at the bargaining table, not singled out in legislation for elimination. Legislating matters subject to bargaining may restrict the state's ability to address other more important cost savings measures through the collective bargaining process. I am directing my Labor Relations Office to focus in this bargaining cycle on the best approaches to reduce long-term labor costs, including ferry passes and all aspects of the compensation package.

Section 18 reduces the Ferries Division insurance policy appropriation by \$670,000, based on a legislative study that concluded that the Department could save money by eliminating some marine insurance coverage. I share the Legislature's interest in saving money over the long term and being responsible stewards of taxpayer dollars by protecting our state-owned assets. While I am vetoing this subsection, I direct the Office of Financial Management to work with the Legislature over the interim to review the Department's marine insurance coverage carefully and to assess whether cost reductions can be made while still adequately protecting taxpayer dollars.

For these reasons, I have vetoed Sections 17 and 18 of Engrossed Substitute House Bill 3209.

With the exception of Sections 17 and 18, Engrossed Substitute House Bill 3209 is approved."

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## CHAPTER 284

[Substitute Senate Bill 5798]

### MEDICAL MARIJUANA—HEALTH CARE PROFESSIONALS

AN ACT Relating to medical marijuana; amending RCW 69.51A.005, 69.51A.010, 69.51A.030, and 69.51A.060; and creating a new section.

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

**Sec. 1.** RCW 69.51A.005 and 2007 c 371 s 2 are each amended to read as follows:

The people of Washington state find that some patients with terminal or debilitating illnesses, under their ((physician's)) health care professional's care, may benefit from the medical use of marijuana. Some of the illnesses for which marijuana appears to be beneficial include chemotherapy-related nausea and vomiting in cancer patients; AIDS wasting syndrome; severe muscle spasms associated with multiple sclerosis and other spasticity disorders; epilepsy; acute or chronic glaucoma; and some forms of intractable pain.

The people find that humanitarian compassion necessitates that the decision to authorize the medical use of marijuana by patients with terminal or debilitating illnesses is a personal, individual decision, based upon their ((physician's)) health care professional's professional medical judgment and discretion.

Therefore, the people of the state of Washington intend that:



Qualifying patients with terminal or debilitating illnesses who, in the judgment of their ~~((physicians))~~ health care professionals, may benefit from the medical use of marijuana, shall not be found guilty of a crime under state law for their possession and limited use of marijuana;

Persons who act as designated providers to such patients shall also not be found guilty of a crime under state law for assisting with the medical use of marijuana; and

~~((Physicians))~~ Health care professionals also be excepted from liability and prosecution for the authorization of marijuana use to qualifying patients for whom, in the ~~((physician's))~~ health care professional's professional judgment, medical marijuana may prove beneficial.

**Sec. 2.** RCW 69.51A.010 and 2007 c 371 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) "Designated provider" means a person who:

(a) Is eighteen years of age or older;

(b) Has been designated in writing by a patient to serve as a designated provider under this chapter;

(c) Is prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; and

(d) Is the designated provider to only one patient at any one time.

(2) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physicians' assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(3) "Medical use of marijuana" means the production, possession, or administration of marijuana, as defined in RCW 69.50.101(q), for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating illness.

~~((3))~~ (4) "Qualifying patient" means a person who:

(a) Is a patient of a ~~((physician licensed under chapter 18.71 or 18.57 RCW))~~ health care professional;

(b) Has been diagnosed by that ~~((physician))~~ health care professional as having a terminal or debilitating medical condition;

(c) Is a resident of the state of Washington at the time of such diagnosis;

(d) Has been advised by that ~~((physician))~~ health care professional about the risks and benefits of the medical use of marijuana; and

(e) Has been advised by that ~~((physician))~~ health care professional that they may benefit from the medical use of marijuana.

~~((4))~~ (5) "Tamper-resistant paper" means paper that meets one or more of the following industry-recognized features:

(a) One or more features designed to prevent copying of the paper;

(b) One or more features designed to prevent the erasure or modification of information on the paper; or

(c) One or more features designed to prevent the use of counterfeit valid documentation.

(6) "Terminal or debilitating medical condition" means:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications; or

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

(g) Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

~~((5))~~ (7) "Valid documentation" means:

(a) A statement signed and dated by a qualifying patient's ~~((physician, or a copy of the qualifying patient's pertinent medical records))~~ health care professional written on tamper-resistant paper, which states that, in the ~~((physician's))~~ health care professional's professional opinion, the patient may benefit from the medical use of marijuana; and

(b) Proof of identity such as a Washington state driver's license or identocard, as defined in RCW 46.20.035~~(; and~~

~~(c) A copy of the physician statement described in (a) of this subsection shall have the same force and effect as the signed original).~~

**Sec. 3.** RCW 69.51A.030 and 2007 c 371 s 4 are each amended to read as follows:

A ~~((physician licensed under chapter 18.71 or 18.57 RCW))~~ health care professional shall be excepted from the state's criminal laws and shall not be penalized in any manner, or denied any right or privilege, for:

(1) Advising a qualifying patient about the risks and benefits of medical use of marijuana or that the qualifying patient may benefit from the medical use of marijuana where such use is within a professional standard of care or in the individual ~~((physician's))~~ health care professional's medical judgment; or

(2) Providing a qualifying patient with valid documentation, based upon the ~~((physician's))~~ health care professional's assessment of the qualifying patient's medical history and current medical condition, that the medical use of marijuana may benefit a particular qualifying patient.

**Sec. 4.** RCW 69.51A.060 and 2007 c 371 s 6 are each amended to read as follows:

(1) It shall be a misdemeanor to use or display medical marijuana in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter requires any health insurance provider to be liable for any claim for reimbursement for the medical use of marijuana.

(3) Nothing in this chapter requires any ~~((physician))~~ health care professional to authorize the use of medical marijuana for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of marijuana in any place of employment, in any school bus or on any school grounds, in any youth center, in any correctional facility, or smoking medical marijuana in any public place as that term is defined in RCW 70.160.020.

(5) It is a class C felony to fraudulently produce any record purporting to be, or tamper with the content of any record for the purpose of having it accepted as, valid documentation under RCW 69.51A.010~~((6)(a)))~~ (7)(a).

(6) No person shall be entitled to claim the affirmative defense provided in RCW 69.51A.040 for engaging in the medical use of marijuana in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway.

NEW SECTION. Sec. 5. The provisions of section 2 of this act, relating to the definition of "valid documentation," apply prospectively only, not retroactively, and do not affect valid documentation obtained prior to the effective date of this section.

Passed by the Senate March 11, 2010.

Passed by the House March 10, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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## CHAPTER 285

[Engrossed Second Substitute Senate Bill 6267]

### WATER RIGHT APPLICATIONS—PROCESSING

AN ACT Relating to water right processing improvements; amending RCW 90.03.265, 90.14.065, 90.44.100, and 90.44.100; adding new sections to chapter 90.03 RCW; adding new sections to chapter 90.44 RCW; creating new sections; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. Water is an essential element for economic prosperity and it generates new, family-wage jobs and state revenues. It is the intent of the legislature to provide both water right applicants and the department of ecology with the necessary tools to expedite the processing of water right applications depending on the needs of the project and agency workload.

NEW SECTION. Sec. 2. Sufficient resources to support the department of ecology's water resource program are essential for effective and sustainable water management that provides certainty to processed applications. The department of ecology shall review current water resource functions and fee structures, and report to the legislature and the governor by September 1, 2010, on improvements to make the program more self-sustaining and efficient.

Sec. 3. RCW 90.03.265 and 2003 c 70 s 6 are each amended to read as follows:

(1)(a) Any applicant for a new withdrawal or a change, transfer, or amendment of a water right pending before the department((s)) may initiate a cost-reimbursement agreement with the department to provide expedited review of the application. A cost-reimbursement agreement may ((only)) be initiated under this section if the applicant agrees to pay for, or as part of a cooperative effort agrees to pay for, the cost of processing his or her application and all other applications from the same source of supply which must be acted upon before the applicant's request because they were filed prior to the date of when the applicant filed.

(b) The requirement to pay for the cost of other applications under (a) of this subsection does not apply to an application for a new appropriation that would not diminish the water available to earlier pending applicants for new appropriations from the same source of supply.

(c) The requirement to pay for the cost of processing other applications under (a) of this subsection does not apply to an application for a change, transfer, or other amendment that would not diminish the water available to earlier pending applicants for changes or transfers from the same source of supply.

(d) In determining whether an application would not diminish the water available to earlier pending applicants, the department shall consider any water impoundment or other water resource management mitigation technique proposed by the applicant under RCW 90.03.255 or 90.44.055.

(e) The department may enter into cost-reimbursement agreements provided resources are available and shall use the process established under RCW 43.21A.690 for entering into cost-reimbursement agreements. The department's share of work related to a cost-reimbursement application, such as final certificate approval, must be prioritized within the framework of other water right processing needs and as determined by agency rule.

(f) Each individual applicant is responsible for his or her own appeal costs that may result from a water right decision made by the department under this section. In the event that the department's approval of an application under this section is appealed under chapter 43.21B RCW by a third party, the applicant for the water right in question must reimburse the department for the cost of defending the decision before the pollution control hearings board unless otherwise agreed to by the applicant and the department. If an applicant appeals either an approval or a denial made by the department under this section, the applicant is responsible only for its own appeal costs.

(2) In pursuing a cost-reimbursement project, the department must determine the source of water proposed to be diverted or withdrawn from, including the boundaries of the area that delimits the source. The department must determine if any other water right permit applications are pending from the same source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department finds they are hydraulically connected. The department shall consider technical information submitted by the applicant in making its determinations under this subsection. The department may recover from a cost-reimbursement applicant its own costs in making the same source determination under this subsection.

(3) Upon request of the applicant seeking cost-reimbursement processing, the department may elect to initiate a coordinated cost-reimbursement process.

To initiate this process, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that cost-reimbursement processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on a cost-reimbursement basis;

(d) Provide an estimate of how long the cost-reimbursement process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the cost-reimbursement process.

(4) The applicant initiating the cost-reimbursement request must pay for the cost of the determination under subsections (2) and (3) of this section and other costs necessary for the initial phase of cost-reimbursement processing. The cost for each applicant for conducting processing under a coordinated cost-reimbursement agreement must be based primarily on the proportionate quantity of water requested by each applicant. The cost may be adjusted if it appears that an application will require a disproportionately greater amount of time and effort to process due to its complexity.

(5)(a) Only the department may approve or deny a water right application processed under this section, and such a final decision remains solely the responsibility and function of the department. The department retains full authority to amend, refuse, or approve any work product provided by any consultant under this section. The department may recover its costs related to: (i) The review of a consultant to ensure that no conflict of interest exists; (ii) the management of consultant contracts and cost-reimbursement agreements; and (iii) the review of work products provided by participating consultants.

(b) For any cost-reimbursement process initiated under subsection (1) of this section, the applicant may, after consulting with the department, select a prequalified consultant listed by the department under subsection (7) of this section or may be assigned such a prequalified consultant by the department.

(c) For any coordinated cost-reimbursement process initiated under subsection (3) of this section, the applicant may, after consulting with the department, select a prequalified consultant listed by the department under subsection (7) of this section or may be assigned a prequalified consultant by the department.

(d) In lieu of having one or more of the work products performed by a prequalified consultant listed under subsection (7) of this section, the department may, at its discretion, recognize specific work completed by an applicant or an applicant's consultant prior to the initiation of cost-reimbursement processing. The department may also, at its discretion, authorize the use of such a consultant

to perform a specific scope of the work that would otherwise be assigned to prequalified consultants listed under subsection (7) of this section.

(e) At any point during the cost-reimbursement process, the department may request or accept technical information, data, and analysis from the applicant or the applicant's consultant to support the cost-reimbursement process or the department's decision on the application.

(6) The department is authorized to adopt rules or guidance providing minimum qualifications and standards for any consultant's submission of work products under this section, including standards for submission of technical information, scientific analysis, work product documentation, review for conflict of interest, and report presentation that such a consultant must meet.

(7) The department must provide notice to potential consultants of the opportunity to be considered for inclusion on the list of cost-reimbursement consultants to whom work assignments will be made. The department must competitively select an appropriate number of consultants who are qualified by training and experience to investigate and make recommendations on the disposition of water right applications. The prequalified consultant list must be renewed at least every six years, though the department may add qualified cost-reimbursement consultants to the list at any time. The department must enter a master contract with each consultant selected and thereafter make work assignments based on availability and qualifications.

(8) The department may remove any consultant from the consultant list for poor performance, malfeasance, or excessive complaints from cost-reimbursement participants. The department may interview any cost-reimbursement consultant to determine whether the person is qualified for this work, and must spot-check the work of consultants to ensure that the public is being competently served.

(9) When a prequalified cost-reimbursement consultant from the department's list described in subsection (7) of this section is assigned or selected to investigate an application or set of applications, the consultant must document its findings and recommended disposition in the form of written draft technical reports and preliminary draft reports of examination. Within two weeks of the department receiving draft technical reports and preliminary draft reports of examination, the department shall provide the applicant such documents for review and comment prior to their completion by the consultant. The department shall consider such comments by the applicant prior to the department's issuance of a draft report of examination. The department may modify the preliminary draft reports of examination submitted by the consultant. The department's decision on a permit application is final unless it is appealed to the pollution control hearings board under chapter 43.21B RCW.

(10) If an applicant elects not to participate in a cost-reimbursement process, the application remains on file with the department, retains its priority date, and may be processed under regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 90.03 RCW to read as follows:

The water rights processing account is created in the state treasury. All receipts from the fees collected under sections 5, 7, and 12 of this act must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account may only be used to support the processing of water right applications for a new appropriation, change, transfer, or amendment of a water right as provided in this chapter and chapters 90.42 and 90.44 RCW or for the examination, certification, and renewal of certification of water right examiners as provided in section 7 of this act.

NEW SECTION. Sec. 5. A new section is added to chapter 90.03 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that expedited processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that the application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. An applicant who has stated in writing that he or she wants his or her

application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed through regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW. Such an application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing shall be used to reimburse the other applicants who participated in the previous expedited processing of applications, provided sufficient proceeds remain to fully cover the department's cost of processing the delayed entry application and the department's estimated administrative costs to reimburse the previously expedited applicants.

NEW SECTION. Sec. 6. A new section is added to chapter 90.03 RCW to read as follows:

The department must post notice on its web site and provide additional electronic notice and opportunity for comment to affected federally recognized tribal governments concurrently when providing notice to applicants under RCW 90.03.265 and sections 5 and 12 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 90.03 RCW to read as follows:

(1) The department shall establish and maintain a list of certified water right examiners. Certified water right examiners on the list are eligible to perform final proof examinations of permitted water uses leading to the issuance of a water right certificate under RCW 90.03.330. The list must be updated annually and must be made available to the public through written and electronic media.

(2) In order to qualify, an individual must be registered in Washington as a professional engineer, professional land surveyor, or registered hydrogeologist, or an individual must demonstrate at least five years of applicable experience to the department, or be a board member of a water conservancy board. Qualified individuals must also pass a written examination prior to being certified by the department. Such an examination must be administered by either the department or an entity formally approved by the department. Each certified water right examiner must demonstrate knowledge and competency regarding:

- (a) Water law in the state of Washington;
- (b) Measurement of the flow of water through open channels and enclosed pipes;
- (c) Water use and water level reporting;
- (d) Estimation of the capacity of reservoirs and ponds;
- (e) Irrigation crop water requirements;
- (f) Aerial photo interpretation;



- (g) Legal descriptions of land parcels;
- (h) Location of land and water infrastructure through the use of maps and global positioning;
- (i) Proper construction and sealing of well bores; and
- (j) Other topics related to the preparation and certification of water rights in Washington state.

(3) Except as provided in subsection (9) of this section, upon completion of a water appropriation and putting water to beneficial use, in order to receive a final water right certificate, the permit holder must secure the services of a certified water right examiner who has been tested and certified by the department. The examiner shall carry out a final examination of the project to verify its completion and to determine and document for the permit holder and the department the amount of water that has been appropriated for beneficial use, the location of diversion or withdrawal and conveyance facilities, and the actual place of use. The examiner shall take measurements or make estimates of the maximum diversion or withdrawal, the capacity of water storage facilities, the acreage irrigated, the type and number of residences served, the type and number of stock watered, and other information relevant to making a final determination of the amount of water beneficially used. The examiner shall take photographs of the facilities to document the use or uses of water and the photographs must be submitted with the examiner's report to the department. The department shall specify the format and required content of the reports and may provide a form for that purpose.

(4) The department may suspend or revoke a certification based on poor performance, malfeasance, failure to acquire continuing education credits, or excessive complaints from the examiner's customers. The department may require the retesting of an examiner. The department may interview any examiner to determine whether the person is qualified for this work. The department shall spot-check the work of examiners to ensure that the public is being competently served. Any person aggrieved by an order of the department including the granting, denial, revocation, or suspension of a certificate issued by the department under this chapter may appeal pursuant to chapter 43.21B RCW.

(5) The decision regarding whether to issue a final water right certificate is solely the responsibility and function of the department.

(6) The department shall make its final decision under RCW 90.03.330 within sixty days of the date of receipt of the proof of examination from the certified water right examiner, unless otherwise requested by the applicant or returned for correction by the department. The department may return an initial proof of examination for correction within thirty days of the department's receipt of such initial proof from a certified water right examiner. Such proof must be returned to both the certified water right examiner and the applicant. Within thirty days of the department's receipt of such returned proof from the certified water right examiner, the department shall make its final decision under RCW 90.03.330, unless otherwise requested by the applicant.

(7) Each certified water right examiner must complete eight hours annually of qualifying continuing education in the water resources field. The department shall determine and specify the qualifying continuing education and shall inform examiners of the opportunities. The department shall track whether examiners

are current in their continuing education and may suspend the certification of an examiner who has not complied with the continuing education requirement.

(8) Each certified water right examiner must be bonded for at least fifty thousand dollars.

(9) The department may waive the requirement to secure the services of a certified water right examiner in situations in which the department has already conducted a final proof of examination or finds it unnecessary for purposes of issuing a certificate of water right.

(10) The department shall establish and collect fees for the examination, certification, and renewal of certification of water right examiners. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. Pursuant to RCW 43.135.055, the department is authorized to set fees for examination, certification, and renewal of certification for water right examiners.

(11) The department may adopt rules appropriate to carry out the purposes of this section.

**Sec. 8.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read as follows:

~~(1)~~(a) Any person or entity, or successor to such person or entity, having a statement of claim on file with the water rights claims registry (~~on April 20, 1987,~~) may submit to the department of ecology for filing(~~(s)~~) an amendment to such a statement of claim if the submitted amendment is based on:

~~((1))~~ (i) An error in estimation of the quantity of the applicant's water claim prescribed in RCW 90.14.051 if the applicant provides reasons for the failure to claim such right in the original claim;

~~((2))~~ (ii) A change in circumstances not foreseeable at the time the original claim was filed, if such change in circumstances relates only to the manner of transportation or diversion of the water and not to the use or quantity of such water; or

~~((3))~~ (iii) The amendment is ministerial in nature.

(b) The department shall accept any such submission and file the same in the registry unless the department by written determination concludes that the requirements of (a)(i), (ii), or (iii) of this subsection (~~((1), (2), or (3) of this section~~) have not been satisfied.

(2) In addition to subsection (1) of this section, a surface water right claim may be changed or transferred in the same manner as a permit or certificate under RCW 90.03.380, and a water right claim for groundwater may be changed or transferred as provided under RCW 90.03.380 and 90.44.100.

(3) Any person aggrieved by a determination of the department may obtain a review thereof by filing a petition for review with the pollution control hearings board within thirty days of the date of the determination by the department. The provisions of RCW 90.14.081 shall apply to any amendment filed or approved under this section.

**\*Sec. 9.** RCW 90.44.100 and 2009 c 183 s 16 are each amended to read as follows:

*(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing*

*the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.*

*(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.*

*(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).*

*(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.*

*(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.*

*(6) This section does not apply to a water right involved in an approved local water plan created under RCW 90.92.090 or a banked water right under RCW 90.92.070.*

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

*\*Sec. 10. RCW 90.44.100 and 2003 c 329 s 3 are each amended to read as follows:*

*(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.*

*(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.*

*(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).*

*(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the*

**water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.**

***(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.***

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

**NEW SECTION. Sec. 11.** A new section is added to chapter 90.44 RCW to read as follows:

Applications to appropriate groundwater under a cost-reimbursement agreement must be processed in accordance with RCW 90.03.265 when an applicant requests the assignment of a cost-reimbursement consultant as provided in RCW 43.21A.690.

**NEW SECTION. Sec. 12.** A new section is added to chapter 90.44 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that expedited processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that an application will require a

disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed through regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW. Such an application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing shall be used to reimburse the other applicants who participated in the previous expedited processing of applications, provided sufficient proceeds remain to fully cover the department's cost of processing the delayed entry application and the department's estimated administrative costs to reimburse the previously expedited applicants.

NEW SECTION. Sec. 13. A new section is added to chapter 90.03 RCW to read as follows:

Nothing in this act affects or diminishes the processing of water right applications under any other existing authority, including but not limited to existing authority for the priority processing of applications by the department.

\*NEW SECTION. Sec. 14. *Section 9 of this act expires June 30, 2019.*

\*Sec. 14 was vetoed. See message at end of chapter.

\*NEW SECTION. Sec. 15. *Section 10 of this act takes effect June 30, 2019.*

\*Sec. 15 was vetoed. See message at end of chapter.

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

Passed by the Senate March 11, 2010.

Passed by the House March 11, 2010.

Approved by the Governor April 1, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2010.

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

"I am returning herewith, without my approval as to Sections 9, 10, 14 and 15, Engrossed Second Substitute Senate Bill 6267 entitled:

"AN ACT Relating to water right processing improvements."

This bill provides applicants and the Department of Ecology with tools that can be used, when appropriate, to expedite the processing of water right applications.

Sections 9 and 10 define the original location of a well associated with a water right claim as the area located within a one-quarter mile radius of the current well or wells. The original location of a well is used to determine when a replacement well requires a formal change to the water right.

The specific definitions in Sections 9 and 10 would reduce the Department of Ecology's flexibility and impair its current discretion to decide when a replacement well warrants formal review and approval. Such flexibility and discretion is needed when the impacts of a replacement well will depend on the circumstances. Sections 14 and 15 provide expiration and effective dates for Sections 9 and 10, respectively.

For these reasons, I have vetoed Sections 9, 10, 14 and 15 of Engrossed Second Substitute Senate Bill 6267.

With the exception of Sections 9, 10, 14 and 15, Engrossed Second Substitute Senate Bill 6267 is approved."

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## CHAPTER 286

[Substitute Senate Bill 6280]

### EAST ASIAN MEDICINE PRACTITIONERS

AN ACT Relating to East Asian medicine practitioners; amending RCW 18.06.010, 18.06.020, 18.06.045, 18.06.050, 18.06.080, 18.06.120, 18.06.130, 18.06.140, 18.06.190, 4.24.240, 4.24.290, 7.70.020, 18.120.020, and 43.70.110; reenacting and amending RCW 18.130.040, 18.130.040, and 18.130.040; adding a new section to chapter 18.06 RCW; providing effective dates; and providing expiration dates.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.06 RCW to read as follows:

The legislature intends to recognize that acupuncturists licensed by the state of Washington engage in a system of medicine to maintain and promote wellness and to prevent, diagnose, and treat disease drawing upon the experience, learning, and traditions originating in East Asia, which include more than acupuncture alone. To reflect this reality, the legislature intends to change the state's professional designation of acupuncturists to East Asian medicine practitioners and to incorporate current statutory provisions governing acupuncture, while recognizing treatments, methods, and techniques used in East Asian medicine. The legislature does not intend to require persons licensed under this act to change the business name of their practice if otherwise in compliance with this act. It is further the intent that any federal law, regulation, or health insurance program applicable to licensed acupuncturists apply to persons licensed under this act as East Asian medicine practitioners.

Sec. 2. RCW 18.06.010 and 1995 c 323 s 4 are each amended to read as follows:

The following terms in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "~~((Acupuncture))~~ East Asian medicine" means a health care service ~~((based on an Oriental system of medical theory))~~ utilizing ~~((Oriental))~~ East

Asian medicine diagnosis and treatment to promote health and treat organic or functional disorders ~~((by treating specific acupuncture points or meridians. Acupuncture))~~ and includes the following ~~((techniques))~~:

(a) Acupuncture, including the use of acupuncture needles or lancets to directly and indirectly stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique;

(g) Infra-red;

(h) Sonopuncture;

(i) Laserpuncture;

(j) Point injection therapy (aquapuncture); ~~((and))~~

(k) Dietary advice and health education based on ((Oriental)) East Asian medical theory ((provided in conjunction with techniques under (a) through (j) of this subsection)), including the recommendation and sale of herbs, vitamins, minerals, and dietary and nutritional supplements;

(l) Breathing, relaxation, and East Asian exercise techniques;

(m) Qi gong;

(n) East Asian massage and Tui na, which is a method of East Asian bodywork, characterized by the kneading, pressing, rolling, shaking, and stretching of the body and does not include spinal manipulation; and

(o) Superficial heat and cold therapies.

(2) ~~(((Acupuncturist)))~~ "East Asian medicine practitioner" means a person licensed under this chapter.

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

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

Nothing in this chapter requires individuals to be licensed as an East Asian medicine practitioner in order to provide the techniques and services in subsection (1)(k) through (o) of this section or to sell herbal products.

**Sec. 3.** RCW 18.06.020 and 1995 c 323 s 5 are each amended to read as follows:

(1) No one may hold themselves out to the public as an East Asian medicine practitioner, acupuncturist, or licensed acupuncturist or any derivative thereof which is intended to or is likely to lead the public to believe such a person is an East Asian medicine practitioner, acupuncturist, or licensed acupuncturist unless licensed as provided for in this chapter.

(2) A person may not practice East Asian medicine or acupuncture if the person is not licensed under this chapter.

(3) No one may use any configuration of letters after their name (including L. Ac. or EAMP) which indicates a degree or formal training in East Asian medicine, including acupuncture, unless licensed as provided for in this chapter.

(4) The secretary may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is licensed under this chapter.

(5) Any person licensed as an acupuncturist under this chapter prior to the effective date of this section must, upon successful license renewal, be granted



the title East Asian medicine practitioner or the letters EAMP indicating such license title. However, nothing in this section shall prohibit or limit in any way a practitioner licensed under this title from holding himself or herself out as an acupuncturist or licensed acupuncturist, or from using the letters L.Ac. after his or her name.

**Sec. 4.** RCW 18.06.045 and 1995 c 323 s 6 are each amended to read as follows:

Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice by an individual credentialed under the laws of this state and performing services within such individual's authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor;

(4) The practice of East Asian medicine, including acupuncture, by any person credentialed to perform East Asian medicine, including acupuncture, in any other jurisdiction where such person is doing so in the course of regular instruction of a school of East Asian medicine, including acupuncture, approved by the secretary or in an educational seminar by a professional organization of East Asian medicine, including acupuncture, provided that in the latter case, the practice is supervised directly by a person licensed under this chapter or licensed under any other healing art whose scope of practice (~~includes~~) is East Asian medicine, including acupuncture.

**Sec. 5.** RCW 18.06.050 and 2004 c 262 s 2 are each amended to read as follows:

Any person seeking to be examined shall present to the secretary at least forty-five days before the commencement of the examination:

(1) A written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require; and

(2) Proof that the candidate has:

(a) Successfully completed a course, approved by the secretary, of didactic training in basic sciences and East Asian medicine, including acupuncture, over a minimum period of two academic years. The training shall include such subjects as anatomy, physiology, microbiology, biochemistry, pathology, hygiene, and a survey of western clinical sciences. The basic science classes must be equivalent to those offered at the collegiate level. However, if the applicant is a licensed chiropractor under chapter 18.25 RCW or a naturopath licensed under chapter 18.36A RCW, the requirements of this subsection relating to basic sciences may be reduced by up to one year depending upon the extent of the candidate's qualifications as determined under rules adopted by the secretary;

(b) Successfully completed five hundred hours of clinical training in East Asian medicine, including acupuncture, that is approved by the secretary.

**Sec. 6.** RCW 18.06.080 and 2009 c 560 s 2 are each amended to read as follows:

(1) The secretary is hereby authorized and empowered to execute the provisions of this chapter and shall offer examinations in East Asian medicine, including acupuncture, at least twice a year at such times and places as the secretary may select. The examination shall be a written examination and may include a practical examination.

(2) The secretary shall develop or approve a licensure examination in the subjects that the secretary determines are within the scope of and commensurate with the work performed by ~~((licensed acupuncturists))~~ an East Asian medicine practitioner and shall include but not necessarily be limited to anatomy, physiology, microbiology, biochemistry, pathology, hygiene, and East Asian medicine, including acupuncture. All application papers shall be deposited with the secretary and there retained for at least one year, when they may be destroyed.

(3) If the examination is successfully passed, the secretary shall confer on such candidate the title of ~~((Licensed Acupuncturist))~~ East Asian medicine practitioner.

~~((4) The secretary, ad hoc committee members, or individuals acting in their behalf are immune from suit in a civil action based on any certification or disciplinary proceedings or other official acts performed in the course of their duties.))~~

**Sec. 7.** RCW 18.06.120 and 1996 c 191 s 3 are each amended to read as follows:

(1) Every person licensed ~~((in acupuncture))~~ under this chapter shall comply with the administrative procedures and administrative requirements for registration and renewal set by the secretary under RCW 43.70.250 and 43.70.280.

(2) All fees collected under this section and RCW 18.06.070 shall be credited to the health professions account as required under RCW 43.70.320.

**Sec. 8.** RCW 18.06.130 and 2003 c 53 s 121 are each amended to read as follows:

(1) The secretary shall develop a form to be used by ~~((an acupuncturist))~~ a person licensed under this chapter to inform the patient of the ~~((acupuncturist's))~~ scope of practice and qualifications of an East Asian medicine practitioner. All license holders shall bring the form to the attention of the patients in whatever manner the secretary, by rule, provides.

(2) A person violating this section is guilty of a misdemeanor.

**Sec. 9.** RCW 18.06.140 and 2003 c 53 s 122 are each amended to read as follows:

(1) Every ~~((licensed acupuncturist))~~ person licensed under this chapter shall develop a written plan for consultation, emergency transfer, and referral to other health care practitioners operating within the scope of their authorized practices. The written plan shall be submitted with the initial application for licensure as well as annually thereafter with the license renewal fee to the department. The department may withhold licensure or renewal of licensure if the plan fails to meet the standards contained in rules adopted by the secretary.

(2) When ~~((the acupuncturist))~~ a person licensed under this chapter sees patients with potentially serious disorders such as cardiac conditions, acute abdominal symptoms, and such other conditions, the ~~((acupuncturist))~~

practitioner shall immediately request a consultation or recent written diagnosis from a ~~((physician))~~ primary health care provider licensed under chapter 18.71 ~~((or)), 18.57, 18.57A, 18.36A, or 18.71A RCW or RCW 18.79.050~~. In the event that the patient with the disorder refuses to authorize such consultation or provide a recent diagnosis from such ~~((physician))~~ primary health care provider, East Asian medical treatments, including acupuncture ~~((treatment shall not be continued)),~~ may only be continued after the patient signs a written waiver acknowledging the risks associated with the failure to pursue treatment from a primary health care provider. The waiver must also include: (a) An explanation of an East Asian medicine practitioner's scope of practice, including the services and techniques East Asian medicine practitioners are authorized to provide and (b) a statement that the services and techniques that an East Asian medicine practitioner is authorized to provide will not resolve the patient's underlying potentially serious disorder. The requirements of the waiver shall be established by the secretary in rule.

(3) A person violating this section is guilty of a misdemeanor.

**Sec. 10.** RCW 18.06.190 and 1995 c 323 s 13 are each amended to read as follows:

The secretary may license a person without examination if such person is credentialed as an East Asian medicine practitioner or licensed acupuncturist, or equivalent, in another jurisdiction if, in the secretary's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state.

**Sec. 11.** RCW 4.24.240 and 1995 c 323 s 1 are each amended to read as follows:

(1)(a) A person licensed by this state to provide health care or related services~~((s))~~ including, but not limited to, ~~((a licensed acupuncturist))~~ an East Asian medicine practitioner, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician~~((s))~~ assistant, osteopathic physician's assistant, nurse practitioner, including, in the event such person is deceased, his or her estate or personal representative;

(b) An employee or agent of a person described in subparagraph (a) of this subsection, acting in the course and scope of his or her employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(c) An entity, whether or not incorporated, facility, or institution employing one or more persons described in subparagraph (a) of this subsection, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, trustee, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative;

shall be immune from civil action for damages arising out of the good faith performance of their duties on such committees, where such actions are being brought by or on behalf of the person who is being evaluated.

(2) No member, employee, staff person, or investigator of a professional review committee shall be liable in a civil action as a result of acts or omissions

made in good faith on behalf of the committee; nor shall any person be so liable for filing charges with or supplying information or testimony in good faith to any professional review committee; nor shall a member, employee, staff person, or investigator of a professional society, of a professional examining or licensing board, of a professional disciplinary board, of a governing board of any institution, or of any employer of professionals be so liable for good faith acts or omissions made in full or partial reliance on recommendations or decisions of a professional review committee or examining board.

**Sec. 12.** RCW 4.24.290 and 1995 c 323 s 2 are each amended to read as follows:

In any civil action for damages based on professional negligence against a hospital which is licensed by the state of Washington or against the personnel of any such hospital, or against a member of the healing arts including, but not limited to, an ~~((acupuncturist))~~ East Asian medicine practitioner licensed under chapter 18.06 RCW, a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, a chiropractor licensed under chapter 18.25 RCW, a dentist licensed under chapter 18.32 RCW, a podiatric physician and surgeon licensed under chapter 18.22 RCW, or a nurse licensed under chapter 18.79 RCW, the plaintiff in order to prevail shall be required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise that degree of skill, care, and learning possessed at that time by other persons in the same profession, and that as a proximate result of such failure the plaintiff suffered damages, but in no event shall the provisions of this section apply to an action based on the failure to obtain the informed consent of a patient.

**Sec. 13.** RCW 7.70.020 and 1995 c 323 s 3 are each amended to read as follows:

As used in this chapter "health care provider" means either:

(1) A person licensed by this state to provide health care or related services~~(s)~~ including, but not limited to, ~~((a licensed acupuncturist))~~ an East Asian medicine practitioner, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician~~(s)~~ assistant, midwife, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his or her estate or personal representative;

(2) An employee or agent of a person described in part (1) above, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in part (1) above, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative.

**Sec. 14.** RCW 18.120.020 and 2001 c 251 s 26 are each amended to read as follows:

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

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; (~~acupuncturists~~) East Asian medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; and nursing assistants registered or certified under chapter 18.88A RCW.

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

**Sec. 15.** RCW 43.70.110 and 2009 c 403 s 5 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202, until June 30, 2013;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and ~~((acupuncturists))~~ East Asian medicine practitioners licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

**Sec. 16.** RCW 18.130.040 and 2009 c 301 s 8 and 2009 c 52 s 1 are each reenacted and amended to read as follows:

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

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

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) ~~((Acupuncturists))~~ East Asian medicine practitioners licensed under chapter 18.06 RCW;

(viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners licensed under chapter 18.89 RCW;

(x) Counselors, hypnotherapists, and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(xi) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xii) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xiii) Nursing assistants registered or certified under chapter 18.88A RCW;

(xiv) Health care assistants certified under chapter 18.135 RCW;

- (xv) Dietitians and nutritionists certified under chapter 18.138 RCW;
  - (xvi) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;
  - (xvii) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;
  - (xviii) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;
  - (xix) Denturists licensed under chapter 18.30 RCW;
  - (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;
  - (xxi) Surgical technologists registered under chapter 18.215 RCW;
  - (xxii) Recreational therapists;
  - (xxiii) Animal massage practitioners certified under chapter 18.240 RCW;
  - (xxiv) Athletic trainers licensed under chapter 18.250 RCW;
  - (xxv) Home care aides certified under chapter 18.88B RCW; and
  - (xxvi) Speech-language pathology assistants certified under chapter 18.35 RCW.
- (b) The boards and commissions having authority under this chapter are as follows:
- (i) The podiatric medical board as established in chapter 18.22 RCW;
  - (ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;
  - (iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and licenses and registrations issued under chapter 18.260 RCW;
  - (iv) The board of hearing and speech as established in chapter 18.35 RCW;
  - (v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;
  - (vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;
  - (vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;
  - (viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;
  - (ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;
  - (x) The board of physical therapy as established in chapter 18.74 RCW;
  - (xi) The board of occupational therapy practice as established in chapter 18.59 RCW;
  - (xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;
  - (xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and
  - (xiv) The veterinary board of governors as established in chapter 18.92 RCW.



(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

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

**Sec. 17.** RCW 18.130.040 and 2009 c 301 s 8 and 2009 c 52 s 2 are each reenacted and amended to read as follows:

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

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

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) ~~(Acupuncturists)~~ East Asian medicine practitioners licensed under chapter 18.06 RCW;

(viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners licensed under chapter 18.89 RCW;

(x) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(xi) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xii) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xiii) Nursing assistants registered or certified under chapter 18.88A RCW;

(xiv) Health care assistants certified under chapter 18.135 RCW;

(xv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xvi) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;

(xvii) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xviii) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xix) Denturists licensed under chapter 18.30 RCW;

(xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xxi) Surgical technologists registered under chapter 18.215 RCW;

(xxii) Recreational therapists;

(xxiii) Animal massage practitioners certified under chapter 18.240 RCW;

(xxiv) Athletic trainers licensed under chapter 18.250 RCW;

(xxv) Home care aides certified under chapter 18.88B RCW; and  
(xxvi) Speech-language pathology assistants certified under chapter 18.35 RCW.

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

- (i) The podiatric medical board as established in chapter 18.22 RCW;
- (ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;
- (iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and licenses and registrations issued under chapter 18.260 RCW;
- (iv) The board of hearing and speech as established in chapter 18.35 RCW;
- (v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;
- (vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;
- (vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;
- (viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;
- (ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;
- (x) The board of physical therapy as established in chapter 18.74 RCW;
- (xi) The board of occupational therapy practice as established in chapter 18.59 RCW;
- (xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;
- (xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and
- (xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

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

**Sec. 18.** RCW 18.130.040 and 2009 c 302 s 14, 2009 c 301 s 8, and 2009 c 52 s 2 are each reenacted and amended to read as follows:

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

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

- (i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;
  - (ii) Naturopaths licensed under chapter 18.36A RCW;
  - (iii) Midwives licensed under chapter 18.50 RCW;
  - (iv) Ocularists licensed under chapter 18.55 RCW;
  - (v) Massage operators and businesses licensed under chapter 18.108 RCW;
  - (vi) Dental hygienists licensed under chapter 18.29 RCW;
  - (vii) (~~Acupuncturists~~) East Asian medicine practitioners licensed under chapter 18.06 RCW;
  - (viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;
  - (ix) Respiratory care practitioners licensed under chapter 18.89 RCW;
  - (x) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;
  - (xi) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;
  - (xii) Persons registered as nursing pool operators under chapter 18.52C RCW;
  - (xiii) Nursing assistants registered or certified under chapter 18.88A RCW;
  - (xiv) Health care assistants certified under chapter 18.135 RCW;
  - (xv) Dietitians and nutritionists certified under chapter 18.138 RCW;
  - (xvi) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;
  - (xvii) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;
  - (xviii) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;
  - (xix) Denturists licensed under chapter 18.30 RCW;
  - (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;
  - (xxi) Surgical technologists registered under chapter 18.215 RCW;
  - (xxii) Recreational therapists;
  - (xxiii) Animal massage practitioners certified under chapter 18.240 RCW;
  - (xxiv) Athletic trainers licensed under chapter 18.250 RCW;
  - (xxv) Home care aides certified under chapter 18.88B RCW;
  - (xxvi) Speech-language pathology assistants certified under chapter 18.35 RCW; and
  - (xxvii) Genetic counselors licensed under chapter 18.290 RCW.
- (b) The boards and commissions having authority under this chapter are as follows:
- (i) The podiatric medical board as established in chapter 18.22 RCW;
  - (ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;
  - (iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and licenses and registrations issued under chapter 18.260 RCW;
  - (iv) The board of hearing and speech as established in chapter 18.35 RCW;

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

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

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

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

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

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

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

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

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

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

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

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

NEW SECTION. Sec. 19. Section 16 of this act expires July 1, 2010.

NEW SECTION. Sec. 20. Section 17 of this act takes effect July 1, 2010.

NEW SECTION. Sec. 21. Section 17 of this act expires August 1, 2010.

NEW SECTION. Sec. 22. Section 18 of this act takes effect August 1, 2010.

Passed by the Senate March 11, 2010.

Passed by the House March 10, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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## CHAPTER 287

[Engrossed Substitute Senate Bill 6468]

### LOW-INCOME RESIDENTIAL WEATHERIZATION AND STRUCTURAL REHABILITATION

AN ACT Relating to coordinating the weatherization and structural rehabilitation of residential structures; amending RCW 70.164.010, 70.164.030, 70.164.040, and 70.164.070; and reenacting and amending RCW 70.164.020.

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

**Sec. 1.** RCW 70.164.010 and 1987 c 36 s 1 are each amended to read as follows:

(1) The legislature finds and declares that weatherization of the residences of low-income households will help conserve energy resources in this state and can reduce the need to obtain energy from more costly conventional energy resources. The legislature also finds that ~~((rising energy costs have made it difficult for low income citizens of the state to afford adequate fuel for residential space heat. Weatherization of residences will lower energy consumption, making space heat more affordable for persons in low income households. It will also reduce the uncollectible accounts of fuel suppliers resulting from low income customers not being able to pay fuel bills.))~~ while many efforts have been made by the federal government and by the state, including its cities, counties, and utilities, to increase both the habitability and the energy efficiency of residential structures within the state, stronger coordination of these efforts will result in even greater energy efficiencies, increased cost savings to the state's residents in the form of lower utility bills, improvements in health and safety, lower greenhouse gas emissions and associated climate impacts, as well as increased employment for the state's workforce.

(2) Therefore, it is the intent of the legislature that state funds be dedicated to weatherization and energy efficiency activities as well as the moderate to significant repair and rehabilitation of residential structures that are required as a necessary antecedent to those activities. It is also the intent of the legislature that the department prioritize weatherization, energy efficiency activities, and structural repair of residential structures to facilitate the expeditious allocation of funds from federal energy efficiency programs including, but not limited to, the weatherization assistance program, the energy efficiency and conservation block grant program, residential energy efficiency components of the state energy program, and the retrofit ramp-up program for energy efficiency projects. The legislature further intends to allocate future distributions of energy-related federal jobs stimulus funding to strengthen these programs, and to coordinate energy retrofit and rehabilitation improvements as authorized by this act to increase the number of structures qualifying for assistance under these multiple state and federal energy efficiency programs.

(3) The program implementing the policy of this chapter is necessary to support the poor and infirm and also to benefit the health, safety, and general welfare of all citizens of the state.

**Sec. 2.** RCW 70.164.020 and 2009 c 565 s 51 and 2009 c 379 s 201 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) ~~((("Credit enhancement" means instruments that enhance the security for the payment of the lender's obligations and includes, but is not limited to insurance, letters of credit, lines of credit, or other similar agreements.~~

~~(2))~~ "Department" means the department of commerce.

~~((3))~~ (2) "Direct outreach" means:

(a) The use of door-to-door contact, community events, and other methods of direct interaction with customers to inform them of energy efficiency and weatherization opportunities; and

(b) The performance of energy audits.

~~((4))~~ (3) "Energy audit" means an analysis of a dwelling unit to determine the need for cost-effective energy conservation measures as determined by the department.

~~((5))~~ "Energy efficiency services" means energy audits, weatherization, energy efficiency retrofits, energy management systems as defined in RCW 39.35.030, and other activities to reduce a customer's energy consumption, and includes assistance with paperwork, arranging for financing, program design and development, and other postenergy audit assistance and education to help customers meet their energy savings goals.

~~((6))~~ "Financial institution" means any person doing business under the laws of this state or the United States relating to banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, consumer loan companies, equipment leasing and project finance and the affiliates, subsidiaries, and service corporations thereof.

~~((7))~~ (4) "Household" means an individual or group of individuals living in a dwelling unit as defined by the department.

~~((8))~~ (5) "Low income" means household income as defined by the department, provided that the definition may not exceed eighty percent of median household income, adjusted for household size, for the county in which the dwelling unit to be weatherized is located.

~~((9))~~ (6) "Nonutility sponsor" means any sponsor other than a public service company, municipality, public utility district, mutual or cooperative, furnishing gas or electricity used to heat low-income residences.

~~((10))~~ (7) "Residence" means a dwelling unit as defined by the department.

~~((11))~~ (8) "Sponsor" means any entity that submits a proposal under RCW 70.164.040, including but not limited to any local community action agency, tribal nation, community service agency, or any other participating agency or any public service company, municipality, public utility district, mutual or cooperative, or any combination of such entities that jointly submits a proposal.

~~((12))~~ (9) "Sponsor match" means the share of the cost of weatherization to be paid by the sponsor.

~~((13))~~ (10) "Sustainable residential weatherization" or "weatherization" means activities that use funds administered by the department for one or more of the following: (a) Energy and resource conservation; (b) energy efficiency improvements; (c) repairs, indoor air quality improvements, and health and safety improvements; and (d) client education. Funds administered by the department for activities authorized under this subsection may only be used for the preservation of a dwelling unit occupied by a low-income household and must, to the extent feasible, be used to support and advance sustainable technologies.

~~((14))~~ (11) "Weatherizing agency" means any approved department grantee, tribal nation, or any public service company, municipality, public utility district, mutual or cooperative, or other entity that bears the responsibility for ensuring the performance of weatherization of residences under this chapter and has been approved by the department.

**Sec. 3.** RCW 70.164.030 and 1991 sp.s. c 13 s 62 are each amended to read as follows:

(1) The low-income weatherization and structural rehabilitation assistance account is created in the state treasury. All moneys from the money distributed to the state pursuant to *Exxon v. United States*, 561 F.Supp. 816 (1983), affirmed 773 F.2d 1240 (1985), or any other oil overcharge settlements or judgments distributed by the federal government, that are allocated to the low-income weatherization and structural rehabilitation assistance account shall be deposited in the account. The department may accept such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, and shall deposit such funds in the account. Any moneys received from sponsor match payments shall be deposited in the account. The legislature may also appropriate moneys to the account. Moneys in the account shall be spent pursuant to appropriation and only for the purposes and in the manner provided in RCW 70.164.040. Any moneys appropriated that are not spent by the department shall return to the account.

(2) The purposes of the low-income weatherization and structural rehabilitation assistance account are to:

(a) Maximize the number of energy efficient residential structures in the state;

(b) Achieve the greatest possible expected monetary and energy savings by low-income households and other energy consumers over the longest period of time;

(c) Identify and correct, to the extent practicable, health and safety problems for residents of low-income households, including asbestos, lead, and mold hazards;

(d) Leverage the many available state and federal programs aimed at increasing the quality and energy efficiency of low-income residences in the state;

(e) Create family-wage jobs that may lead to careers in the construction trades or in the energy efficiency sectors; and

(f) Leverage, to the extent feasible, sustainable technologies, practices, and designs, including renewable energy systems.

**Sec. 4.** RCW 70.164.040 and 2009 c 379 s 202 are each amended to read as follows:

(1) The department shall solicit proposals for low-income weatherization programs from potential sponsors. A proposal shall state the amount of the sponsor match, the amount requested, the name of the weatherizing agency, and any other information required by the department.

(2)(a) A sponsor may use its own moneys, including corporate or ratepayer moneys, or moneys provided by landlords, charitable groups, government programs, the Bonneville power administration, or other sources to pay the sponsor match.

(b) Moneys provided by a sponsor pursuant to requirements in this section shall be in addition to and shall not supplant any funding for low-income weatherization that would otherwise have been provided by the sponsor or any other entity enumerated in (a) of this subsection.

(c) No proposal may require any contribution as a condition of weatherization from any household whose residence is weatherized under the proposal.

(d) Proposals shall provide that full levels of all cost-effective, structurally feasible, sustainable residential weatherization materials, measures, and practices, as determined by the department, shall be installed when a low-income residence is weatherized.

(3)(a) The department may in its discretion accept, accept in part, or reject proposals submitted.

(b) The department shall prioritize allocating funds from the low-income weatherization and rehabilitation account to projects that maximize energy efficiency and extend the usable life of an affordable home by: (i) Installing energy efficiency measures; and (ii) providing structural rehabilitation and repairs, so that funding from federal energy efficiency programs such as the weatherization assistance program, the energy efficiency and conservation block grant program, residential energy efficiency components of the state energy program, and the retrofit ramp-up program is distributed expeditiously.

(c) When allocating funds from the low-income weatherization and rehabilitation account, the department shall, to the extent feasible, consider local and state benefits including pledged sponsor match, available energy efficiency, repair, and rehabilitation funds from other sources, the preservation of affordable housing, and balance of participation in proportion to population among low-income households for: (i) Geographic regions in the state; (ii) types of fuel used for heating, except that the department shall encourage the use of energy efficient sustainable technologies; (iii) owner-occupied and rental residences; and (iv) single-family and multifamily dwellings.

(d) The department shall then allocate funds appropriated from the low-income weatherization and structural rehabilitation assistance account for energy efficiency and repair activities among proposals accepted or accepted in part ((se as to:

(i) Achieve the greatest possible expected monetary and energy savings by low-income households and other energy consumers over the longest period of time;

(ii) Identify and correct, to the extent practical, health and safety problems for residents of low-income households, including asbestos, lead, and mold hazards;

(iii) Create family wage jobs that may lead to careers in the construction trades or in the energy efficiency sectors; and

(iv) Leverage, to the extent feasible, environmentally friendly sustainable technologies, practices, and designs)).

((b) The department shall, to the extent feasible, ensure a balance of participation in proportion to population among low income households for: (i) Geographic regions in the state; (ii) types of fuel used for heating, except that the department shall encourage the use of energy efficient sustainable technologies; (iii) owner occupied and rental residences; and (iv) single family and multifamily dwellings.

(e)) (e) The department shall develop policies to ensure prudent, cost-effective investments are made in homes and buildings requiring energy efficiency, repair, and rehabilitation improvements that will maximize energy savings and extend the life of a home.

(f) The department shall give priority to the structural rehabilitation and weatherization of dwelling units occupied by low-income households with



incomes at or below one hundred twenty-five percent of the federally established poverty level.

~~((d))~~ (g) The department may allocate funds to a nonutility sponsor without requiring a sponsor match if the department determines that such an allocation is necessary to provide the greatest benefits to low-income residents of the state.

~~((e))~~ (h) The department shall require ~~((sponsors))~~ weatherizing agencies to employ individuals trained from workforce training and apprentice programs established under chapter 536, Laws of 2009 if these workers are available, pay prevailing wages under chapter 39.12 RCW, hire from the community in which the program is located, and create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations.

(4)(a) A sponsor may elect to: (i) Pay a sponsor match as a lump sum at the time of structural rehabilitation or weatherization~~((:))~~; or (ii) make yearly payments to the low-income weatherization and structural rehabilitation assistance account over a period not to exceed ten years. If a sponsor elects to make yearly payments, the value of the payments shall not be less than the value of the lump sum payment that would have been made under (a)(i) of this subsection.

(b) The department may permit a sponsor to meet its match requirement in whole or in part through providing labor, materials, or other in-kind expenditures.

(5) ~~((Programs))~~ Service providers receiving funding under this section must report to the department ~~((every six months following the receipt of a grant regarding the number of dwelling units))~~ at least quarterly, or in alignment with federal reporting, whichever is the greater frequency, the project costs, and the number of dwelling units repaired, rehabilitated, and weatherized, the number of jobs created or maintained, and the number of individuals trained through workforce training and apprentice programs~~((, with the last report submitted six months after program completion))~~. The director of the department shall review the accuracy of these reports.

(6) The department shall adopt rules to carry out this section.

**Sec. 5.** RCW 70.164.070 and 1987 c 36 s 7 are each amended to read as follows:

Payments to the low-income weatherization and structural rehabilitation assistance account shall be treated, for purposes of state law, as payments for energy conservation and shall be eligible for any tax credits or deductions, equity returns, or other benefits for which conservation investments are eligible.

Passed by the Senate March 9, 2010.

Passed by the House March 2, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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## CHAPTER 288

[Substitute Senate Bill 6470]

### DEPENDENCY PROCEEDINGS—INDIAN CHILDREN

AN ACT Relating to the burdens of proof required in dependency matters affecting Indian children; amending RCW 13.34.190; and reenacting and amending RCW 13.34.130.

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

**Sec. 1.** RCW 13.34.130 and 2009 c 520 s 27, 2009 c 491 s 2, and 2009 c 397 s 3 are each reenacted and amended to read as follows:

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

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

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

(b)(i) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person, the department, or a supervising agency for supervision of the child's placement. The court may not order an Indian child, as defined in 25 U.S.C. Sec. 1903, to be removed from his or her home unless the court finds, by clear and convincing evidence including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(ii) The department or supervising agency has the authority to place the child, subject to review and approval by the court ~~((+))~~ (A) with a relative as defined in RCW 74.15.020(2)(a), ~~((+))~~ (B) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child, or ~~((+))~~ (C) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, the child shall be placed with a person who is willing, appropriate, and available to care for the child, and who is: ~~((A))~~ (I) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or ~~((B))~~ (II) a suitable person as described in this subsection (1)(b) ~~(; and (C) willing, appropriate, and available to care for the child)~~. The court shall consider the child's existing relationships and attachments when determining placement.

(2) When placing an Indian child in out-of-home care, the department or supervising agency shall follow the placement preference characteristics in RCW 13.34.250 and in 25 U.S.C. Sec. 1915.

(3) Placement of the child with a relative or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services, including housing assistance, that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

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

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

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

~~((3))~~ (4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

~~((4))~~ (5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

~~((5))~~ (6) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

~~((6))~~ (7) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall

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

**Sec. 2.** RCW 13.34.190 and 2000 c 122 s 26 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, after hearings pursuant to RCW 13.34.110 or 13.34.130, the court may enter an order terminating all parental rights to a child only if the court finds that:

~~((+))~~(a)(i) The allegations contained in the petition as provided in RCW 13.34.180(1) are established by clear, cogent, and convincing evidence; or

~~((+))~~ (ii) The provisions of RCW 13.34.180(1) (a), (b), (e), and (f) are established beyond a reasonable doubt and if so, then RCW 13.34.180(1) (c) and (d) may be waived. When an infant has been abandoned, as defined in RCW 13.34.030, and the abandonment has been proved beyond a reasonable doubt, then RCW 13.34.180(1) (c) and (d) may be waived; or

~~((+))~~ (iii) The allegation under RCW 13.34.180(2) is established beyond a reasonable doubt. In determining whether RCW 13.34.180(1) (e) and (f) are established beyond a reasonable doubt, the court shall consider whether one or more of the aggravated circumstances listed in RCW 13.34.132 exist; or

~~((+))~~ (iv) The allegation under RCW 13.34.180(3) is established beyond a reasonable doubt; and

~~((2))~~ (b) Such an order is in the best interests of the child.

(2) In any proceeding under this chapter for termination of the parent-child relationship of an Indian child as defined in 25 U.S.C. Sec. 1903, no termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

Passed by the Senate March 9, 2010.

Passed by the House March 3, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

## CHAPTER 289

[Engrossed Substitute Senate Bill 6476]

## SEX CRIMES INVOLVING MINORS

AN ACT Relating to sex crimes involving minors; amending RCW 13.32A.030, 7.68.070, 13.40.070, 13.40.213, 9A.88.140, 9.68A.100, 9.68A.101, 9.68A.105, 9.68A.110, and 43.63A.740; reenacting and amending RCW 9.94A.515; adding new sections to chapter 13.32A RCW; adding new sections to chapter 13.40 RCW; adding a new section to chapter 74.15 RCW; creating a new section; repealing 2009 c 252 s 4 (uncodified); prescribing penalties; and providing an effective date.

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

**Sec. 1.** RCW 13.32A.030 and 2000 c 123 s 2 are each amended to read as follows:

As used in this chapter the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Administrator" means the individual who has the daily administrative responsibility of a crisis residential center, or his or her designee.

(3) "At-risk youth" means a juvenile:

(a) Who is absent from home for at least seventy-two consecutive hours without consent of his or her parent;

(b) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or

(c) Who has a substance abuse problem for which there are no pending criminal charges related to the substance abuse.

(4) "Child," "juvenile," and "youth" mean any unemancipated individual who is under the chronological age of eighteen years.

(5) "Child in need of services" means a juvenile:

(a) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or other person;

(b) Who has been reported to law enforcement as absent without consent for at least twenty-four consecutive hours on two or more separate occasions from the home of either parent, a crisis residential center, an out-of-home placement, or a court-ordered placement; and

(i) Has exhibited a serious substance abuse problem; or

(ii) Has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; ((or))

(c)(i) Who is in need of: (A) Necessary services, including food, shelter, health care, clothing, or education; or (B) services designed to maintain or reunite the family;

(ii) Who lacks access to, or has declined to utilize, these services; and

(iii) Whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure; or

(d) Who is a "sexually exploited child".

(6) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department seeking adjudication of placement of the child.

(7) "Crisis residential center" means a secure or semi-secure facility established pursuant to chapter 74.13 RCW.

(8) "Custodian" means the person or entity who has the legal right to the custody of the child.

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

(10) "Extended family member" means an adult who is a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child.

(11) "Guardian" means that person or agency that (a) has been appointed as the guardian of a child in a legal proceeding other than a proceeding under chapter 13.34 RCW, and (b) has the right to legal custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under chapter 13.34 RCW.

(12) "Multidisciplinary team" means a group formed to provide assistance and support to a child who is an at-risk youth or a child in need of services and his or her parent. The team shall include the parent, a department case worker, a local government representative when authorized by the local government, and when appropriate, members from the mental health and substance abuse disciplines. The team may also include, but is not limited to, the following persons: Educators, law enforcement personnel, probation officers, employers, church persons, tribal members, therapists, medical personnel, social service providers, placement providers, and extended family members. The team members shall be volunteers who do not receive compensation while acting in a capacity as a team member, unless the member's employer chooses to provide compensation or the member is a state employee.

(13) "Out-of-home placement" means a placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Parent" means the parent or parents who have the legal right to custody of the child. "Parent" includes custodian or guardian.

(15) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(16) "Semi-secure facility" means any facility, including but not limited to crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away. Pursuant to rules established by the department, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's

designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center.

(17) "Sexually exploited child" means any person under the age of eighteen who is a victim of the crime of commercial sex abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102.

(18) "Staff secure facility" means a structured group care facility licensed under rules adopted by the department with a ratio of at least one adult staff member to every two children.

~~((18))~~ (19) "Temporary out-of-home placement" means an out-of-home placement of not more than fourteen days ordered by the court at a fact-finding hearing on a child in need of services petition.

NEW SECTION. Sec. 2. Section 1 of this act takes effect July 1, 2011.

NEW SECTION. Sec. 3. A new section is added to chapter 13.32A RCW to read as follows:

Within available funding, when a youth who has been diverted under RCW 13.40.070 for an alleged offense of prostitution or prostitution loitering is referred to the department, the department shall connect that child with the services and treatment specified in RCW 74.14B.060 and 74.14B.070.

*\*NEW SECTION. Sec. 4. A new section is added to chapter 13.32A RCW to read as follows:*

*By November 1, 2010, the department shall report to the relevant policy and fiscal committees of the legislature regarding training needed to allow staff of the children's administration and crisis residential centers to work effectively with sexually exploited youth. The report shall identify the evidence-based training programs to be used and the cost of such training.*

*\*Sec. 4 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 5. A new section is added to chapter 13.40 RCW to read as follows:

Within available funding, when a youth who has been diverted under RCW 13.40.070 for an alleged offense of prostitution or prostitution loitering is referred to the department, the department shall connect that youth with the services and treatment specified in RCW 74.14B.060 and 74.14B.070.

**Sec. 6.** RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as follows:

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 are applicable to this chapter.

(3)(a) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition (~~thereto~~), no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

~~((a))~~ (i) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;

~~((b))~~ (ii) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

~~((c))~~ (iii) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(b) A person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter(~~(= PROVIDED, That)~~). Benefits for burial expenses shall not exceed the amount paid by the department in case of the death of a worker as provided in chapter 51.32 RCW in any claim(~~(= PROVIDED FURTHER, That)~~). If the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;

(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a



lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits may be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That if a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~PROVIDED, That~~). No person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(8) The benefits established in RCW 51.32.095 for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(: PROVIDED, That)~~). Benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) Except for medical benefits authorized under RCW 7.68.080, no more than thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed forty thousand dollars.

(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.

(15) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

(16) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act, except to the extent that the costs for such services exceed service limits established by the department of social and health services or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement.

(17) In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection

may be provided only with respect to homicides committed on or after July 1, 1992.

(18) A dependent mother, father, stepmother, or stepfather, as defined in RCW 51.08.050, who is a survivor of her or his child's homicide, who has been requested by a law enforcement agency or a prosecutor to assist in the judicial proceedings related to the death of the victim, and who is not domiciled in Washington state at the time of the request, may receive a lump-sum payment upon arrival in this state. Total benefits under this subsection may not exceed seven thousand five hundred dollars. If more than one dependent parent is eligible for this benefit, the lump-sum payment of seven thousand five hundred dollars shall be divided equally among the dependent parents.

(19) A victim whose crime occurred in another state who qualifies for benefits under RCW 7.68.060(4) may receive appropriate mental health counseling to address distress arising from participation in the civil commitment proceedings. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080.

**Sec. 7.** RCW 13.40.070 and 2009 c 252 s 3 are each amended to read as follows:

(1) Complaints referred to the juvenile court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint to determine whether:

- (a) The alleged facts bring the case within the jurisdiction of the court; and
- (b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsections (1)(a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and ~~((7))~~ (8) of this section. If the prosecutor finds that the requirements of subsection (1)(a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) Except as provided in RCW 13.40.213 and subsection (7) of this section, where a case is legally sufficient, the prosecutor shall file an information with the juvenile court if:

- (a) An alleged offender is accused of a class A felony, a class B felony, an attempt to commit a class B felony, a class C felony listed in RCW 9.94A.411(2) as a crime against persons or listed in RCW 9A.46.060 as a crime of harassment, or a class C felony that is a violation of RCW 9.41.080 or 9.41.040(2)(a)(iii); or
- (b) An alleged offender is accused of a felony and has a criminal history of any felony, or at least two gross misdemeanors, or at least two misdemeanors; or

(c) An alleged offender has previously been committed to the department;  
or

(d) An alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion; or

(e) An alleged offender has two or more diversion agreements on the alleged offender's criminal history; or

(f) A special allegation has been filed that the offender or an accomplice was armed with a firearm when the offense was committed.

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense is the offender's first offense or violation. If the alleged offender is charged with a related offense that must or may be filed under subsections (5) and ~~((7))~~ (8) of this section, a case under this subsection may also be filed.

(7) Where a case is legally sufficient to charge an alleged offender with either prostitution or prostitution loitering and the alleged offense is the offender's first prostitution or prostitution loitering offense, the prosecutor shall divert the case.

(8) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor shall be guided only by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

~~((8))~~ (9) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversion interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a diversion unit, the victim shall be notified of the referral and informed how to contact the unit.

~~((9))~~ (10) The responsibilities of the prosecutor under subsections (1) through ~~((8))~~ (9) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

~~((10))~~ (11) The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to mediation or victim offender reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.

**Sec. 8.** RCW 13.40.213 and 2009 c 252 s 2 are each amended to read as follows:

(1) When a juvenile is alleged to have committed the offenses of prostitution or prostitution loitering, and the allegation, if proved, would not be the juvenile's first offense, a prosecutor may divert the offense if the county in which the offense is alleged to have been committed has a comprehensive program that provides:

- (a) Safe and stable housing;
- (b) Comprehensive on-site case management;

(c) Integrated mental health and chemical dependency services, including specialized trauma recovery services;

(d) Education and employment training delivered on-site; and

(e) Referrals to off-site specialized services, as appropriate.

(2) A prosecutor may divert a case for prostitution or prostitution loitering into the comprehensive program described in this section, notwithstanding the filing criteria set forth in RCW 13.40.070(5).

(3) A diversion agreement under this section may extend to twelve months.

(4)(a) The administrative office of the courts shall compile data regarding:

(i) The number of juveniles whose cases are diverted into the comprehensive program described in this section;

(ii) Whether the juveniles complete their diversion agreements under this section; and

(iii) Whether juveniles whose cases have been diverted under this section have been subsequently arrested or committed subsequent offenses.

(b) ((A)) An annual report of the data compiled shall be provided to the governor and the appropriate committee of the legislature. The first report is due by November 1, 2010.

NEW SECTION. Sec. 9. A new section is added to chapter 13.40 RCW to read as follows:

In any proceeding under this chapter related to an arrest for prostitution or prostitution loitering, there is a presumption that the alleged offender meets the criteria for a certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States code, and that the alleged offender is also a victim of commercial sex abuse of a minor.

NEW SECTION. Sec. 10. A new section is added to chapter 74.15 RCW to read as follows:

The department shall require that to be licensed or continue to be licensed as a secure or semi-secure crisis residential center or HOPE center that the center has on staff, or otherwise has access to, a person who has been trained to work with the needs of sexually exploited children. For purposes of this section, "sexually exploited child" means that person as defined in RCW 13.32A.030(17).

**Sec. 11.** RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are each reenacted and amended to read as follows:

TABLE 2	
CRIMES INCLUDED WITHIN EACH	
SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW
	70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)

- Trafficking 1 (RCW 9A.40.100(1))
- XIII Malicious explosion 2 (RCW 70.74.280(2))
  - Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)
  - Assault of a Child 1 (RCW 9A.36.120)
  - Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
  - Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
  - Rape 1 (RCW 9A.44.040)
  - Rape of a Child 1 (RCW 9A.44.073)
  - Trafficking 2 (RCW 9A.40.100(2))
- XI Manslaughter 1 (RCW 9A.32.060)
  - Rape 2 (RCW 9A.44.050)
  - Rape of a Child 2 (RCW 9A.44.076)
- X Child Molestation 1 (RCW 9A.44.083)
  - Criminal Mistreatment 1 (RCW 9A.42.020)
  - Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
  - Kidnapping 1 (RCW 9A.40.020)
  - Leading Organized Crime (RCW 9A.82.060(1)(a))
  - Malicious explosion 3 (RCW 70.74.280(3))
  - Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Abandonment of Dependent Person 1 (RCW 9A.42.060)
  - Assault of a Child 2 (RCW 9A.36.130)
  - Explosive devices prohibited (RCW 70.74.180)
  - Hit and Run—Death (RCW 46.52.020(4)(a))

- Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- Malicious placement of an explosive 2 (RCW 70.74.270(2))
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
- Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
- Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- ~~((Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)))~~
- Promoting Prostitution 1 (RCW 9A.88.070)
- Theft of Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)

- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
- Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct (RCW 9.68A.070)
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)



Advancing money or property for  
extortionate extension of credit  
(RCW 9A.82.030)

Bail Jumping with class A Felony  
(RCW 9A.76.170(3)(b))

Child Molestation 3 (RCW 9A.44.089)

Criminal Mistreatment 2 (RCW  
9A.42.030)

Custodial Sexual Misconduct 1 (RCW  
9A.44.160)

Domestic Violence Court Order  
Violation (RCW 10.99.040,  
10.99.050, 26.09.300, 26.10.220,  
26.26.138, 26.50.110, 26.52.070,  
or 74.34.145)

Driving While Under the Influence  
(RCW 46.61.502(6))

Extortion 1 (RCW 9A.56.120)

Extortionate Extension of Credit (RCW  
9A.82.020)

Extortionate Means to Collect  
Extensions of Credit (RCW  
9A.82.040)

Incest 2 (RCW 9A.64.020(2))

Kidnapping 2 (RCW 9A.40.030)

Perjury 1 (RCW 9A.72.020)

Persistent prison misbehavior (RCW  
9.94.070)

Physical Control of a Vehicle While  
Under the Influence (RCW  
46.61.504(6))

Possession of a Stolen Firearm (RCW  
9A.56.310)

Rape 3 (RCW 9A.44.060)

Rendering Criminal Assistance 1 (RCW  
9A.76.070)

Sexual Misconduct with a Minor 1  
(RCW 9A.44.093)

Sexually Violating Human Remains  
(RCW 9A.44.105)

- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without  
Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a  
Projectile Stun Gun) (RCW  
9A.36.031(1)(h))
- Assault by Watercraft (RCW  
79A.60.060)
- Bribing a Witness/Bribe Received by  
Witness (RCW 9A.72.090,  
9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled  
Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW  
46.52.020(4)(b))
- Hit and Run with Vessel—Injury  
Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under  
Age Fourteen (subsequent sex  
offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event  
(RCW 9A.82.070)
- Malicious Harassment (RCW  
9A.36.080)
- Residential Burglary (RCW  
9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW  
9A.82.050)

- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))
- Unlicensed practice as an insurance professional (RCW 48.17.063(~~(3)~~)) (2))
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
- Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- ~~((Commercial Sexual Abuse of a Minor (RCW 9.68A.100)))~~
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Criminal Gang Intimidation (RCW 9A.46.120)

Custodial Assault (RCW 9A.36.100)  
Cyberstalking (subsequent conviction  
or threat of death) (RCW  
9.61.260(3))  
Escape 2 (RCW 9A.76.120)  
Extortion 2 (RCW 9A.56.130)  
Harassment (RCW 9A.46.020)  
Intimidating a Public Servant (RCW  
9A.76.180)  
Introducing Contraband 2 (RCW  
9A.76.150)  
Malicious Injury to Railroad Property  
(RCW 81.60.070)  
Mortgage Fraud (RCW 19.144.080)  
Negligently Causing Substantial Bodily  
Harm By Use of a Signal  
Preemption Device (RCW  
46.37.674)  
Organized Retail Theft 1 (RCW  
9A.56.350(2))  
Perjury 2 (RCW 9A.72.030)  
Possession of Incendiary Device (RCW  
9.40.120)  
Possession of Machine Gun or Short-  
Barreled Shotgun or Rifle (RCW  
9.41.190)  
Promoting Prostitution 2 (RCW  
9A.88.080)  
Retail Theft with Extenuating  
Circumstances 1 (RCW  
9A.56.360(2))  
Securities Act violation (RCW  
21.20.400)  
Tampering with a Witness (RCW  
9A.72.120)  
Telephone Harassment (subsequent  
conviction or threat of death)  
(RCW 9.61.230(2))  
Theft of Livestock 2 (RCW 9A.56.083)

- Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
- Trafficking in Stolen Property 2 (RCW 9A.82.055)
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9A.41.040(2))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Escape from Community Custody (RCW 72.09.310)
- Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130(11)(a))
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(3))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief 1 (RCW 9A.48.070)
- Organized Retail Theft 2 (RCW 9A.56.350(3))
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Possession of a Stolen Vehicle (RCW 9A.56.068)
- Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))
- Theft 1 (RCW 9A.56.030)

- Theft of a Motor Vehicle (RCW 9A.56.065)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
- Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Voyeurism (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))

Transaction of insurance business  
beyond the scope of licensure  
(RCW 48.17.063(~~(4)~~))

Unlawful Issuance of Checks or Drafts  
(RCW 9A.56.060)

Unlawful Possession of Fictitious  
Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of  
Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment  
Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal  
Identification Device (RCW  
9A.56.320)

Unlawful Production of Payment  
Instruments (RCW 9A.56.320)

Unlawful Trafficking in Food Stamps  
(RCW 9.91.142)

Unlawful Use of Food Stamps (RCW  
9.91.144)

Vehicle Prowl 1 (RCW 9A.52.095)

**Sec. 12.** RCW 9A.88.140 and 2009 c 387 s 1 are each amended to read as follows:

(1)(a) Upon an arrest for a suspected violation of patronizing a prostitute, promoting prostitution in the first degree, promoting prostitution in the second degree, promoting travel for prostitution(~~commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor~~), the arresting law enforcement officer may impound the person's vehicle if (i) the motor vehicle was used in the commission of the crime; (ii) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465; and (iii) either (A) the person arrested has previously been convicted of one of the offenses listed in this subsection or (B) the offense was committed within an area designated under (b) of this subsection.

(b) A local governing authority may designate areas within which vehicles are subject to impoundment under this section regardless of whether the person arrested has previously been convicted of any of the offenses listed in (a) of this subsection.

(i) The designation must be based on evidence indicating that the area has a disproportionately higher number of arrests for the offenses listed in (a) of this subsection as compared to other areas within the same jurisdiction.

(ii) The local governing authority shall post signs at the boundaries of the designated area to indicate that the area has been designated under this subsection.

(2) Upon an arrest for a suspected violation of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor, the arresting law enforcement officer shall impound the person's vehicle if (a) the motor vehicle was used in the commission of the crime; and (b) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465.

(3) Impoundments performed under this section shall be in accordance with chapter 46.55 RCW and the impoundment order must clearly state "prostitution hold."

~~((3))~~ (4)(a) Prior to redeeming the impounded vehicle, and in addition to all applicable impoundment, towing, and storage fees paid to the towing company under chapter 46.55 RCW, the owner of the impounded vehicle must pay a fine ~~((of five hundred dollars))~~ to the impounding agency. The fine shall be five hundred dollars for the offenses specified in subsection (1) of this section, or two thousand five hundred dollars for the offenses specified in subsection (2) of this section. The fine shall be deposited in the prostitution prevention and intervention account established under RCW 43.63A.740.

(b) Upon receipt of the fine paid under (a) of this subsection, the impounding agency shall issue a written receipt to the owner of the impounded vehicle.

~~((4))~~ (5)(a) In order to redeem a vehicle impounded under this section, the owner must provide the towing company with the written receipt issued under subsection ~~((3))~~ (4)(b) of this section.

(b) The written receipt issued under subsection ~~((3))~~ (4)(b) of this section authorizes the towing company to release the impounded vehicle upon payment of all impoundment, towing, and storage fees.

(c) A towing company that relies on a forged receipt to release a vehicle impounded under this section is not liable to the impounding authority for any unpaid fine under subsection ~~((3))~~ (4)(a) of this section.

~~((5))~~ (6)(a) In any proceeding under chapter 46.55 RCW to contest the validity of an impoundment under this section where the claimant substantially prevails, the claimant is entitled to a full refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the five hundred dollar fine paid under subsection ~~((3))~~ (4) of this section.

(b) If the person is found not guilty at trial for a crime listed under subsection (1) of this section, the person is entitled to a full refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the ~~(five hundred dollar)~~ fine paid under subsection ~~((3))~~ (4) of this section.

(c) All refunds made under this section shall be paid by the impounding agency.

(d) Prior to receiving any refund under this section, the claimant must provide proof of payment.

**Sec. 13.** RCW 9.68A.100 and 2007 c 368 s 2 are each amended to read as follows:

(1) A person is guilty of commercial sexual abuse of a minor if:

(a) He or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;



(b) He or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or

(c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee.

(2) Commercial sexual abuse of a minor is a class ~~(C)~~ B felony punishable under chapter 9A.20 RCW.

(3) In addition to any other penalty provided under chapter 9A.20 RCW, a person guilty of commercial sexual abuse of a minor is subject to the provisions under RCW 9A.88.130 and 9A.88.140.

(4) For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

**Sec. 14.** RCW 9.68A.101 and 2007 c 368 s 4 are each amended to read as follows:

(1) A person is guilty of promoting commercial sexual abuse of a minor if he or she knowingly advances commercial sexual abuse of a minor or profits from a minor engaged in sexual conduct.

(2) Promoting commercial sexual abuse of a minor is a class ~~(B)~~ A felony.

(3) For the purposes of this section:

(a) A person "advances commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor, he or she causes or aids a person to commit or engage in commercial sexual abuse of a minor, procures or solicits customers for commercial sexual abuse of a minor, provides persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operates or assists in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.

(b) A person "profits from commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates or will participate in the proceeds of commercial sexual abuse of a minor.

(4) For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

**Sec. 15.** RCW 9.68A.105 and 2007 c 368 s 11 are each amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 9.68A.100, 9.68A.101, and 9.68A.102, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or municipal ordinance shall be assessed a five ~~(hundred fifty)~~ thousand dollar fee.

(b) The court may not suspend payment of all or part of the fee unless it finds that the person does not have the ability to pay.

(c) When a minor has been adjudicated a juvenile offender or has entered into a statutory or nonstatutory diversion agreement for an offense which, if

committed by an adult, would constitute a violation of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or municipal ordinance, the court shall assess the fee under (a) of this subsection. The court may not suspend payment of all or part of the fee unless it finds that the minor does not have the ability to pay the fee.

(2) The fee assessed under subsection (1) of this section shall be collected by the clerk of the court and distributed each month to the state treasurer for deposit in the prostitution prevention and intervention account under RCW 43.63A.740 for the purpose of funding prostitution prevention and intervention activities.

(3) For the purposes of this section:

(a) "Statutory or nonstatutory diversion agreement" means an agreement under RCW 13.40.080 or any written agreement between a person accused of an offense listed in subsection (1) of this section and a court, county or city prosecutor, or designee thereof, whereby the person agrees to fulfill certain conditions in lieu of prosecution.

(b) "Deferred sentence" means a sentence that will not be carried out if the defendant meets certain requirements, such as complying with the conditions of probation.

NEW SECTION. Sec. 16. If funds are appropriated specifically for this purpose, the criminal justice training commission, in consultation with the Washington association of sheriffs and police chiefs, shall, by December 1, 2010, develop a model policy on law enforcement officer implementation of the procedures provided in this act relating to contact with a minor who is a "sexually exploited child" as defined in this act or who is a victim of offenses related to commercial sexual abuse of a minor as defined in chapter 9.68A RCW. The commission shall develop a curriculum based on the model policy for inclusion in its basic training academy by January 1, 2011.

**Sec. 17.** RCW 9.68A.110 and 2007 c 368 s 3 are each amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100. This chapter does not apply to lawful conduct between spouses.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter(~~(= PROVIDED, That)~~). It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100, 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not know the alleged victim's age(~~(= PROVIDED, That)~~). It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of

the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, it shall be an affirmative defense that the defendant was a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, the state is not required to establish the identity of the alleged victim.

**Sec. 18.** RCW 43.63A.740 and 2009 c 387 s 2 are each amended to read as follows:

The prostitution prevention and intervention account is created in the state treasury. All designated receipts from fees under RCW 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall be deposited into the account. Expenditures from the account may be used ~~((only for))~~ in the following order of priority:

(1) Programs that provide mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense pursuant to RCW 13.40.213;

(2) Funding for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs;

(3) Funding for services specified in RCW 74.14B.060 and 74.14B.070 for sexually exploited children; and

(4) Funding the grant program to enhance prostitution prevention and intervention services under RCW 43.63A.720.

NEW SECTION. **Sec. 19.** The following acts or parts of acts are each repealed: 2009 c 252 s 4 (uncodified).

Passed by the Senate March 9, 2010.

Passed by the House March 3, 2010.

Approved by the Governor April 1, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2010.

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

"I am returning herewith, without my approval as to Section 4 Engrossed Substitute Senate Bill 6476 entitled:

"AN ACT Relating to sex crimes involving minors."

Section 4 requires the Department of Social and Health Services to provide a report to the relevant policy and fiscal committees of the Legislature by November 1, 2010, regarding the training needed to allow staff of the Children's Administration and crisis residential centers to work effectively with sexually exploited youth. The report must identify the evidence-based training programs to be used and the cost of such training. This section would be codified in chapter 13.32A RCW.

The Department will make the information available. A statutorily required report is unnecessary.

For these reasons, I have vetoed sections Section 4 of Engrossed Substitute Senate Bill 6476.

With the exception of Section 4, Engrossed Substitute Senate Bill 6476 is approved."

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**CHAPTER 290**

[Substitute Senate Bill 6485]

**CRAFT DISTILLERIES**

AN ACT Relating to craft distilleries; and amending RCW 66.24.140, 66.24.145, 66.28.310, and 66.24.520.

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

**Sec. 1.** RCW 66.24.140 and 2008 c 94 s 1 are each amended to read as follows:

There shall be a license to distillers, including blending, rectifying and bottling; fee two thousand dollars per annum, unless provided otherwise as follows:

(1) For distillers producing (~~twenty~~) sixty thousand gallons or less of spirits with at least half of the raw materials used in the production grown in Washington, the license fee shall be reduced to one hundred dollars per annum;

(2) The board shall license stills used and to be used solely and only by a commercial chemist for laboratory purposes, and not for the manufacture of liquor for sale, at a fee of twenty dollars per annum;

(3) The board shall license stills used and to be used solely and only for laboratory purposes in any school, college or educational institution in the state, without fee; and

(4) The board shall license stills which shall have been duly licensed as fruit and/or wine distilleries by the federal government, used and to be used solely as fruit and/or wine distilleries in the production of fruit brandy and wine spirits, at a fee of two hundred dollars per annum.

**Sec. 2.** RCW 66.24.145 and 2008 c 94 s 2 are each amended to read as follows:

(1) Any craft distillery may sell spirits of its own production for consumption off the premises, up to two liters per person per day. Spirits sold under this subsection must be purchased from the board and sold at the retail price established by the board. A craft distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers.

(2) Any craft distillery may contract distill spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export.

(3) (~~((2))~~) Any craft distillery licensed under this section may provide, free of charge, one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit. Spirits used for samples must be purchased from the board.

(4) (~~((3))~~) The board shall adopt rules to implement the alcohol server permit requirement and may adopt additional rules to implement this section.

(5) (~~((4))~~) Distilling is an agricultural practice.

**Sec. 3.** RCW 66.28.310 and 2009 c 506 s 7 are each amended to read as follows:

(1)(a) Nothing in RCW 66.28.305 prohibits an industry member from providing retailers 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 or its employees in a manner consistent with its license;

(ii) Must bear imprinted advertising matter of the industry member only;

(iii) May be provided by industry members only to retailers 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 may not require an industry member to provide such branded promotional items as a condition for selling any alcohol to the retailer.

(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 an industry member from providing to a special occasion licensee and a special occasion licensee from receiving services for:

(a) Installation of draft beer dispensing equipment or advertising; ~~((e))~~

(b) Advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event; or

(c) 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.

(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; and

(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; or

(c) 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 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, 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 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. 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, certificate of approval holders, and retail licensees from identifying the producers on private labels authorized under RCW 66.24.400, 66.24.425, and 66.24.450.

(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.

**Sec. 4.** RCW 66.24.520 and 1986 c 214 s 1 are each amended to read as follows:

There shall be a grower's license to sell wine or spirits made from grapes or other agricultural products owned at the time of vinification or distillation by the licensee in bulk to holders of domestic wineries', distillers', or manufacturers' licenses or for export. The wine or spirits shall be made upon the premises of a domestic winery or craft distillery licensee and is referred to in this section as grower's wine or grower's spirits. A grower's license authorizes the agricultural product grower to contract for the manufacturing of wine or spirits from the grower's own agricultural product, store wine or spirits in bulk made from agricultural products produced by the holder of this license, and to sell wine or spirits in bulk made from the grower's own agricultural products to a winery or distillery in the state of Washington or to export in bulk for sale out-of-state. The annual fee for a grower's license shall be seventy-five dollars. For the purpose of chapter 66.28 RCW, a grower licensee shall be deemed a manufacturer.

Passed by the Senate March 9, 2010.  
Passed by the House March 3, 2010.  
Approved by the Governor April 1, 2010.  
Filed in Office of Secretary of State April 2, 2010.

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**CHAPTER 291**

[Substitute Senate Bill 6832]

**CHILD WELFARE—COMMITTEE RECOMMENDATIONS**

AN ACT Relating to the implementation of delivery of child welfare services through performance-based contracts by adding a foster youth representative to the child welfare transformation design committee; by clarifying the definition of supervising agency in relation to Indian tribes located in this state; by extending for six months the date by which the department must complete its contract conversion to performance-based contracts; by requiring that the performance contract conversion be accomplished in a manner that does not affect the department's ability to collect federal funding; by extending by six months the date by which supervising agencies must provide case management services in the demonstration sites; by clarifying that the primary preference for contracts if the demonstration sites are extended is with nonprofits, Indian tribes, and state employees; by clarifying that the department may provide child welfare services in the demonstration sites but only for the purpose of establishing a control or comparison group; amending RCW 74.13.368, 74.13.360, 74.13.364, and 74.13.366; reenacting and amending RCW 74.13.020; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature finds that, based upon the work of the child welfare transformation design committee established pursuant to 2SHB 2106 during the 2009 legislative session, several narrowly based amendments to that legislation need to be made, mainly for clarifying purposes. The legislature further finds that two deadlines need to be extended by six months, the first to allow the department of social and health services additional time to complete the conversion of its contracts to performance-based contracts and the second to allow the department additional time to gradually transfer existing cases to supervising agencies in the demonstration sites. The legislature finds that the addition of a foster youth on the child welfare transformation design committee will greatly assist the committee in its work.

The legislature recognizes that clarifying language regarding Indian tribes should be added regarding the government-to-government relationship the tribes have with the state. The legislature further recognizes that language is needed regarding the department's ability to receive federal funding based upon the recommendations made by the child welfare transformation design committee.

**Sec. 2.** RCW 74.13.368 and 2009 c 520 s 8 are each amended to read as follows:

(1)(a) The child welfare transformation design committee is established, with members as provided in this subsection.

(i) The governor or the governor's designee;

(ii) Four private agencies that, as of May 18, 2009, provide child welfare services to children and families referred to them by the department. Two agencies must be headquartered in western Washington and two must be headquartered in eastern Washington. Two agencies must have an annual budget of at least one million state-contracted dollars and two must have an annual budget of less than one million state-contracted dollars;

(iii) The assistant secretary of the children's administration in the department;

(iv) Two regional administrators in the children's administration selected by the assistant secretary, one from one of the department's administrative regions one or two, and one from one of the department's administrative regions three, four, five, or six;

(v) The administrator for the division of licensed resources in the children's administration;

(vi) Two nationally recognized experts in performance-based contracts;

(vii) The attorney general or the attorney general's designee;

(viii) A representative of the collective bargaining unit that represents the largest number of employees in the children's administration;

(ix) A representative from the office of the family and children's ombudsman;

(x) Four representatives from the Indian policy advisory committee convened by the department's office of Indian policy and support services;

(xi) Two currently elected or former superior court judges with significant experience in dependency matters, selected by the superior court judge's association;

(xii) One representative from partners for our children affiliated with the University of Washington school of social work;

(xiii) A member of the Washington state racial disproportionality advisory committee;

(xiv) A foster parent; ~~((and))~~

(xv) A youth currently in or a recent alumnus of the Washington state foster care system, to be designated by the cochairs of the committee; and

~~(xvi)~~ A parent representative who has had personal experience with the dependency system.

(b) The president of the senate and the speaker of the house of representatives shall jointly appoint the members under (a)(ii), (xiv), and ~~((xv))~~ ~~(xvi)~~ of this subsection.

(c) The representative from partners for our children shall convene the initial meeting of the committee no later than June 15, 2009.

(d) The cochairs of the committee shall be the assistant secretary for the children's administration and another member selected by a majority vote of those members present at the initial meeting.

(2) The committee shall establish a transition plan containing recommendations to the legislature and the governor consistent with this section for the provision of child welfare services by supervising agencies pursuant to RCW 74.13.360.

(3) The plan shall include the following:

(a) A model or framework for performance-based contracts to be used by the department that clearly defines:

(i) The target population;

(ii) The referral and exit criteria for the services;

(iii) The child welfare services including the use of evidence-based services and practices to be provided by contractors;

(iv) The roles and responsibilities of public and private agency workers in key case decisions;



- (v) Contract performance and outcomes, including those related to eliminating racial disparities in child outcomes;
- (vi) That supervising agencies will provide culturally competent service;
- (vii) How to measure whether each contractor has met the goals listed in RCW 74.13.360(5); and
- (viii) Incentives to meet performance outcomes;
- (b) A method by which the department will substantially reduce its current number of contracts for child welfare services;
- (c) A method or methods by which clients will access community-based services, how private supervising agencies will engage other services or form local service networks, develop subcontracts, and share information and supervision of children;
- (d) Methods to address the effects of racial disproportionality, as identified in the 2008 Racial Disproportionality Advisory Committee Report published by the Washington state institute for public policy in June 2008;
- (e) Methods for inclusion of the principles and requirements of the centennial accord executed in November 2001, executed between the state of Washington and federally recognized tribes in Washington state;
- (f) Methods for assuring performance-based contracts adhere to the letter and intent of the federal Indian child welfare act;
- (g) Contract monitoring and evaluation procedures that will ensure that children and families are receiving timely and quality services and that contract terms are being implemented;
- (h) A method or methods by which to ensure that the children's administration has sufficiently trained and experienced staff to monitor and manage performance-based contracts;
- (i) A process by which to expand the capacity of supervising and other private agencies to meet the service needs of children and families in a performance-based contractual arrangement;
- (j) A method or methods by which supervising and other private agencies can expand services in underserved areas of the state;
- (k) The appropriate amounts and procedures for the reimbursement of supervising agencies given the proposed services restructuring;
- (l) A method by which to access and enhance existing data systems to include contract performance information;
- (m) A financing arrangement for the contracts that examines:
  - (i) The use of case rates or performance-based fee-for-service contracts that include incentive payments or payment schedules that link reimbursement to outcomes; and
  - (ii) Ways to reduce a contractor's financial risk that could jeopardize the solvency of the contractor, including consideration of the use of a risk-reward corridor that limits risk of loss and potential profits or the establishment of a statewide risk pool;
- (n) A description of how the transition will impact the state's ability to obtain federal funding and examine options to further maximize federal funding opportunities and increased flexibility;
- (o) A review of whether current administrative staffing levels in the regions should be continued when the majority of child welfare services are being provided by supervising agencies;

(p) A description of the costs of the transition, the initial start-up costs and the mechanisms to periodically assess the overall adequacy of funds and the fiscal impact of the changes, and the feasibility of the plan and the impact of the plan on department employees during the transition; and

(q) Identification of any statutory and regulatory revisions necessary to accomplish the transition.

(4)(a) The committee, with the assistance of the department, shall select two demonstration sites within which to implement chapter 520, Laws of 2009. One site must be located on the eastern side of the state. The other site must be located on the western side of the state. Neither site must be wholly located in any of the department's administrative regions.

(b) The committee shall develop two sets of performance outcomes to be included in the performance-based contracts the department enters into with supervising agencies. The first set of outcomes shall be used for those cases transferred to a supervising agency over time. The second set of outcomes shall be used for new entrants to the child welfare system.

(c) The committee shall also identify methods for ensuring that comparison of performance between supervising agencies and the existing service delivery system takes into account the variation in the characteristics of the populations being served as well as historical trends in outcomes for those populations.

(5) The committee shall determine the appropriate size of the child and family populations to be provided services under performance-based contracts with supervising agencies. The committee shall also identify the time frame within which cases will be transferred to supervising agencies. The performance-based contracts entered into with supervising agencies shall encompass the provision of child welfare services to enough children and families in each demonstration site to allow for the assessment of whether there are meaningful differences, to be defined by the committee, between the outcomes achieved in the demonstration sites and the comparison sites or populations. To ensure adequate statistical power to assess these differences, the populations served shall be large enough to provide a probability greater than seventy percent that meaningful difference will be detected and a ninety-five percent probability that observed differences are not due to chance alone.

(6) The committee shall also prepare as part of the plan a recommendation as to how to implement chapter 520, Laws of 2009 so that full implementation of chapter 520, Laws of 2009 is achieved no later than (~~June~~) December 30, 2012.

(7) The committee shall prepare the plan to manage the delivery of child welfare services in a manner that achieves coordination of the services and programs that deliver primary prevention services.

(8) Beginning June 30, 2009, the committee shall report quarterly to the governor and the legislative children's oversight committee established in RCW 44.04.220. From June 30, 2012, until January 1, 2015, the committee need only report twice a year. The committee shall report on its progress in meeting its duties under subsections (2) and (3) of this section and on any other matters the committee or the legislative children's oversight committee or the governor deems appropriate. The portion of the plan required in subsection (6) of this section shall be due to the legislative children's oversight committee on or before June 1, 2010. The reports shall be in written form.

(9) The committee, by majority vote, may establish advisory committees as it deems necessary.

(10) All state executive branch agencies and the agencies with whom the department contracts for child welfare services shall cooperate with the committee and provide timely information as the chair or cochair may request. Cooperation by the children's administration must include developing and scheduling training for supervising agencies to access data and information necessary to implement and monitor the contracts.

(11) It is expected that the administrative costs for the committee will be supported through private funds.

(12) Staff support for the committee shall be provided jointly by partners for our children and legislative staff.

(13) The committee is subject to chapters 42.30 (open public meetings act) and 42.52 (ethics in public service) RCW.

(14) This section expires July 1, 2015.

**Sec. 3.** RCW 74.13.020 and 2009 c 520 s 2 and 2009 c 235 s 3 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Case management" means the management of services delivered to children and families in the child welfare system, including permanency services, caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means a person less than eighteen years of age.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

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

(7) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(8) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(9) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(10) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(11) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(12) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or ~~((an))~~ licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services, as defined in this section.

**Sec. 4.** RCW 74.13.360 and 2009 c 520 s 3 are each amended to read as follows:

(1) No later than ~~((January))~~ July 1, 2011, the department shall convert its current contracts with providers of child welfare services into performance-based contracts. In accomplishing this conversion, the department shall decrease the total number of contracts it uses to purchase child welfare services from providers. The conversion of contracts for the provision of child welfare services to performance-based contracts must be done in a manner that does not adversely affect the state's ability to continue to obtain federal funding for child welfare related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

(2) No later than ~~((July 1))~~ December 30, 2012:

(a) In the demonstration sites selected under RCW 74.13.368(4)(a), child welfare services shall be provided by supervising agencies with whom the department has entered into performance-based contracts. Supervising agencies may enter into subcontracts with other licensed agencies; and

(b) Except as provided in subsection (4) of this section, and notwithstanding any law to the contrary, the department may not directly provide child welfare

services to families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a).

(3) No later than ~~((July 1))~~ December 30, 2012, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a), the department is responsible for only the following:

(a) Monitoring the quality of services for which the department contracts under this chapter;

(b) Ensuring that the services are provided in accordance with federal law and the laws of this state, including the Indian child welfare act;

(c) Providing child protection functions and services, including intake and investigation of allegations of child abuse or neglect, emergency shelter care functions under RCW 13.34.050, and referrals to appropriate providers; and

(d) Issuing licenses pursuant to chapter 74.15 RCW.

(4) No later than ~~((July 1))~~ December 30, 2012, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a), the department may provide child welfare services only:

(a) For the limited purpose of establishing a control or comparison group as deemed necessary by the child welfare transformation design committee, with input from the Washington state institute for public policy, to implement the demonstration sites selected and defined pursuant to RCW 74.13.368(4)(a) in which the performance in achieving measurable outcomes will be compared and evaluated pursuant to RCW 74.13.370; or

(b) In an emergency or as a provider of last resort. The department shall adopt rules describing the circumstances under which the department may provide those services. For purposes of this section, "provider of last resort" means the department is unable to contract with a private agency to provide child welfare services in a particular geographic area or, after entering into a contract with a private agency, either the contractor or the department terminates the contract.

(5) For purposes of this chapter, on and after September 1, 2010, performance-based contracts shall be structured to hold the supervising agencies accountable for achieving the following goals in order of importance: Child safety; child permanency, including reunification; and child well-being.

(6) A federally recognized tribe located in this state may enter into a performance-based contract with the department to provide child welfare services to Indian children whether or not they reside on a reservation. Nothing in this section prohibits a federally recognized Indian tribe located in this state from providing child welfare services to its members or other Indian children pursuant to existing tribal law, regulation, or custom, or from directly entering into agreements for the provision of such services with the department, if the department continues to otherwise provide such services, or with federal agencies.

**Sec. 5.** RCW 74.13.364 and 2009 c 520 s 5 are each amended to read as follows:

Children whose cases are managed by a supervising agency as defined in RCW 74.13.020 remain under the care and placement authority of the state. The child welfare transformation design committee, in selecting demonstration sites

for the provision of child welfare services under RCW 74.13.368(4), shall maintain the placement and care authority of the state over children receiving child welfare services at a level that does not adversely affect the state's ability to continue to obtain federal funding for child welfare related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

**Sec. 6.** RCW 74.13.366 and 2009 c 520 s 6 are each amended to read as follows:

~~((Performance based contracts with private nonprofit entities who otherwise meet the definition of supervising agency shall receive primary preference. This section does not apply to Indian tribes.))~~ For the purposes of the provision of child welfare services by supervising agencies under this act, the department shall give primary preference for performance-based contracts to private nonprofit entities, including federally recognized Indian tribes located in this state, who otherwise meet the definition of supervising agency under RCW 74.13.020. In any continuation or expansion of delivery of child welfare services purchased through the use of performance-based contracts under the provisions of RCW 74.13.372, when all other elements of the bids are equal, private nonprofit entities, federally recognized Indian tribes located in this state, and state employees shall receive primary preference over private for profit entities.

Passed by the Senate March 9, 2010.

Passed by the House February 28, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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## CHAPTER 292

[Engrossed Substitute Senate Bill 6538]

### INSURANCE—SMALL EMPLOYER OR GROUP COVERAGE

AN ACT Relating to the definition of small groups for insurance purposes; amending RCW 48.43.035, 48.44.010, 48.44.023, 48.46.020, 48.46.066, 48.21.045, and 48.21.047; reenacting and amending RCW 48.43.005; creating a new section; providing a contingent effective date; and providing a contingent expiration date.

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

**Sec. 1.** RCW 48.43.005 and 2008 c 145 s 20 and 2008 c 144 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) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(3) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(4) "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.

(5) "Catastrophic health plan" means:

(a) 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

(b) 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; or

(c) Any health benefit plan that provides benefits for hospital inpatient and outpatient services, professional and prescription drugs provided in conjunction with such hospital inpatient and outpatient services, and excludes or substantially limits outpatient physician services and those services usually provided in an office setting.

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. The adjusted amount shall apply on the following January 1st.

(6) "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.

(7) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(8) "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.

(9) "Dependent" means, at a minimum, the enrollee's legal spouse and unmarried dependent children who qualify for coverage under the enrollee's health benefit plan.

(10) "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.

(11) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result

in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(12) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

(13) "Enrollee point-of-service 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.

(14) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding: (a) Denial of payment for medical services or nonprovision of medical services included in the covered person's health benefit plan, or (b) 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.

(15) "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.

(16) "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.

(17) "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.

(18) "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.

(19) "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; and
- (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.

(20) "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.

(21) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(22) "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.

(23) "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.

(24) "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 ~~((two))~~ one but no more than fifty employees, during the previous calendar year and employed at least ~~((two))~~ one employee(s) 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 on the day prior to June 10, 2004, shall also be considered a "small employer" to the extent that individual or~~

~~group of one is entitled to have his or her coverage renewed as provided in RCW 48.43.035(6)) 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.~~

(25) "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.

(26) "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.

**Sec. 2.** RCW 48.43.035 and 2004 c 244 s 4 are each amended to read as follows:

For group health benefit plans, the following shall apply:

(1) All health carriers shall accept for enrollment any state resident within the group to whom the plan is offered and within the carrier's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The insurance commissioner may grant a temporary exemption from this subsection, if, upon application by a health carrier the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a health carrier is required to continue enrollment of additional eligible individuals.

(2) Except as provided in subsection (5) of this section, all health plans shall contain or incorporate by endorsement a guarantee of the continuity of coverage of the plan. For the purposes of this section, a plan is "renewed" when it is continued beyond the earliest date upon which, at the carrier's sole option, the plan could have been terminated for other than nonpayment of premium. The carrier may consider the group's anniversary date as the renewal date for purposes of complying with the provisions of this section.

(3) The guarantee of continuity of coverage required in health plans shall not prevent a carrier from canceling or nonrenewing a health plan for:

(a) Nonpayment of premium;

(b) Violation of published policies of the carrier approved by the insurance commissioner;

(c) Covered persons entitled to become eligible for medicare benefits by reason of age who fail to apply for a medicare supplement plan or medicare cost, risk, or other plan offered by the carrier pursuant to federal laws and regulations;

(d) Covered persons who fail to pay any deductible or copayment amount owed to the carrier and not the provider of health care services;

(e) Covered persons committing fraudulent acts as to the carrier;

(f) Covered persons who materially breach the health plan; or

(g) Change or implementation of federal or state laws that no longer permit the continued offering of such coverage.

(4) The provisions of this section do not apply in the following cases:

(a) A carrier has zero enrollment on a product;

(b) A carrier replaces a product and the replacement product is provided to all covered persons within that class or line of business, includes all of the services covered under the replaced product, and does not significantly limit access to the kind of services covered under the replaced product. The health plan may also allow unrestricted conversion to a fully comparable product;

(c) No sooner than January 1, 2005, a carrier discontinues offering a particular type of health benefit plan offered for groups of up to two hundred if:

(i) The carrier provides notice to each group of the discontinuation at least ninety days prior to the date of the discontinuation; (ii) the carrier offers to each group provided coverage of this type the option to enroll, with regard to small employer groups, in any other small employer group plan, or with regard to groups of up to two hundred, in any other applicable group plan, currently being offered by the carrier in the applicable group market; and (iii) in exercising the option to discontinue coverage of this type and in offering the option of coverage under (c)(ii) of this subsection, the carrier acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for this coverage;

(d) A carrier discontinues offering all health coverage in the small group market or for groups of up to two hundred, or both markets, in the state and discontinues coverage under all existing group health benefit plans in the applicable market involved if: (i) The carrier provides notice to the commissioner of its intent to discontinue offering all such coverage in the state and its intent to discontinue coverage under all such existing health benefit plans at least one hundred eighty days prior to the date of the discontinuation of coverage under all such existing health benefit plans; and (ii) the carrier provides notice to each covered group of the intent to discontinue the existing health benefit plan at least one hundred eighty days prior to the date of discontinuation. In the case of discontinuation under this subsection, the carrier may not issue any group health coverage in this state in the applicable group market involved for a five-year period beginning on the date of the discontinuation of the last health benefit plan not so renewed. This subsection (4) does not require a carrier to provide notice to the commissioner of its intent to discontinue offering a health benefit plan to new applicants when the carrier does not discontinue coverage of existing enrollees under that health benefit plan; or

(e) A carrier is withdrawing from a service area or from a segment of its service area because the carrier has demonstrated to the insurance commissioner that the carrier's clinical, financial, or administrative capacity to serve enrollees would be exceeded.

(5) The provisions of this section do not apply to health plans deemed by the insurance commissioner to be unique or limited or have a short-term purpose, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

~~((6) Notwithstanding any other provision of this section, the guarantee of continuity of coverage applies to a group of one only if: (a) The carrier continues to offer any other small employer group plan in which the group of one was eligible to enroll on the day prior to June 10, 2004; and (b) the person continues to qualify as a group of one under the criteria in place on the day prior to June 10, 2004.))~~

**Sec. 3.** RCW 48.44.010 and 2007 c 267 s 2 are each amended to read as follows:

For the purposes of this chapter:

(1) "Health care services" means and includes medical, surgical, dental, chiropractic, hospital, optometric, podiatric, pharmaceutical, ambulance, custodial, mental health, and other therapeutic services.

(2) "Provider" means any health professional, hospital, or other institution, organization, or person that furnishes health care services and is licensed to furnish such services.

(3) "Health care service contractor" means any corporation, cooperative group, or association, which is sponsored by or otherwise intimately connected with a provider or group of providers, who or which not otherwise being engaged in the insurance business, accepts prepayment for health care services from or for the benefit of persons or groups of persons as consideration for providing such persons with any health care services. "Health care service contractor" does not include direct patient-provider primary care practices as defined in RCW 48.150.010.

(4) "Participating provider" means a provider, who or which has contracted in writing with a health care service contractor to accept payment from and to look solely to such contractor according to the terms of the subscriber contract for any health care services rendered to a person who has previously paid, or on whose behalf prepayment has been made, to such contractor for such services.

(5) "Enrolled participant" means a person or group of persons who have entered into a contractual arrangement or on whose behalf a contractual arrangement has been entered into with a health care service contractor to receive health care services.

(6) "Commissioner" means the insurance commissioner.

(7) "Uncovered expenditures" means the costs to the health care service contractor for health care services that are the obligation of the health care service contractor for which an enrolled participant would also be liable in the event of the health care service contractor's insolvency and for which no alternative arrangements have been made as provided herein. The term does not include expenditures for covered services when a provider has agreed not to bill the enrolled participant even though the provider is not paid by the health care service contractor, or for services that are guaranteed, insured or assumed by a person or organization other than the health care service contractor.

(8) "Copayment" means an amount specified in a group or individual contract which is an obligation of an enrolled participant for a specific service which is not fully prepaid.

(9) "Deductible" means the amount an enrolled participant is responsible to pay before the health care service contractor begins to pay the costs associated with treatment.

(10) "Group contract" means a contract for health care services which by its terms limits eligibility to members of a specific group. The group contract may include coverage for dependents.

(11) "Individual contract" means a contract for health care services issued to and covering an individual. An individual contract may include dependents.

(12) "Carrier" means a health maintenance organization, an insurer, a health care service contractor, or other entity responsible for the payment of benefits or provision of services under a group or individual contract.

(13) "Replacement coverage" means the benefits provided by a succeeding carrier.

(14) "Insolvent" or "insolvency" means that the organization has been declared insolvent and is placed under an order of liquidation by a court of competent jurisdiction.

(15) "Fully subordinated debt" means those debts that meet the requirements of RCW 48.44.037(3) and are recorded as equity.

(16) "Net worth" means the excess of total admitted assets as defined in RCW 48.12.010 over total liabilities but the liabilities shall not include fully subordinated debt.

(17) "Census date" means the date upon which a health care services contractor offering coverage to a small employer must base rate calculations. For a small employer applying for a health benefit plan through a contractor other than its current contractor, the census date is the date that final group composition is received by the contractor. For a small employer that is renewing its health benefit plan through its existing contractor, the census date is ninety days prior to the effective date of the renewal.

**Sec. 4.** RCW 48.44.023 and 2009 c 131 s 2 are each amended to read as follows:

(1)(a) A health care services contractor offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan featuring a limited schedule of covered health care services. Nothing in this subsection shall preclude a contractor from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. A contractor offering a health benefit plan under this subsection shall clearly disclose all covered benefits to the small employer in a brochure filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290, 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and 48.44.460.

(2) Nothing in this section shall prohibit a health care service contractor from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All

forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The contractor shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The contractor shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs. Up to a twenty percent variance may be allowed for small employers that develop and implement a wellness program or activities that directly improve employee wellness. Employers shall document program activities with the carrier and may, after three years of implementation, request a reduction in premiums based on improved employee health and wellness. While carriers may review the employer's claim history when making a determination regarding whether the employer's wellness program has improved employee health, the carrier may not use maternity or prevention services claims to deny the employer's request. Carriers may consider issues such as improved productivity or a reduction in absenteeism due to illness if submitted by the employer for consideration. Interested employers may also work with the carrier to develop a wellness program and a means to track improved employee health.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) On the census date, as defined in RCW 48.44.010, rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, and differences in census date between new and renewal groups, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(j) For health benefit plans purchased through the health insurance partnership established in chapter 70.47A RCW:

(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e) shall be applied only to health benefit plans purchased through the health insurance partnership; and

(ii) Risk adjustment or reinsurance mechanisms may be used by the health insurance partnership program to redistribute funds to carriers participating in the health insurance partnership based on differences in risk attributable to individual choice of health plans or other factors unique to health insurance partnership participation. Use of such mechanisms shall be limited to the partnership program and will not affect small group health plans offered outside the partnership.

(k) If the rate developed under this section varies the adjusted community rate for the factors listed in (a) of this subsection, the date for determining those factors must be no more than ninety days prior to the effective date of the health benefit plan.

(4) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection and subsection (3)(g) of this section, requirements used by a contractor in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) A contractor shall not require a minimum participation level greater than:

(i) One hundred percent of eligible employees working for groups with three or less employees; and

(ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) A contractor may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) Minimum participation requirements and employer premium contribution requirements adopted by the health insurance partnership board under RCW 70.47A.110 shall apply only to the employers and employees who purchase health benefit plans through the health insurance partnership.

(6) A contractor must offer coverage to all eligible employees of a small employer and their dependents. A contractor may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. A contractor may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

**Sec. 5.** RCW 48.46.020 and 1990 c 119 s 1 are each amended to read as follows:

As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context indicates otherwise.

(1) "Health maintenance organization" means any organization receiving a certificate of registration by the commissioner under this chapter which provides comprehensive health care services to enrolled participants of such organization on a group practice per capita prepayment basis or on a prepaid individual practice plan, except for an enrolled participant's responsibility for copayments and/or deductibles, either directly or through contractual or other arrangements with other institutions, entities, or persons, and which qualifies as a health maintenance organization pursuant to RCW 48.46.030 and 48.46.040.

(2) "Comprehensive health care services" means basic consultative, diagnostic, and therapeutic services rendered by licensed health professionals together with emergency and preventive care, inpatient hospital, outpatient and physician care, at a minimum, and any additional health care services offered by the health maintenance organization.

(3) "Enrolled participant" means a person who or group of persons which has entered into a contractual arrangement or on whose behalf a contractual arrangement has been entered into with a health maintenance organization to receive health care services.

(4) "Health professionals" means health care practitioners who are regulated by the state of Washington.

(5) "Health maintenance agreement" means an agreement for services between a health maintenance organization which is registered pursuant to the provisions of this chapter and enrolled participants of such organization which



provides enrolled participants with comprehensive health services rendered to enrolled participants by health professionals, groups, facilities, and other personnel associated with the health maintenance organization.

(6) "Consumer" means any member, subscriber, enrollee, beneficiary, or other person entitled to health care services under terms of a health maintenance agreement, but not including health professionals, employees of health maintenance organizations, partners, or shareholders of stock corporations licensed as health maintenance organizations.

(7) "Meaningful role in policy making" means a procedure approved by the commissioner which provides consumers or elected representatives of consumers a means of submitting the views and recommendations of such consumers to the governing board of such organization coupled with reasonable assurance that the board will give regard to such views and recommendations.

(8) "Meaningful grievance procedure" means a procedure for investigation of consumer grievances in a timely manner aimed at mutual agreement for settlement according to procedures approved by the commissioner, and which may include arbitration procedures.

(9) "Provider" means any health professional, hospital, or other institution, organization, or person that furnishes any health care services and is licensed or otherwise authorized to furnish such services.

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

(11) "Commissioner" means the insurance commissioner.

(12) "Group practice" means a partnership, association, corporation, or other group of health professionals:

(a) The members of which may be individual health professionals, clinics, or both individuals and clinics who engage in the coordinated practice of their profession; and

(b) The members of which are compensated by a prearranged salary, or by capitation payment or drawing account that is based on the number of enrolled participants.

(13) "Individual practice health care plan" means an association of health professionals in private practice who associate for the purpose of providing prepaid comprehensive health care services on a fee-for-service or capitation basis.

(14) "Uncovered expenditures" means the costs to the health maintenance organization of health care services that are the obligation of the health maintenance organization for which an enrolled participant would also be liable in the event of the health maintenance organization's insolvency and for which no alternative arrangements have been made as provided herein. The term does not include expenditures for covered services when a provider has agreed not to bill the enrolled participant even though the provider is not paid by the health maintenance organization, or for services that are guaranteed, insured, or assumed by a person or organization other than the health maintenance organization.

(15) "Copayment" means an amount specified in a subscriber agreement which is an obligation of an enrolled participant for a specific service which is not fully prepaid.

(16) "Deductible" means the amount an enrolled participant is responsible to pay out-of-pocket before the health maintenance organization begins to pay the costs associated with treatment.

(17) "Fully subordinated debt" means those debts that meet the requirements of RCW 48.46.235(3) and are recorded as equity.

(18) "Net worth" means the excess of total admitted assets as defined in RCW 48.12.010 over total liabilities but the liabilities shall not include fully subordinated debt.

(19) "Participating provider" means a provider as defined in subsection (9) of this section who contracts with the health maintenance organization or with its contractor or subcontractor and has agreed to provide health care services to enrolled participants with an expectation of receiving payment, other than copayment or deductible, directly or indirectly, from the health maintenance organization.

(20) "Carrier" means a health maintenance organization, an insurer, a health care services contractor, or other entity responsible for the payment of benefits or provision of services under a group or individual agreement.

(21) "Replacement coverage" means the benefits provided by a succeeding carrier.

(22) "Insolvent" or "insolvency" means that the organization has been declared insolvent and is placed under an order of liquidation by a court of competent jurisdiction.

(23) "Census date" means the date upon which a health maintenance organization offering coverage to a small employer must base rate calculations. For a small employer applying for a health benefit plan through a health maintenance organization other than its current health maintenance organization, the census date is the date that final group composition is received by the health maintenance organization. For a small employer that is renewing its health benefit plan through its existing health maintenance organization, the census date is ninety days prior to the effective date of the renewal.

**Sec. 6.** RCW 48.46.066 and 2009 c 131 s 3 are each amended to read as follows:

(1)(a) A health maintenance organization offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan featuring a limited schedule of covered health care services. Nothing in this subsection shall preclude a health maintenance organization from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. A health maintenance organization offering a health benefit plan under this subsection shall clearly disclose all the covered benefits to the small employer in a brochure filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510, 48.46.520, and 48.46.530.

(2) Nothing in this section shall prohibit a health maintenance organization from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The health maintenance organization shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The health maintenance organization shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs. Up to a twenty percent variance may be allowed for small employers that develop and implement a wellness program or activities that directly improve employee wellness. Employers shall document program activities with the carrier and may, after three years of implementation, request a reduction in premiums based on improved employee health and wellness. While carriers may review the employer's claim history when making a determination regarding whether the employer's wellness program has improved employee health, the carrier may not use maternity or prevention services claims to deny the employer's request. Carriers may consider issues such as improved productivity or a reduction in absenteeism due to illness if submitted by the employer for consideration. Interested employers may also work with the carrier to develop a wellness program and a means to track improved employee health.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) On the census date, as defined in RCW 48.46.020, rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, and differences in census date between new and renewal groups, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(j) For health benefit plans purchased through the health insurance partnership established in chapter 70.47A RCW:

(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e) shall be applied only to health benefit plans purchased through the health insurance partnership; and

(ii) Risk adjustment or reinsurance mechanisms may be used by the health insurance partnership program to redistribute funds to carriers participating in the health insurance partnership based on differences in risk attributable to individual choice of health plans or other factors unique to health insurance partnership participation. Use of such mechanisms shall be limited to the partnership program and will not affect small group health plans offered outside the partnership.

(k) If the rate developed under this section varies the adjusted community rate for the factors listed in (a) of this subsection, the date for determining those factors must be no more than ninety days prior to the effective date of the health benefit plan.

(4) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection and subsection (3)(g) of this section, requirements used by a health maintenance organization in determining

whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) A health maintenance organization shall not require a minimum participation level greater than:

(i) One hundred percent of eligible employees working for groups with three or less employees; and

(ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) A health maintenance organization may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) Minimum participation requirements and employer premium contribution requirements adopted by the health insurance partnership board under RCW 70.47A.110 shall apply only to the employers and employees who purchase health benefit plans through the health insurance partnership.

(6) A health maintenance organization must offer coverage to all eligible employees of a small employer and their dependents. A health maintenance organization may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. A health maintenance organization may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

**Sec. 7.** RCW 48.21.045 and 2009 c 131 s 1 are each amended to read as follows:

(1)(a) An insurer offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan featuring a limited schedule of covered health care services. Nothing in this subsection shall preclude an insurer from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. An insurer offering a health benefit plan under this subsection shall clearly disclose all covered benefits to the small employer in a brochure filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142, 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200, 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.244, 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

(2) Nothing in this section shall prohibit an insurer from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health

benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The insurer shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The insurer shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs. Up to a twenty percent variance may be allowed for small employers that develop and implement a wellness program or activities that directly improve employee wellness. Employers shall document program activities with the carrier and may, after three years of implementation, request a reduction in premiums based on improved employee health and wellness. While carriers may review the employer's claim history when making a determination regarding whether the employer's wellness program has improved employee health, the carrier may not use maternity or prevention services claims to deny the employer's request. Carriers may consider issues such as improved productivity or a reduction in absenteeism due to illness if submitted by the employer for consideration. Interested employers may also work with the carrier to develop a wellness program and a means to track improved employee health.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) On the census date, as defined in RCW 48.21.047, rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, and differences in census date between new and

renewal groups, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all small groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(j) For health benefit plans purchased through the health insurance partnership established in chapter 70.47A RCW:

(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e) shall be applied only to health benefit plans purchased through the health insurance partnership; and

(ii) Risk adjustment or reinsurance mechanisms may be used by the health insurance partnership program to redistribute funds to carriers participating in the health insurance partnership based on differences in risk attributable to individual choice of health plans or other factors unique to health insurance partnership participation. Use of such mechanisms shall be limited to the partnership program and will not affect small group health plans offered outside the partnership.

(k) If the rate developed under this section varies the adjusted community rate for the factors listed in (a) of this subsection, the date for determining those factors must be no more than ninety days prior to the effective date of the health benefit plan.

(4) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection and subsection (3)(g) of this section, requirements used by an insurer in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) An insurer shall not require a minimum participation level greater than:

(i) One hundred percent of eligible employees working for groups with three or less employees; and

(ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) An insurer may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) Minimum participation requirements and employer premium contribution requirements adopted by the health insurance partnership board under RCW 70.47A.110 shall apply only to the employers and employees who purchase health benefit plans through the health insurance partnership.

(6) An insurer must offer coverage to all eligible employees of a small employer and their dependents. An insurer may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. An insurer may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

(7) As used in this section, "health benefit plan," "small employer," "adjusted community rate," and "wellness activities" mean the same as defined in RCW 48.43.005.

**Sec. 8.** RCW 48.21.047 and 2005 c 223 s 11 are each amended to read as follows:

(1) An insurer may not offer any health benefit plan to any small employer without complying with RCW 48.21.045(3).

(2) Employers purchasing health plans provided through associations or through member-governed groups formed specifically for the purpose of purchasing health care are not small employers and the plans are not subject to RCW 48.21.045(3).

(3) For purposes of this section, "health benefit plan," "health plan," and "small employer" mean the same as defined in RCW 48.43.005.

(4) For purposes of this section, "census date" has the same meaning as defined in RCW 48.44.010.

NEW SECTION. **Sec. 9.** This act applies to policies issued or renewed on or after January 1, 2011.

NEW SECTION. **Sec. 10.** If federal legislation that includes guaranteed issue for individuals who purchase health coverage through the individual or small group market has not been signed by the President of the United States by December 31, 2010, sections 1 and 2 of this act are null and void.

NEW SECTION. **Sec. 11.** Sections 1 and 2 of this act take effect one hundred eighty days after the date the insurance commissioner certifies to the secretary of the senate, the chief clerk of the house of representatives, and the code reviser's office that federal legislation has been signed into law by the



President of the United States that includes guaranteed issue for individuals who purchase health coverage through the individual or small group markets.

Passed by the Senate March 10, 2010.

Passed by the House March 9, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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### CHAPTER 293

[Substitute Senate Bill 6584]

#### HEALTH CARE AUTHORITY—CUSTOMER COMPLAINTS

AN ACT Relating to monitoring customer complaints and appeals and reporting them to the legislature; and adding a new section to chapter 41.05 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 41.05 RCW to read as follows:

Beginning in 2011, the state health care authority must process as a complaint an enrollee's expression of dissatisfaction about customer service or the quality or availability of a health service. The agency must require that each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140 must submit a summary of customer service complaints and appeals to the agency to be included in an annual report to the legislature. Each annual report must summarize the complaints and appeals processed by the state health care authority and contracted carriers in the preceding twelve months, and include an analysis of any trends identified. The report must be must complete by September 30th of each year.

Passed by the Senate February 16, 2010.

Passed by the House February 28, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

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### CHAPTER 294

[Substitute Senate Bill 6590]

#### LAW ENFORCEMENT PERSONNEL—CONDUCT—PUBLIC POLICY

AN ACT Relating to law enforcement officer conduct; and adding a new section to chapter 43.101 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.101 RCW to read as follows:

It is the policy of the state of Washington that all commissioned, appointed, and elected law enforcement personnel comply with their oath of office and agency policies regarding the duty to be truthful and honest in the conduct of their official business.

Passed by the Senate March 8, 2010.  
Passed by the House February 28, 2010.  
Approved by the Governor April 1, 2010.  
Filed in Office of Secretary of State April 2, 2010.

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**CHAPTER 295**

[Substitute Senate Bill 6614]

BONNEVILLE POWER ADMINISTRATION—CONSERVATION PROGRAMS—  
TAX EXEMPTION

AN ACT Relating to clarifying the applicability of business and occupation tax to conservation programs with the Bonneville power administration; amending RCW 82.04.310; and providing an expiration date.

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

**Sec. 1.** RCW 82.04.310 and 2007 c 58 s 1 are each amended to read as follows:

(1) This chapter (~~shall~~) does not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of chapter 82.16 RCW including amounts derived from activities for which a deduction is allowed under RCW 82.16.050.

(2) This chapter does not apply to amounts received by any person for the sale of electrical energy for resale within or outside the state.

(3)(a) This chapter does not apply to amounts received by any person for the sale of natural or manufactured gas in a calendar year if that person sells within the United States a total amount of natural or manufactured gas in that calendar year that is no more than twenty percent of the amount of natural or manufactured gas that it consumes within the United States in the same calendar year.

(b) For purposes of determining whether a person has sold within the United States a total amount of natural or manufactured gas in a calendar year that is no more than twenty percent of the amount of natural or manufactured gas that it consumes within the United States in the same calendar year, the following transfers of gas are not considered to be the sale of natural or manufactured gas:

(i) The transfer of any natural or manufactured gas as a result of the acquisition of another business, through merger or otherwise; or

(ii) The transfer of any natural or manufactured gas accomplished solely to comply with federal regulatory requirements imposed on the pipeline transportation of such gas when it is shipped by a third-party manager of a person's pipeline transportation.

(4) This chapter does not apply to amounts received by any person in the form of credits against power contracts with the Bonneville power administration, or funds provided by the Bonneville power administration, for the purpose of implementing energy conservation programs or demand-side management programs.

NEW SECTION. **Sec. 2.** This act expires June 30, 2015.

Passed by the Senate March 8, 2010.  
Passed by the House March 9, 2010.

Approved by the Governor April 1, 2010.  
Filed in Office of Secretary of State April 2, 2010.

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**CHAPTER 296**

[Engrossed Substitute Senate Bill 6726]

**LANGUAGE ACCESS PROVIDERS—COLLECTIVE BARGAINING**

AN ACT Relating to making the governor the public employer of language access providers; amending RCW 41.56.030, 41.56.113, 41.04.810, 43.01.047, and 74.04.025; adding a new section to chapter 41.56 RCW; and creating new sections.

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

***\*NEW SECTION. Sec. 1. (1) No later than thirty days after the effective date of this section, the office of financial management shall establish a working group on language access services.***

***(2) The working group shall include members that have experience and knowledge of language access services in Washington state, including representatives of a statewide association representing hospitals, community health centers and providers for underserved and immigrant populations, statewide associations representing physicians, other health care providers who serve medicaid patients, a statewide labor union currently working with language access providers, statewide professional interpreter associations, community-based organizations that advocate for persons with limited English proficiency, language access providers, language access agencies, brokers, and the department of social and health services.***

***(3) A representative of the office of financial management shall chair the working group, and the department shall provide staff to support the working group's activities.***

***(4) The working group shall develop a plan to improve the efficiency and effectiveness of language access services. The plan shall describe the best possible means by which the following criteria are achieved: Administrative and overhead costs, including brokers and language access agencies, are reduced; timeliness and flexibility for medical providers is improved; access to services is maintained or improved; the pool of qualified interpreters is stabilized; and fraud and abuse are prevented.***

***(5) The office of financial management shall report the findings of the working group to the legislature no later than September 30, 2010.***

*\*Sec. 1 was vetoed. See message at end of chapter.*

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.56 RCW to read as follows:

(1) In addition to the entities listed in RCW 41.56.020, this chapter applies to the governor with respect to language access providers. Solely for the purposes of collective bargaining and as expressly limited under subsections (2) and (3) of this section, the governor is the public employer of language access providers who, solely for the purposes of collective bargaining, are public employees. The governor or the governor's designee shall represent the public employer for bargaining purposes.

(2) There shall be collective bargaining, as defined in RCW 41.56.030, between the governor and language access providers, except as follows:

(a) A statewide unit of all language access providers is the only unit appropriate for purposes of collective bargaining under RCW 41.56.060;

(b) The exclusive bargaining representative of language access providers in the unit specified in (a) of this subsection shall be the representative chosen in an election conducted pursuant to RCW 41.56.070.

Bargaining authorization cards furnished as the showing of interest in support of any representation petition or motion for intervention filed under this section are exempt from disclosure under chapter 42.56 RCW;

(c) Notwithstanding the definition of "collective bargaining" in RCW 41.56.030(4), the scope of collective bargaining for language access providers under this section is limited solely to: (i) Economic compensation, such as the manner and rate of payments; (ii) professional development and training; (iii) labor-management committees; and (iv) grievance procedures. Retirement benefits are not subject to collective bargaining. By such obligation neither party may be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter;

(d) In addition to the entities listed in the mediation and interest arbitration provisions of RCW 41.56.430 through 41.56.470 and 41.56.480, the provisions apply to the governor or the governor's designee and the exclusive bargaining representative of language access providers, except that:

(i) In addition to the factors to be taken into consideration by an interest arbitration panel under RCW 41.56.465, the panel shall consider the financial ability of the state to pay for the compensation and benefit provisions of a collective bargaining agreement;

(ii) The decision of the arbitration panel is not binding on the legislature and, if the legislature does not approve the request for funds necessary to implement the compensation and benefit provisions of the arbitrated collective bargaining agreement, the decision is not binding on the state;

(e) Language access providers do not have the right to strike.

(3) Language access providers who are public employees solely for the purposes of collective bargaining under subsection (1) of this section are not, for that reason, employees of the state for any other purpose. This section applies only to the governance of the collective bargaining relationship between the employer and language access providers as provided in subsections (1) and (2) of this section.

(4) Each party with whom the department of social and health services contracts for language access services and each of their subcontractors shall provide to the department an accurate list of language access providers, as defined in RCW 41.56.030, including their names, addresses, and other contact information, annually by January 30th, except that initially the lists must be provided within thirty days of the effective date of this section. The department shall, upon request, provide a list of all language access providers, including their names, addresses, and other contact information, to a labor union seeking to represent language access providers.

(5) This section does not create or modify:

(a) The department's obligation to comply with the federal statute and regulations; and

(b) The legislature's right to make programmatic modifications to the delivery of state services under chapter 74.04 RCW. The governor may not enter

into, extend, or renew any agreement under this chapter that does not expressly reserve the legislative rights described in this subsection.

(6) Upon meeting the requirements of subsection (7) of this section, the governor must submit, as a part of the proposed biennial or supplemental operating budget submitted to the legislature under RCW 43.88.030, a request for funds necessary to implement the compensation and benefit provisions of a collective bargaining agreement entered into under this section or for legislation necessary to implement the agreement.

(7) A request for funds necessary to implement the compensation and benefit provisions of a collective bargaining agreement entered into under this section may not be submitted by the governor to the legislature unless the request has been:

(a) Submitted to the director of financial management by October 1st prior to the legislative session at which the requests are to be considered, except that, for initial negotiations under this section, the request may not be submitted before July 1, 2011; and

(b) Certified by the director of financial management as financially feasible for the state or reflective of a binding decision of an arbitration panel reached under subsection (2)(d) of this section.

(8) The legislature must approve or reject the submission of the request for funds as a whole. If the legislature rejects or fails to act on the submission, any collective bargaining agreement must be reopened for the sole purpose of renegotiating the funds necessary to implement the agreement.

(9) If, after the compensation and benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(10) After the expiration date of any collective bargaining agreement entered into under this section, all of the terms and conditions specified in the agreement remain in effect until the effective date of a subsequent agreement, not to exceed one year from the expiration date stated in the agreement.

(11) In enacting this section, the legislature intends to provide state action immunity under federal and state antitrust laws for the joint activities of language access providers and their exclusive bargaining representative to the extent the activities are authorized by this chapter.

**Sec. 3.** RCW 41.56.030 and 2007 c 184 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter, or any subdivision of such public body. For the purposes of this section, the public employer of district court or superior court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer for nonwage-related matters is the judge or judge's designee of the respective district court or superior court.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to

statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to (i) the executive head or body of the applicable bargaining unit, or (ii) any person elected by popular vote, or (iii) any person appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (d) who is a court commissioner or a court magistrate of superior court, district court, or a department of a district court organized under chapter 3.46 RCW, or (e) who is a personal assistant to a district court judge, superior court judge, or court commissioner. For the purpose of (e) of this subsection, no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Commission" means the public employment relations commission.

(6) "Executive director" means the executive director of the commission.

(7) "Uniformed personnel" means: (a) Law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of ten thousand or more; (b) correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(~~((5))~~) (9), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates; (c) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more; (d) security forces established under RCW 43.52.520; (e) firefighters as that term is defined in RCW 41.26.030; (f) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other firefighting duties; (g) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; or (h) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer.

(8) "Institution of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(9) "Home care quality authority" means the authority under chapter 74.39A RCW.

(10) "Individual provider" means an individual provider as defined in RCW 74.39A.240(4) who, solely for the purposes of collective bargaining, is a public employee as provided in RCW 74.39A.270.

(11) "Child care subsidy" means a payment from the state through a child care subsidy program established pursuant to RCW 74.12.340 or 74.08A.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor program.

(12) "Family child care provider" means a person who: (a) Provides regularly scheduled care for a child or children in the home of the provider or in the home of the child or children for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours; (b) receives child care subsidies; and (c) is either licensed by the state under RCW 74.15.030 or is exempt from licensing under chapter 74.15 RCW.

(13) "Adult family home provider" means a provider as defined in RCW 70.128.010 who receives payments from the medicaid and state-funded long-term care programs.

(14)(a) "Language access provider" means any independent contractor who provides spoken language interpreter services for department of social and health services appointments or medicaid enrollee appointments, or provided these services on or after January 1, 2009, and before the effective date of this section, whether paid by a broker, language access agency, or the department.

(b) "Language access provider" does not mean an owner, manager, or employee of a broker or a language access agency.

**Sec. 4.** RCW 41.56.113 and 2007 c 184 s 3 are each amended to read as follows:

(1) This subsection (1) applies only if the state makes the payments directly to a provider.

(a) Upon the written authorization of an individual provider, a family child care provider, ~~((or))~~ an adult family home provider, or a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state as payor, but not as the employer, shall, subject to (c) of this subsection ~~((3) of this section))~~, deduct from the payments to an individual provider, a family child care provider, ~~((or))~~ an adult family home provider, or a language access provider the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative.

~~((2))~~ (b) If the governor and the exclusive bargaining representative of a bargaining unit of individual providers, family child care providers, ~~((or))~~ adult family home providers, or language access providers enter into a collective bargaining agreement that:

~~((a))~~ (i) Includes a union security provision authorized in RCW 41.56.122, the state as payor, but not as the employer, shall, subject to (c) of this subsection

~~((3) of this section~~)), enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or

~~((b))~~ (i) Includes requirements for deductions of payments other than the deduction under (a)(i) of this subsection, the state, as payor, but not as the employer, shall, subject to (c) of this subsection ~~((3) of this section~~), make such deductions upon written authorization of the individual provider, family child care provider, ~~((c))~~ adult family home provider, or language access provider.

~~((3)(a))~~ (c)(i) The initial additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~(and)~~ adult family home providers, and language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

~~((b))~~ (ii) The allocation of ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((c))~~ adult family home providers, or language access providers under this section shall be an appropriate subject of collective bargaining between the exclusive bargaining representative and the governor unless prohibited by another statute. If no collective bargaining agreement containing a provision allocating the ongoing additional cost is entered into between the exclusive bargaining representative and the governor, or if the legislature does not approve funding for the collective bargaining agreement as provided in RCW 74.39A.300, 41.56.028, ~~((c))~~ 41.56.029, or section 2 of this act, as applicable, the ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((c))~~ adult family home providers, or language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

~~((4))~~ (d) The governor and the exclusive bargaining representative of a bargaining unit of family child care providers may not enter into a collective bargaining agreement that contains a union security provision unless the agreement contains a process, to be administered by the exclusive bargaining representative of a bargaining unit of family child care providers, for hardship dispensation for license-exempt family child care providers who are also temporary assistance for needy families recipients or WorkFirst participants.

(2) This subsection (2) applies only if the state does not make the payments directly to a provider.

(a) Upon the written authorization of a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state shall require through its contracts with third parties that:

(i) The monthly amount of dues as certified by the secretary of the exclusive bargaining representative be deducted from the payments to the language access provider and transmitted to the treasurer of the exclusive bargaining representative; and

(ii) A record showing that dues have been deducted as specified in (a)(i) of this subsection be provided to the state.



(b) If the governor and the exclusive bargaining representative of the bargaining unit of language access providers enter into a collective bargaining agreement that includes a union security provision authorized in RCW 41.56.122, the state shall enforce the agreement by requiring through its contracts with third parties that:

(i) The monthly amount of dues required for membership in the exclusive bargaining representative as certified by the secretary of the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues, be deducted from the payments to the language access provider and transmitted to the treasurer of the exclusive bargaining representative; and

(ii) A record showing that dues or fees have been deducted as specified in (a)(i) of this subsection be provided to the state.

**Sec. 5.** RCW 41.04.810 and 2007 c 184 s 4 are each amended to read as follows:

Individual providers, as defined in RCW 74.39A.240, and family child care providers, ~~((as defined in RCW 41.56.030, and))~~ adult family home providers, and language access providers, all as defined in RCW 41.56.030, are not employees of the state or any of its political subdivisions and are specifically and entirely excluded from all provisions of this title, except as provided in RCW 74.39A.270, 41.56.028, and 41.56.029.

**Sec. 6.** RCW 43.01.047 and 2007 c 184 s 5 are each amended to read as follows:

RCW 43.01.040 through 43.01.044 do not apply to individual providers under RCW 74.39A.220 through 74.39A.300, family child care providers under RCW 41.56.028, or adult family home providers under RCW 41.56.029, or language access providers under section 2 of this act.

**Sec. 7.** RCW 74.04.025 and 1998 c 245 s 143 are each amended to read as follows:

(1) The department and the office of administrative hearings shall ensure that bilingual services are provided to non-English speaking applicants and recipients. The services shall be provided to the extent necessary to assure that non-English speaking persons are not denied, or unable to obtain or maintain, services or benefits because of their inability to speak English.

(2) If the number of non-English speaking applicants or recipients sharing the same language served by any community service office client contact job classification equals or exceeds fifty percent of the average caseload of a full-time position in such classification, the department shall, through attrition, employ bilingual personnel to serve such applicants or recipients.

(3) Regardless of the applicant or recipient caseload of any community service office, each community service office shall ensure that bilingual services required to supplement the community service office staff are provided through contracts with ~~((interpreters))~~ language access providers, local agencies, or other community resources.

(4) The department shall certify, authorize, and qualify language access providers as needed to maintain an adequate pool of providers.

(5) The department shall require compliance with RCW 41.56.113(2) through its contracts with third parties.

(6) Initial client contact materials shall inform clients in all primary languages of the availability of interpretation services for non-English speaking persons. Basic informational pamphlets shall be translated into all primary languages.

~~((5))~~ (7) To the extent all written communications directed to applicants or recipients are not in the primary language of the applicant or recipient, the department and the office of administrative hearings shall include with the written communication a notice in all primary languages of applicants or recipients describing the significance of the communication and specifically how the applicants or recipients may receive assistance in understanding, and responding to if necessary, the written communication. The department shall assure that sufficient resources are available to assist applicants and recipients in a timely fashion with understanding, responding to, and complying with the requirements of all such written communications.

~~((6))~~ (8) As used in this section(~~(5)~~):

(a) "Language access provider" means any independent contractor who provides spoken language interpreter services for department appointments or medicaid enrollee appointments, or provided these services on or after January 1, 2009, and before the effective date of this section, whether paid by a broker, language access agency, or the department. "Language access provider" does not mean an owner, manager, or employee of a broker or a language access agency.

(b) "Primary languages" includes but is not limited to Spanish, Vietnamese, Cambodian, Laotian, and Chinese.

NEW SECTION. Sec. 8. 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. 9. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

Passed by the Senate March 9, 2010.

Passed by the House March 5, 2010.

Approved by the Governor April 1, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2010.

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

"I am returning herewith, without my approval as to Section 1, Engrossed Substitute Senate Bill 6726 entitled:

"AN ACT Relating to making the governor the public employer of language access providers."

This bill provides for collective bargaining between the Governor and language access providers. Section 1 creates a new workgroup, directed by the Office of Financial Management, charged with developing a plan to improve the efficiency and effectiveness for interpreter service delivery for the

Department of Social and Health Services. The Office of Financial Management is to report the findings of the workgroup to the Legislature no later than September 30, 2010.

Collective bargaining for language access providers working with the Department of Social and Health Services does not require a legislatively mandated workgroup to make recommendations on improvements to the delivery of services. I am directing the Office of Financial Management and the Department of Social and Health Services to conduct an internal review resulting in recommendations to improve administrative efficiency and effectiveness of language access services and, as part of the review, to seek input from the appropriate stakeholders.

For these reasons, I have vetoed Section 1 of Engrossed Substitute Senate Bill 6726.

With the exception of Section 1, Engrossed Substitute Senate Bill 6726 is approved."

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# **WASHINGTON LAWS**

**2010 SPECIAL SESSION**



## CHAPTER 1

[Engrossed Substitute Senate Bill 6789]

## COMPUTER DATA CENTERS—SALES AND USE TAX EXEMPTION

AN ACT Relating to sales and use tax exemptions for certain equipment and infrastructure contained in data centers; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; providing an effective date; providing expiration dates; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** (1) It is the legislature's intent to encourage immediate investments in technology facilities that can provide an economic stimulus, sustain long-term jobs that provide living wages, and help build the digital infrastructure that can enable the state to be competitive for additional technology investment and jobs.

(2) There is currently an intense competition for data center construction and operation in many states including: Oregon, Arizona, North and South Carolina, North Dakota, Iowa, Virginia, Texas, and Illinois. Unprecedented incentives are available as a result of the desire of these states to attract investments that will serve as a catalyst for additional clusters of economic activity.

(3) Since the economic downturn, Washington has not succeeded in attracting any private investments in these centers after siting six major data centers between 2004 and 2007.

(4) Data center technology has advanced rapidly, with marked increases in energy efficiency. Large, commercial-grade data centers leverage the economies of scale to reduce energy consumption. Combining digitized processes with the economies of scale recognized at these data centers, today's enterprises can materially reduce the energy they consume and greatly improve their efficiency.

(5) The legislature finds that a fifteen-month window that offers an exemption for server and related electrical equipment and installation will act as a stimulus to incent immediate investment. This investment will bring jobs, tax revenues, and economic growth to some of our state's rural areas.

**NEW SECTION. Sec. 2.** A new section is added to chapter 82.08 RCW to read as follows:

(1) An exemption from the tax imposed by RCW 82.08.020 is provided for sales to qualifying businesses of eligible server equipment to be installed, without intervening use, in an eligible computer data center, and to charges made for labor and services rendered in respect to installing eligible server equipment. The exemption also applies to sales to qualifying businesses of eligible power infrastructure, including labor and services rendered in respect to constructing, installing, repairing, altering, or improving eligible power infrastructure.

(2)(a) In order to claim the exemption under this section, a qualifying business must submit an application to the department for an exemption certificate. The application must include the information necessary, as required by the department, to determine that a business qualifies for the exemption under this section. The department must issue exemption certificates to qualifying businesses. The department may assign a unique identification number to each exemption certificate issued under this section.

(b) A qualifying business claiming the exemption under this section must present 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)(a) A qualifying business must establish within six years of the first day of the calendar quarter in which the business first receives an exemption under this section or section 3 of this act that it has increased employment in a computer data center by a minimum of thirty-five family wage jobs from the date the eligible computer data center first became operational. For purposes of this subsection, family wage jobs are new permanent employment positions requiring forty hours of weekly work, or their equivalent, on a full-time basis and paying a wage equivalent to or greater than one hundred fifty percent of the per capita personal income of the county in which the qualified project is located. The qualifying business must provide health insurance coverage for employees.

(b) All previously exempted sales and use taxes are immediately due and payable for a qualifying business that does not meet the requirements of this subsection.

(4) A qualifying business claiming an exemption under this section or section 3 of this act must complete an annual report with the department as required under section 103, chapter . . . , Laws of 2010 (Substitute House Bill No. 3066).

(5)(a) The exemption provided in this section does not apply to:

(i) Any person who has received the benefit of the deferral program under chapter 82.60 RCW on: (A) The construction, renovation, or expansion of a structure or structures used as a computer data center; or (B) machinery or equipment used in a computer data center; and

(ii) Any person affiliated with a person within the scope of (a)(i) of this subsection (5). For purposes of this subsection, "affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

(b) If a person claims an exemption under this section and subsequently receives the benefit of the deferral program under chapter 82.60 RCW on either the construction, renovation, or expansion of a structure or structures used as a computer data center or machinery or equipment used in a computer data center, the person must repay the amount of taxes exempted under this section. Interest as provided in chapter 82.32 RCW applies to amounts due under this section until paid in full.

(6) For purposes of this section the following definitions apply unless the context clearly requires otherwise:

(a)(i) "Computer data center" means a facility comprised of one or more buildings, which may be comprised of multiple businesses, constructed or refurbished specifically, and used primarily, to house working servers, where the facility has the following characteristics: (A) Uninterruptible power supplies, generator backup power, or both; (B) sophisticated fire suppression and prevention systems; and (C) enhanced physical security, such as: Restricted access to the facility to selected personnel; permanent security guards; video camera surveillance; an electronic system requiring passcodes, keycards, or



biometric scans, such as hand scans and retinal or fingerprint recognition; or similar security features.

(ii) For a computer data center comprised of multiple buildings, each separate building constructed or refurbished specifically, and used primarily, to house working servers is considered a computer data center if it has all of the characteristics listed in (a)(i)(A) through (C) of this subsection (6).

(iii) A facility comprised of one building or more than one building must have a combined square footage of at least one hundred thousand square feet.

(b) "Electronic data storage and data management services" include, but are not limited to: Providing data storage and backup services, providing computer processing power, hosting enterprise software applications, and hosting web sites. The term also includes providing services such as e-mail, web browsing and searching, media applications, and other online services, regardless of whether a charge is made for such services.

(c)(i) "Eligible computer data center" means a computer data center:

(A) Located in a rural county as defined in RCW 82.14.370;

(B) Having at least twenty thousand square feet dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers; and

(C) For which the commencement of construction occurs after March 31, 2010, and before July 1, 2011. For purposes of this section, "commencement of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for construction of the computer data center. The construction of a computer data center includes the expansion, renovation, or other improvements made to existing facilities, including leased or rented space. "Commencement 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 a computer data center.

(ii) With respect to facilities in existence on the effective date of this act that are expanded, renovated, or otherwise improved after March 31, 2010, an eligible computer data center includes only the portion of the computer data center meeting the requirements in (c)(i)(B) of this subsection (6).

(d) "Eligible power infrastructure" means all fixtures and equipment necessary for the transformation, distribution, or management of electricity that is required to operate eligible server equipment within an eligible computer data center. The term includes electrical substations, generators, wiring, and cogeneration equipment.

(e) "Eligible server equipment" means the original server equipment installed in an eligible computer data center on or after April 1, 2010, and replacement server equipment. For purposes of this subsection (6)(e), "replacement server equipment" means server equipment that: (i) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or section 3 of this act; and (ii) is installed and put into regular use before April 1, 2018.

(f) "Qualifying business" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that is the owner or lessee of an eligible computer data center. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal

governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state.

(g) "Server" means blade or rack-mount server computers used in a computer data center exclusively to provide electronic data storage and data management services for internal use by the owner or lessee of the computer data center, for clients of the owner or lessee of the computer data center, or both. "Server" does not include personal computers.

(h) "Server equipment" means the server chassis and all computer hardware contained within the server chassis. "Server equipment" also includes computer software necessary to operate the server. "Server equipment" does not include the racks upon which the server chassis is installed, and computer peripherals such as keyboards, monitors, printers, mice, and other devices that work outside of the computer.

(7) This section expires April 1, 2018.

NEW SECTION. Sec. 3. A new section is added to chapter 82.12 RCW to read as follows:

(1) An exemption from the tax imposed by RCW 82.12.020 is provided for the use by qualifying businesses of eligible server equipment to be installed, without intervening use, in an eligible computer data center, and to the use of labor and services rendered in respect to installing such server equipment. The exemption also applies to the use of power infrastructure, including labor and services rendered in respect to installing, repairing, altering, or improving such infrastructure.

(2) A qualifying business is not eligible for the exemption under this section unless the department issued an exemption certificate to the qualifying business for the exemption provided in section 2 of this act.

(3)(a) The exemption provided in this section does not apply to:

(i) Any person who has received the benefit of the deferral program under chapter 82.60 RCW on: (A) The construction, renovation, or expansion of a structure or structures used as a computer data center; or (B) machinery or equipment used in a computer data center; and

(ii) Any person affiliated with a person within the scope of (a)(i) of this subsection (3). For purposes of this subsection, "affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

(b) If a person has received the benefit of the exemption under this section and subsequently receives the benefit of the deferral program under chapter 82.60 RCW on either the construction, renovation, or expansion of a structure or structures used as a computer data center or machinery or equipment used in a computer data center, the person must repay the amount of taxes exempted under this section. Interest as provided in chapter 82.32 RCW applies to amounts due under this subsection (3)(b) until paid in full. A person is not required to repay taxes under this subsection with respect to property and services for which the person is required to repay taxes under section 2(5) of this act.

(4) The definitions in section 2 of this act apply to this section.

(5) This section expires April 1, 2018.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 1, 2010.

Passed by the Senate March 16, 2010.

Passed by the House March 17, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

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## CHAPTER 2

[Engrossed House Bill 2672]

### ALUMINUM INDUSTRY—EXTENSION OF TAX INCENTIVES

AN ACT Relating to tax relief for aluminum smelters; amending RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, 82.12.022, and 82.32.570; and providing an expiration date.

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

**Sec. 1.** RCW 82.04.2909 and 2006 c 182 s 1 are each amended to read as follows:

(1) Upon every person who is an aluminum smelter engaging within this state in the business of manufacturing aluminum; as to such persons the amount of tax with respect to such business ~~((shall))~~ is, in the case of manufacturers, ~~((be))~~ equal to the value 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 .2904 percent.

(2) Upon every person who is an aluminum smelter engaging within this state in the business of making sales at wholesale of aluminum manufactured by that person, as to such persons the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the aluminum multiplied by the rate of .2904 percent.

(3) This section expires January 1, ~~((2012))~~ 2017.

**Sec. 2.** RCW 82.04.4481 and 2006 c 182 s 2 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for all property taxes paid during the calendar year on property owned by a direct service industrial customer and reasonably necessary for the purposes of an aluminum smelter.

(2) A person taking the credit under this section is subject to all the requirements of chapter 82.32 RCW. A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year. Credits carried over must be applied to tax liability before new credits. No refunds may be granted for credits under this section.

(3) Credits may not be claimed under this section for property taxes levied for collection in ~~((2012))~~ 2017 and thereafter.

**Sec. 3.** RCW 82.08.805 and 2009 c 535 s 513 are each amended to read as follows:

(1) A person who has paid tax under RCW 82.08.020 for personal property used at an aluminum smelter, tangible personal property that will be incorporated as an ingredient or component of buildings or other structures at an

aluminum smelter, or for labor and services rendered with respect to such buildings, structures, or personal property, is eligible for an exemption from the state share of the tax in the form of a credit, as provided in this section. A person claiming an exemption must pay the tax and may then take a credit equal to the state share of retail sales tax paid under RCW 82.08.020. The person ~~((shall))~~ must submit information, in a form and manner prescribed by the department, specifying the amount of qualifying purchases or acquisitions for which the exemption is claimed and the amount of exempted tax.

(2) For the purposes of this section, "aluminum smelter" has the same meaning as provided in RCW 82.04.217.

(3) Credits may not be claimed under this section for taxable events occurring on or after January 1, ~~((2012))~~ 2017.

**Sec. 4.** RCW 82.12.805 and 2009 c 535 s 620 are each amended to read as follows:

(1) A person who is subject to tax under RCW 82.12.020 for personal property used at an aluminum smelter, or for tangible personal property that will be incorporated as an ingredient or component of buildings or other structures at an aluminum smelter, or for labor and services rendered with respect to such buildings, structures, or personal property, is eligible for an exemption from the state share of the tax in the form of a credit, as provided in this section. The amount of the credit ~~((shall be))~~ is equal to the state share of use tax computed to be due under RCW 82.12.020. The person ~~((shall))~~ must submit information, in a form and manner prescribed by the department, specifying the amount of qualifying purchases or acquisitions for which the exemption is claimed and the amount of exempted tax.

(2) For the purposes of this section, "aluminum smelter" has the same meaning as provided in RCW 82.04.217.

(3) Credits may not be claimed under this section for taxable events occurring on or after January 1, ~~((2012))~~ 2017.

**Sec. 5.** RCW 82.12.022 and 2006 c 182 s 5 are each amended to read as follows:

(1) There is ~~((hereby))~~ levied and ~~((there shall be))~~ collected from every person in this state a use tax for the privilege of using natural gas or manufactured gas within this state as a consumer.

(2) The tax ~~((shall be))~~ is levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the public utility tax on gas distribution businesses under RCW 82.16.020. The "value of the article used" does not include any amounts that are paid for the hire or use of a gas distribution business as defined in RCW 82.16.010~~((7))~~ (2) in transporting the gas subject to tax under this subsection if those amounts are subject to tax under that chapter.

(3) The tax levied in this section ~~((shall))~~ does not apply to the use of natural or manufactured gas delivered to the consumer by other means than through a pipeline.

(4) The tax levied in this section ~~((shall))~~ does not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under RCW 82.16.020 with respect to the gas for which exemption is sought under this subsection.

(5) The tax levied in this section (~~shall~~) does not apply to the use of natural or manufactured gas by an aluminum smelter as that term is defined in RCW 82.04.217 before January 1, (~~2012~~) 2017.

(6) There (~~shall be~~) is a credit against the tax levied under this section in an amount equal to any tax paid by:

(a) The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to RCW 82.16.020 by another state with respect to the gas for which a credit is sought under this subsection; or

(b) The person consuming the gas upon which a use tax similar to the tax imposed by this section was paid to another state with respect to the gas for which a credit is sought under this subsection.

(7) The use tax hereby imposed (~~shall~~) must be paid by the consumer to the department.

(8) There is imposed a reporting requirement on the person who delivered the gas to the consumer to make a quarterly report to the department. Such report (~~shall~~) must contain the volume of gas delivered, name of the consumer to whom delivered, and such other information as the department (~~shall~~) requires by rule.

(9) The department may adopt rules under chapter 34.05 RCW for the administration and enforcement of sections 1 through 6, chapter 384, Laws of 1989.

**Sec. 6.** RCW 82.32.570 and 2006 c 182 s 6 are each amended to read as follows:

(1) For the purposes of this section, "smelter tax incentive" means the preferential tax rate under RCW 82.04.2909, or an exemption or credit under RCW 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5).

(2) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information to evaluate whether the stated goals of legislation were achieved.

(3) The goals of the smelter tax incentives are to retain family-wage jobs in rural areas by:

(a) Enabling the aluminum industry to maintain production of aluminum at a level that will preserve at least 75 percent of the jobs that were on the payroll effective January 1, 2004, as adjusted for employment reductions publicly announced before November 30, 2003; and

(b) Allowing the aluminum industry to continue producing aluminum in this state through (~~2012~~) 2017 so that the industry will be positioned to preserve and create new jobs when the anticipated reduction of energy costs occurs.

(4)(a) An aluminum smelter receiving the benefit of a smelter tax incentive shall make an annual report to the department detailing employment, wages, and employer-provided health and retirement benefits per job at the manufacturing site. The report is due by March 31st following any year in which a tax incentive is claimed or used. The report shall not include names of employees. The report shall detail employment by the total number of full-time, part-time, and temporary positions. The report shall indicate the quantity of aluminum smelted at the plant during the time period covered by the report. The first report filed under this subsection shall include employment, wage, and benefit information for the twelve-month period immediately before first use of a tax incentive.

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Employment reports shall include data for actual levels of employment and identification of the number of jobs affected by any employment reductions that have been publicly announced at the time of the report. Information in a report under this section is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(b) If a person fails to submit an annual report under (a) of this subsection by the due date of the report, the department shall declare the amount of taxes exempted or credited, or reduced in the case of the preferential business and occupation tax rate, for that year to be immediately due and payable. Excise taxes payable under this subsection are subject to interest but not penalties, as provided under this chapter. This information is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

~~((5) By December 1, 2007, December 1, 2010, and December 1, 2015, the fiscal committees of the house of representatives and the senate, in consultation with the department, shall report to the legislature on the effectiveness of the smelter tax incentives under RCW 82.04.4482 and 82.16.0498. The reports shall measure the effect of the tax incentives on job retention for Washington residents and any other factors the committees may select.)) Pursuant to chapter 43.136 RCW, the citizen commission for performance measurement of tax preferences must schedule the tax preferences under RCW 82.04.4482, 82.16.0498, 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, 82.12.022, and 82.32.570 for a tax preference review by the joint legislative audit and review committee in 2015. The review must include an analysis of the marginal number of jobs retained as a result of the tax preferences with an explanation of how the tax preferences accomplished that result; the wages, hours and benefits paid to each of the retained jobs; and a demographic analysis of the workers in the retained jobs that must include an analysis of those workers relative to the surrounding communities.~~

Passed by the House March 17, 2010.

Passed by the Senate March 18, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

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**CHAPTER 3**

[Engrossed House Bill 2360]

**AIDS COMMUNITY SERVICES—ADMINISTRATIVE CONSOLIDATION**

AN ACT Relating to consolidation of administrative services for AIDS grants in the department of health; amending RCW 70.24.400; and providing an effective date.

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

**Sec. 1.** RCW 70.24.400 and 1998 c 245 s 126 are each amended to read as follows:

~~((The department shall establish a statewide system of regional acquired immunodeficiency syndrome (AIDS) service networks as follows:))~~

(1) The secretary of health shall direct that all state or federal funds, excluding those from federal Title XIX for services or other activities authorized in this chapter, shall be allocated to the office on AIDS established in RCW

70.24.250. The secretary shall further direct that all funds for services and activities specified in subsection ~~((3))~~ (4) of this section shall be provided ~~((to~~ lead counties through contractual agreements based on plans developed as provided in subsection (2) of this section, unless direction of such funds is explicitly prohibited by federal law, federal regulation, or federal policy. The department shall deny funding allocations to lead counties only if the denial is based upon documented incidents of nonfeasance, misfeasance, or malfeasance. However, the department shall give written notice and thirty days for corrective action in incidents of misfeasance or nonfeasance before funding may be denied. The department shall designate six AIDS service network regions encompassing the state. In doing so, the department shall use the boundaries of the regional structures in place for the community services administration on January 1, 1988.

~~(2) The department shall request that a lead county within each region, which shall be the county with the largest population, prepare, through a cooperative effort of local health departments within the region, a regional organizational and service plan, which meets the requirements set forth in subsection (3) of this section. Efforts should be made to use existing plans, where appropriate. The plan should place emphasis on contracting with existing hospitals, major voluntary organizations, or health care organizations within a region that have in the past provided quality services similar to those mentioned in subsection (3) of this section and that have demonstrated an interest in providing any of the components listed in subsection (3) of this section. If any of the counties within a region do not participate, it shall be the lead county's responsibility to develop the part of the plan for the nonparticipating county or counties. If all of the counties within a region do not participate, the department shall assume the responsibility.~~

~~(3) The regional AIDS service network plan shall include the following components:~~

- ~~(a) A designated single administrative or coordinating agency;~~
- ~~(b) A complement of services to include:
 
  - ~~(i) Voluntary and anonymous counseling and testing;~~
  - ~~(ii) Mandatory testing and/or counseling services for certain individuals, as required by law;~~
  - ~~(iii) Notification of sexual partners of infected persons, as required by law;~~
  - ~~(iv) Education for the general public, health professionals, and high-risk groups;~~
  - ~~(v) Intervention strategies to reduce the incidence of HIV infection among high risk groups, possibly including needle sterilization and methadone maintenance;~~
  - ~~(vi) Related community outreach services for runaway youth;~~
  - ~~(vii) Case management;~~
  - ~~(viii) Strategies for the development of volunteer networks;~~
  - ~~(ix) Strategies for the coordination of related agencies within the network;~~~~
- ~~and~~
- ~~(x) Other necessary information, including needs particular to the region;~~
- ~~(c) A service delivery model that includes:
 
  - ~~(i) Case management services; and~~~~

~~(ii) A community-based continuum-of-care model encompassing both medical, mental health, and social services with the goal of maintaining persons with AIDS in a home-like setting, to the extent possible, in the least-expensive manner; and~~

~~(d) Budget, caseload, and staffing projections)) by the department directly to public and private providers in the communities.~~

~~((4)) (2) Efforts shall be made by both the counties and the department to use existing service delivery systems, where possible((, in developing the networks)).~~

~~((5)) (3) The University of Washington health science program, in cooperation with the office on AIDS, may, within available resources, establish a center for AIDS education((, which shall be linked to the networks)). The center for AIDS education is not intended to engage in state-funded research related to HIV infection, AIDS, or HIV-related conditions. Its duties shall include providing the office on AIDS with the appropriate educational materials necessary to carry out that office's duties.~~

~~((6) The department shall implement this section, consistent with available funds, by October 1, 1988, by establishing six regional AIDS service networks whose combined jurisdictions shall include the entire state.~~

~~(a) Until June 30, 1991, available funding for each regional AIDS service network shall be allocated as follows:~~

~~(i) Seventy-five percent of the amount provided for regional AIDS service networks shall be allocated per capita based on the number of persons residing within each region, but in no case less than one hundred fifty thousand dollars for each regional AIDS service network per fiscal year. This amount shall be expended for))~~

~~(4) The department shall develop standards and criteria for awarding grants to support testing, counseling, education, case management, notification of sexual partners of infected persons, planning, coordination, and other services required by law((, except for those enumerated in (a)(ii) of this subsection.~~

~~(ii) Twenty-five percent of the amount provided for regional AIDS service networks)). In addition, funds shall be allocated for intervention strategies specifically addressing groups that are at a high risk of being infected with the human immunodeficiency virus. ((The allocation shall be made by the office on AIDS based on documented need as specified in regional AIDS network plans.~~

~~(b) After June 30, 1991, the funding shall be allocated as provided by law.~~

~~(7) The regional AIDS service networks shall be the official state regional agencies for AIDS information education and coordination of services. The state public health officer, as designated by the secretary of health, shall make adequate efforts to publicize the existence and functions of the networks.~~

~~(8) If the department is not able to establish a network by an agreement solely with counties, it may contract with nonprofit agencies for any or all of the designated network responsibilities.~~

~~(9) The department, in establishing the networks, shall study mechanisms that could lead to reduced costs and/or increased access to services. The methods shall include capitation.~~

~~(10)) (5) The department shall reflect in its departmental biennial budget request the funds necessary to implement this section.~~



~~((+H))~~ (6) The use of appropriate materials may be authorized by ~~((regional AIDS service networks))~~ the department in the prevention or control of HIV infection.

NEW SECTION. Sec. 2. This act takes effect January 1, 2011.

Passed by the House March 16, 2010.

Passed by the Senate March 20, 2010.

Approved by the Governor March 26, 2010.

Filed in Office of Secretary of State March 26, 2010.

#### CHAPTER 4

[House Bill 2676]

##### ENERGY CONSERVATION LOANS—EXTENSION OF PAY BACK PERIOD

AN ACT Relating to energy conservation loans; and amending RCW 54.16.280 and 87.03.017.

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

**Sec. 1.** RCW 54.16.280 and 2002 c 276 s 3 are each amended to read as follows:

Any district is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy in such structures or equipment pursuant to an energy conservation plan adopted by the district if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy produced by the next least costly new energy resource which the district could acquire to meet future demand. Any financing authorized under this chapter shall only be used for conservation purposes in existing structures, and such financing shall not be used for any purpose which results in a conversion from one energy source to another. For the purposes of this section, "conservation purposes in existing structures" may include projects to allow a district's customers to generate all or a portion of their own electricity through the on-site installation of a distributed electricity generation system that uses as its fuel solar, wind, geothermal, or hydropower, or other renewable resource that is available on-site and not from a commercial source. Such projects shall not be considered "a conversion from one energy source to another" which is limited to the change or substitution of one commercial energy supplier for another commercial energy supplier. Except where otherwise authorized, such assistance shall be limited to:

(1) Providing an inspection of the structure or equipment, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation materials and equipment for which financial assistance will be approved and the estimated life cycle savings in energy costs that are likely to result from the installation of such materials or equipment;

(2) Providing a list of businesses who sell and install such materials and equipment within or in close proximity to the service area of the district, each of which businesses shall have requested to be included and shall have the ability to

provide the products in a workmanlike manner and to utilize such materials in accordance with the prevailing national standard~~((s-))~~;

(3) Arranging to have approved conservation materials and equipment installed by a private contractor whose bid is acceptable to the owner of the residential structure and verifying such installation; ~~((and))~~

(4) Arranging or providing financing for the purchase and installation of approved conservation materials and equipment. Such materials and equipment shall be purchased from a private business and shall be installed by a private business or the owner~~((-))~~; and

(5) Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed ~~((one))~~ two hundred ~~((twenty))~~ forty months in length.

**Sec. 2.** RCW 87.03.017 and 1982 c 42 s 1 are each amended to read as follows:

Any irrigation district engaged in the distribution of energy is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of residential structures in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy in such structures pursuant to an energy conservation plan adopted by the irrigation district if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy produced by the next least costly new energy resource which the irrigation district could acquire to meet future demand. Except where otherwise authorized, such assistance shall be limited to:

(1) Providing an inspection of the residential structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation materials and equipment for which financial assistance will be approved and the estimated life cycle savings in energy costs that are likely to result from the installation of such materials or equipment.

(2) Providing a list of businesses who sell and install such materials and equipment within or in close proximity to the service area of the irrigation district, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize such materials in accordance with the prevailing national standards.

(3) Arranging to have approved conservation materials and equipment installed by a private contractor whose bid is acceptable to the owner of the residential structure and verifying such installation.

(4) Arranging or providing financing for the purchase and installation of approved conservation materials and equipment. Such materials and equipment shall be purchased from a private business and shall be installed by a private business or the owner.

(5) Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed ~~((one))~~ two hundred ~~((twenty))~~ forty months in length.

Passed by the House March 17, 2010.

Passed by the Senate March 20, 2010.

Approved by the Governor March 26, 2010.  
Filed in Office of Secretary of State March 26, 2010.

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**CHAPTER 5**

[House Bill 2677]

## WATER CONSERVATION LOANS—EXTENSION OF PAY BACK PERIOD

AN ACT Relating to water conservation loans; and amending RCW 35.92.017, 36.94.460, and 57.08.160.

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

**Sec. 1.** RCW 35.92.017 and 1989 c 421 s 3 are each amended to read as follows:

Any city or town engaged in the sale or distribution of water is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the city or town if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least costly new water source available to the city or town to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed ~~((one))~~ two hundred ~~((twenty))~~ forty months in length.

**Sec. 2.** RCW 36.94.460 and 1992 c 25 s 3 are each amended to read as follows:

Any county engaged in the sale or distribution of water is hereby authorized, within limits established by the Constitution of the state of Washington, to assist

the owners of structures that are provided water service by the county in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the county if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least costly new water source available to the county to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the county, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with ~~((the))~~ the use charge or separately. Loans shall not exceed ~~((one))~~ two hundred ~~((twenty))~~ forty months in length.

**Sec. 3.** RCW 57.08.160 and 1996 c 230 s 324 are each amended to read as follows:

Any district is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the district if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least costly new water source available to the district to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the city or

town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with the use charge or separately. Loans shall not exceed ~~((one))~~ two hundred ~~((twenty))~~ forty months in length.

Passed by the House March 17, 2010.

Passed by the Senate March 20, 2010.

Approved by the Governor March 26, 2010.

Filed in Office of Secretary of State March 26, 2010.

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## CHAPTER 6

[Engrossed Substitute House Bill 2753]

### WASHINGTON WORKS HOUSING PROGRAM

AN ACT Relating to the creation of a workforce housing program; amending RCW 43.180.160, 39.86.100, 39.86.120, 39.86.130, 39.86.140, 39.86.150, 39.86.170, and 39.86.190; reenacting and amending RCW 39.86.110; adding a new section to chapter 39.86 RCW; creating a new section; and repealing RCW 39.86.200.

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

NEW SECTION. **Sec. 1.** This act may be known and cited as the Washington works housing act of 2010.

**Sec. 2.** RCW 43.180.160 and 2009 c 291 s 1 are each amended to read as follows:

(1) The total amount of outstanding indebtedness of the commission may not exceed six billion dollars at any time. The calculation of outstanding indebtedness shall include the initial principal amount of an issue and shall not include interest that is either currently payable or that accrues as a part of the face amount of an issue payable at maturity or earlier redemption. Outstanding indebtedness shall not include notes or bonds as to which the obligation of the commission has been satisfied and discharged by refunding or for which payment has been provided by reserves or otherwise.

(2)(a) The Washington works housing program is created to increase opportunities for nonprofit organizations and public agencies to purchase, acquire, build, and own real property to be used for affordable housing for low and moderate-income households. The Washington works housing program is intended to provide access to new funding mechanisms and build long-term community equity by increasing the stock of permanently affordable housing owned by nonprofit organizations and public agencies.

(b) The Washington works housing program is intended to provide these opportunities for public agencies and nonprofit organizations, including those materially participating as a managing member or general partner of a partnership, limited liability company, or equivalent organization, through the issuance of tax exempt or taxable revenue bonds issued by the commission in conjunction with a subsidy necessary to make bond issues to finance affordable housing properties financially feasible. The program is intended to provide financing for affordable housing that will meet the following income and rent restrictions during the period of initial bond indebtedness and thereafter:

(c) During the period of initial bond indebtedness under the program, the owner of the property must meet one of the following requirements: A minimum of twenty percent of the units will be occupied by households earning less than fifty percent of area median income and an additional thirty-one percent of the units will be occupied by persons earning less than eighty percent of area median income; or forty percent of the units will be occupied by households earning less than sixty percent of area median income and an additional eleven percent of the units will be occupied by households earning less than eighty percent of area median income.

(d) After the initial bond indebtedness is retired, the rents charged for units in the project will be adjusted to be sufficient to pay reasonable operation and maintenance expenses, including necessary capital needs, and to make reasonable deposits into a reserve account with the intent of providing affordable housing to very low or low-income households for the remaining useful life of the property. The reasonableness of the rent levels must be periodically approved by the commission based on information provided by the owner of the property about income, expenses, and necessary reserve levels. The determination of the commission regarding the reasonableness of the rent levels will be final.

(e) The commission will enter into a recorded regulatory agreement with the borrower at the time of the issuance of bonds under the program for the purpose of ensuring that the property will meet the income and rent restrictions established in this section. The commission may charge such compliance fees as necessary to ensure enforcement of the income and rent restrictions during the useful life of the property.

(3) One billion dollars of the outstanding indebtedness of the commission is for the primary purpose of implementing the Washington works housing program.

(4) If no subsidies are available to make the program in subsection (2) of this section feasible; then the commission may pass a resolution stating these facts and authorize the use of a portion of the one billion dollars of indebtedness intended for the program to support its other bond programs until such time as the one billion dollars is exhausted or subsidies are available to make the program feasible.

**Sec. 3.** RCW 39.86.100 and 2001 c 330 s 1 are each amended to read as follows:

The federal (~~tax reform act~~) internal revenue code of 1986, as amended imposes (~~an annual~~) ceilings on the aggregate amount of (~~federally tax-exempt private activity~~) certain types of bonds, including tax-exempt private activity bonds (~~for housing, student loans, exempt facilities, small issue~~

~~industrial, redevelopment, and certain public utility projects)) and other types,~~ that may be issued during any calendar year by or on behalf of states and their political subdivisions. ~~((In 2001, the ceiling will be increased to sixty-two dollars and fifty cents per capita and in 2002 the ceiling will be increased to seventy-five dollars per capita, to be indexed annually, for 2003 and every year thereafter. However, a study by the department of community development indicates that the dollar amount of the state ceiling is considerably less than the anticipated dollar amount for which issuers would need an allocation from the state ceiling.))~~ The ~~((tax reform act of 1986))~~ code provides a formula for allocating the annual tax-exempt private activity bond ceiling among various issuers of private activity bonds for housing, student loans, exempt facilities, and redevelopment projects within a state, but permits each state to enact a different allocation method that is appropriate to that state's needs. In addition, congress might, from time to time, amend the code by authorizing state ceilings on additional types of bonds. The purpose of this chapter is to provide a flexible and efficient method of allocating the annual state ceiling in Washington in a manner that recognizes the need of the state and its political subdivisions to finance activities or projects that satisfy a substantial public purpose.

**Sec. 4.** RCW 39.86.110 and 2009 c 565 s 23 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) "Agency" means the department of commerce.

(2) ~~((("Board" means the community economic revitalization board established under chapter 43.160 RCW.~~

~~(3))~~ (3) "Bond use category" means: (a) Any of the following categories of bonds which are subject to the annual state tax-exempt private activity bond ceiling: ((a)) (i) Housing, ((b)) (ii) student loans, ((c)) (iii) small issue, ((d)) (iv) exempt facility, ((e)) (v) redevelopment, ((f) public utility; and (g)) and (vi) remainder; and (b) any other categories of bonds described in the code for which there is a separate ceiling, with the exception of bonds designated solely for school district purposes.

~~((4))~~ (3) "Bonds" means bonds, notes, or other obligations of an issuer.

~~((5))~~ (4) "Carryforward" is an allocation or reallocation of the state ceiling which is carried from one calendar year to a later year, in accordance with the code.

~~((6))~~ (5) "Code" means the federal internal revenue code of 1986 ~~((as it exists on May 8, 1987. It also means the code as amended after May 8, 1987, but only if the amendments are approved by the agency under RCW 39.86.180)),~~ as amended.

~~((7))~~ (6) "Director" means the director of the agency or the director's designee.

~~((8))~~ (7) "Exempt facility" means the bond use category which includes all bonds which are exempt facility bonds as described in the code, except those for qualified residential rental projects.

~~((9))~~ (8) "Firm and convincing evidence" means documentation that satisfies the director that the issuer is committed to the prompt financing of, and will issue ~~((tax-exempt))~~ bonds for, the project or program for which it requests an allocation from the state ceiling.

~~((10))~~ (9) "Housing" means the bond use category which includes: (a) Mortgage revenue bonds and mortgage credit certificates as described in the code; and (b) exempt facility bonds for qualified residential rental projects as described in the code.

~~((11))~~ (10) "Initial allocation" means the portion or dollar value of the annual state tax-exempt private activity bond ceiling which initially in each calendar year is allocated to a bond use category for the issuance of private activity bonds, in accordance with RCW 39.86.120.

~~((12))~~ (11) "Issuer" means the state, any agency or instrumentality of the state, any political subdivision, or any other entity authorized to issue ~~((private activity))~~ bonds under state law.

(12) "Original allocation" means any allocation of bond authority by a mandatory formula in the code, except for the initial allocations of the annual state ceiling on tax-exempt private activity bonds.

(13) "Private activity bonds" means obligations that are private activity bonds as defined in the code or bonds for purposes described in section 1317(25) of the ~~((tax reform act))~~ federal internal revenue code of 1986, as amended.

(14) "Program" means the activities for which housing bonds ~~((or student loan bonds))~~ may be issued.

~~((15))~~ ~~("Public utility" means the bond use category which includes those bonds described in section 1317(25) of the tax reform act of 1986.~~

~~((16))~~ "Redevelopment" means the bond use category which includes qualified redevelopment bonds as described in the code.

~~((17))~~ (16) "Remainder" means that portion of the annual state tax-exempt private activity bond ceiling remaining after initial allocations are made under RCW 39.86.120 for any other bond use category.

~~((18))~~ (17) "Small issue" means the bond use category which includes all industrial development bonds that constitute qualified small issue bonds, as described in the code.

~~((19))~~ (18) "State" means the state of Washington.

~~((20))~~ (19) "State ceiling" means the volume limitation for each calendar year on ~~((tax exempt private activity))~~ specific bond((s)) types, including tax-exempt private activity bonds and other bonds, as imposed by the code.

~~((21))~~ (20) "Student loans" means the bond use category which includes qualified student loan bonds as described in the code.

NEW SECTION. Sec. 5. A new section is added to chapter 39.86 RCW to read as follows:

Original allocations or any reallocations of state bond ceilings other than the tax-exempt private activity bond ceiling must be determined by formula as provided in the code, or by department rule if no formula is provided in the code.

**Sec. 6.** RCW 39.86.120 and 2001 c 330 s 2 are each amended to read as follows:

(1) Except as provided in subsections (2) and (4) of this section, the initial allocation of the state ceiling shall be for each year as follows:



BOND USE CATEGORY	<del>ALTERNATIVE ALLOCATION))</del>		
	<del>((2001</del>	<del>2002 and THEREAFTER</del>	<u>2010 and THEREAFTER</u>
Housing	<del>((27.5%</del>	<del>30.0%))</del>	32.0%
Small Issue	<del>((24.5%</del>	<del>24.0%))</del>	25.0%
Exempt Facility	<del>((19.5%</del>	<del>19.0%))</del>	20.0%
Student Loans	<del>((14.5%</del>	<del>14.0%))</del>	15.0%
Public Utility	<del>((10.0%</del>	<del>10.0%))</del>	0.0%
Remainder and Redevelopment	<del>((4.0%</del>	<del>3.0%))</del>	8.0%

(2) Initial allocations may be modified by the agency only to reflect an issuer's carryforward amount. Any reduction of the initial allocation shall be added to the remainder and be available for allocation or reallocation.

(3) The remainder shall be allocated by the agency among one or more issuers from any bond use category with regard to the criteria specified in RCW 39.86.130.

(4) Should any bond use category no longer be subject to the state ceiling due to federal or state provisions of law, the agency shall divide the amount of that initial allocation among the remaining categories as necessary or appropriate with regard to the criteria specified in RCW 39.86.130. ~~((Upon the earlier of: (a) Exhaustion of the seven hundred fifty million dollar authority under I.R.C. 1317(25), or any new federal legislation increasing the amount of authority, or creating additional authority; or (b) waiver of the authority described under (a) of this subsection due to alternative federal authority that does not use a state volume cap, then the alternative allocation schedule in subsection (1) of this section will be used.))~~

(5)(a) Prior to ~~((September 1))~~ July 1st of each calendar year, any available portion of an initial allocation may be allocated or reallocated only to an issuer within the same bond use category, except that the remainder category, or portions thereof, may be allocated at any time to any bond use category.

(b) Beginning ~~((September 1))~~ July 1st of each calendar year, the agency may allocate or reallocate any available portion of the state ceiling to any bond use category with regard to the criteria specified in RCW 39.86.130.

**Sec. 7.** RCW 39.86.130 and 1987 c 297 s 4 are each amended to read as follows:

(1) In granting an allocation, reallocation, or carryforward of the state ceiling as provided in this chapter, the agency shall consider existing state priorities and other such criteria, including but not limited to, the following criteria:

(a) Need of issuers to issue ~~((private activity))~~ bonds within a bond use category subject to a state ceiling;

(b) Amount of the state ceiling available;

(c) Public benefit and purpose to be satisfied, including economic development, educational opportunity, and public health, safety, or welfare;

(d) Cost or availability of alternative methods of financing for the project or program; and

- (e) Certainty of using the allocation which is being requested.
- (2) In determining whether to allocate an amount of the state ceiling to an issuer within any bond use category, the agency shall consider, but is not limited to, the following criteria for each of the bond use categories:
  - (a) Housing: Criteria which comply with RCW 43.180.200.
  - (b) Student loans: Criteria which comply with the applicable provisions of Title 28B RCW and rules adopted by the higher education coordinating board or applicable state agency dealing with student financial aid.
  - (c) Small issue: ~~((Recommendation by the board regarding how the amount of the state ceiling set aside for the small issue bond use category shall be allocated among issuers.))~~ Factors which may include:
    - (i) The number of employment opportunities the project is likely to create or retain in relation to the amount of the bond issuance;
    - (ii) The level of unemployment existing in the geographic area likely to be affected by the project;
    - (iii) A commitment to providing employment opportunities to low-income persons in cooperation with the employment security department;
    - (iv) Geographic distribution of projects;
    - (v) The number of persons who will benefit from the project;
    - (vi) Consistency with criteria identified in subsection (1) of this section; and
    - (vii) Order in which requests were received ~~((and~~
    - ~~((viii) Requirements of the board's umbrella bond program)).~~
  - (d) Exempt facility or redevelopment: Factors which may include:
    - (i) State issuance needs;
    - (ii) Consistency with criteria identified in subsection (1) of this section;
    - (iii) Order in which requests were received;
    - (iv) The proportionate number of persons in relationship to the size of the community who will benefit from the project; and
    - (v) The unique timing and issuance needs of large scale projects that may require allocations in more than one year.
  - (e) Public utility: Factors which may include:
    - (i) Consistency with criteria identified in subsection (1) of this section; and
    - (ii) Timing needs for issuance of bonds over a multi-year period.

**Sec. 8.** RCW 39.86.140 and 1987 c 297 s 5 are each amended to read as follows:

- (1) No issuer may receive an allocation of the state ceiling without a certificate of approval from the agency.
- (2)~~((a))~~ For each state ceiling allocation request, an issuer shall submit to the agency, no sooner than ninety days prior to the beginning of a calendar year for which an allocation of the state ceiling is being requested, a form identifying:
  - ~~((i))~~ (a) The amount of the allocation sought;
  - ~~((ii))~~ (b) The bond use category from which the allocation sought would be made;
  - ~~((iii))~~ (c) The project or program for which the allocation is requested;
  - ~~((iv))~~ (d) The financing schedule for which the allocation is needed; and
  - ~~((v))~~ (e) Any other such information required by the agency, including information which corresponds to the allocation criteria of RCW 39.86.130.

~~((b) Nothing in (a) of this subsection precludes a public utility issuer from filing and the agency from considering a request at such times as may be appropriate in order to meet the criteria set forth in RCW 39.86.130(2)(e)(ii).))~~

(3) The agency may approve or deny an allocation for all or a portion of the issuer's request. Any denied request, however, shall remain on file with the agency for the remainder of the calendar year and shall be considered for receiving any allocation, reallocation, or carryforward of unused portions of the state ceiling during that period.

(4) After receiving an allocation request, the agency shall mail to the requesting issuer a written certificate of approval or notice of denial for an allocation amount, by a date no later than the latest of the following:

~~(a) ((Forty five days from May 8, 1987;~~

~~(b))) February 1<sup>st</sup> of the calendar year(~~(, other than 1987,))~~) for which the request is made;~~

~~((e))) (b) Fifteen days from the date the agency receives an allocation request; or~~

~~((d))) (c) Fifteen days from the date the agency receives a recommendation by the board with regard to a small issue allocation request, should the board choose to review individual requests.~~

(5)(a) For requests of the state ceiling of any calendar year, the following applies to all bond use categories except housing and student loans:

(i) Except for housing and student loans, any allocations granted prior to April 1<sup>st</sup>, for which bonds have not been issued by ~~((September 1))~~ July 1<sup>st</sup> of the same calendar year, shall revert to the agency on ~~((September 1))~~ July 1<sup>st</sup> of the same calendar year for reallocation unless an extension or carryforward is granted;

(ii) Except for housing and student loans, any allocations granted on or after April 1<sup>st</sup>, for which bonds have not been issued by ~~((December 15))~~ October 15<sup>th</sup> of the same calendar year, shall revert to the agency on ~~((December 15))~~ October 15<sup>th</sup> of the same calendar year for reallocation unless an extension or carryforward is granted.

(b) For each calendar year, any housing or student loan allocations, for which bonds have not been issued by December 15<sup>th</sup> of the same calendar year, shall revert to the agency on December 15<sup>th</sup> of the same calendar year for reallocation unless an extension or carryforward is granted.

(6) An extension of the deadlines provided by subsection (5) of this section may be granted by the agency for the approved allocation amount or a portion thereof, based on:

(a) Firm and convincing evidence that the bonds will be issued before the end of the calendar year if the extension is granted; and

(b) Any other criteria the agency deems appropriate.

(7) If an issuer determines that bonds subject to the state ceiling will not be issued for the project or program for which an allocation was granted, the issuer shall promptly notify the agency in writing so that the allocation may be canceled and the amount may be available for reallocation.

(8) Bonds subject to the state ceiling may be issued only to finance the project or program for which a certificate of approval is granted.

(9) Within three business days of the date that bonds for which an allocation of the state ceiling is granted have been delivered to the original purchasers, the

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issuer shall mail to the agency a written notification of the bond issuance. In accordance with chapter 39.44 RCW, the issuer shall also complete bond issuance information on the form provided by the agency.

(10) If the total amount of (~~tax-exempt~~) bonds issued under the authority of a state ceiling for a project or program is less than the amount allocated, the remaining portion of the allocation shall revert to the agency for reallocation in accordance with the criteria in RCW 39.86.130. If the amount of (~~tax-exempt~~) bonds actually issued under the authority of a state ceiling is greater than the amount allocated, the entire allocation shall be disallowed.

**Sec. 9.** RCW 39.86.150 and 1987 c 297 s 6 are each amended to read as follows:

(1) Beginning (~~September 1~~) July 1st of each calendar year, the agency may allocate or reallocate any portions of the annual state tax-exempt private activity bond ceiling for which no certificate of approval is in effect. Reallocations may also be made from the remainder category at any time during the year.

(2) Prior to the end of each calendar year, the agency shall allocate or reallocate any unused portions of the state ceiling among one or more issuers as carryforward, to be used within three years, in accordance with the code and relevant criteria described in RCW 39.86.130.

(3) Reallocations of state bond ceilings other than the annual tax-exempt private activity bond ceiling may be made by the agency in accordance with the code or as established in agency rule when not specified in the code.

**Sec. 10.** RCW 39.86.170 and 1987 c 297 s 8 are each amended to read as follows:

A fee schedule shall be established by rule by the agency to assist in support of bond allocation activities. Fees shall reflect costs actually incurred or expected to be incurred by the agency in its bond allocation and bond users clearinghouse activities.

**Sec. 11.** RCW 39.86.190 and 2009 c 518 s 19 are each amended to read as follows:

By February 1st of each even-numbered year, the agency shall summarize for the legislature each previous year's bond allocation requests and issuance. Beginning in (~~June of 1988~~) February 2010 and thereafter in (~~June~~) February of each even-numbered year, the agency shall also submit a biennial report summarizing usage of the bond allocation proceeds and any policy concerns for future bond allocations.

NEW SECTION. **Sec. 12.** RCW 39.86.200 (Ratification) and 1987 c 297 s 11 are each repealed.

Passed by the House March 22, 2010.

Passed by the Senate March 20, 2010.

Approved by the Governor March 26, 2010.

Filed in Office of Secretary of State March 26, 2010.

## CHAPTER 7

[Engrossed Second Substitute House Bill 2617]

## BOARDS AND COMMISSIONS—ELIMINATION

AN ACT Relating to eliminating boards and commissions; amending RCW 43.03.027, 43.03.028, 34.12.100, 42.17.370, 43.03.040, 43.63A.760, 70.47.040, 41.04.033, 41.04.0331, 41.04.0332, 72.78.030, 43.101.380, 43.105.052, 82.58.020, 46.20.100, 46.82.280, 46.82.330, 46.82.420, 18.73.030, 18.73.101, 41.50.088, 41.50.770, 41.50.780, 41.34.020, 41.34.040, 41.34.070, 41.34.130, 41.34.140, 43.33A.135, 36.70C.030, 70.112.010, 70.112.020, 43.43.930, 43.43.934, 43.43.938, 43.43.962, 43.43.963, 43.44.030, 43.44.060, 38.52.530, 49.26.120, 48.62.061, 48.62.161, 28B.76.280, 43.330.090, 2.56.031, 13.40.510, 43.105.041, 43.105.805, 43.105.820, 19.146.225, 90.56.005, 90.56.060, 43.30.820, 18.210.010, 18.210.050, 18.210.060, 70.118.110, 77.95.100, 77.95.180, 77.95.190, 70.95.030, 43.21A.520, 70.105.010, 70.105.160, 46.16.316, 46.16.715, 46.16.725, 46.16.745, 46.16.755, 46.16.775, 46.16.30901, 46.16.30903, 46.16.30905, 46.16.30907, 46.16.30909, 46.16.30911, 46.16.30913, 46.16.30914, 46.16.30916, 46.16.30918, 46.16.30920, 46.16.30922, 46.16.30924, 46.16.30926, 46.16.30928, 43.370.020, 43.370.030, 43.60A.170, 43.131.406, 43.60A.010, 70.119A.180, 90.86.030, 27.34.365, 70.94.6534, 76.04.630, 76.04.660, 15.92.070, 17.21.020, 43.15.020, 43.15.020, 46.01.325, 46.01.140, 43.03.050, 43.03.220, 43.03.230, 43.03.240, 43.03.250, and 43.03.265; reenacting and amending RCW 18.71.205, 43.21B.005, 43.105.020, and 46.16.233; adding new sections to chapter 43.215 RCW; creating new sections; recodifying RCW 43.121.170, 43.121.175, and 43.121.180; repealing RCW 70.96A.070, 43.101.310, 43.101.315, 43.101.320, 43.101.325, 43.101.330, 43.101.335, 43.101.340, 43.101.345, 43.105.055, 46.82.300, 18.73.040, 18.73.050, 41.50.086, 43.21L.005, 43.21L.010, 43.21L.020, 43.21L.030, 43.21L.040, 43.21L.050, 43.21L.060, 43.21L.070, 43.21L.080, 43.21L.090, 43.21L.100, 43.21L.110, 43.21L.120, 43.21L.130, 43.21L.140, 43.21L.900, 43.21L.901, 70.112.030, 70.112.040, 70.112.050, 43.43.932, 43.43.936, 70.105E.070, 70.105E.090, 48.62.051, 48.62.041, 28B.76.100, 10.98.200, 10.98.210, 10.98.220, 10.98.230, 10.98.240, 43.105.800, 43.105.810, 43.360.040, 19.146.280, 90.56.120, 90.56.130, 18.210.040, 18.210.070, 70.118.100, 77.95.110, 77.95.120, 70.95.040, 70.95.050, 70.95.070, 70.105.060, 46.16.705, 43.60A.180, 46.38.010, 46.38.020, 46.38.030, 46.38.040, 46.38.050, 46.38.060, 46.38.070, 46.38.080, 46.38.090, 70.119A.160, 46.39.010, 46.39.020, 17.15.040, 79.19.070, 76.04.145, 43.126.015, 43.126.025, 43.126.035, 43.126.045, 43.126.055, 43.126.065, 43.126.075, 43.126.085, 17.21.230, 17.21.240, 17.21.250, 17.21.260, 17.21.270, 70.104.080, and 46.01.320; providing effective dates; and providing an expiration date.

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

### Committee on Agency Officials' Salaries

**Sec. 1.** RCW 43.03.027 and 1970 ex.s. c 43 s 1 are each amended to read as follows:

It is hereby declared to be the public policy of this state to base the salaries of public officials on realistic standards in order that such officials may be paid according to the true value of their services and the best qualified citizens may be attracted to public service. It is the purpose of (~~RCW 43.03.027, 43.03.028,~~) this section and RCW 43.03.040(~~, 43.03.045 and 43.03.047~~) to effectuate this policy by utilizing the expert knowledge of citizens having access to pertinent facts concerning proper salaries for public officials, thus removing and dispelling any thought of political consideration in fixing the appropriateness of the amount of such salaries.

**Sec. 2.** RCW 43.03.028 and 2007 c 241 s 3 are each amended to read as follows:

(1) (~~There is hereby created a state committee on agency officials' salaries to consist of seven members, or their designees, as follows: The president of the University of Puget Sound; the chairperson of the council of presidents of the state's four-year institutions of higher education; the chairperson of the~~

~~Washington personnel resources board; the president of the Association of Washington Business; the president of the Pacific Northwest Personnel Managers' Association; the president of the Washington State Bar Association; and the president of the Washington State Labor Council. If any of the titles or positions mentioned in this subsection are changed or abolished, any person occupying an equivalent or like position shall be qualified for appointment by the governor to membership upon the committee.~~

~~(The committee))~~ (2) The department of personnel shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; the board of pharmacy; the eastern Washington historical society; the Washington state historical society; the recreation and conservation office; the criminal justice training commission; the department of personnel; the state library; the traffic safety commission; the horse racing commission; the advisory council on vocational education; the public disclosure commission; the state conservation commission; the commission on Hispanic affairs; the commission on Asian Pacific American affairs; the state board for volunteer firefighters and reserve officers; the transportation improvement board; the public employment relations commission; the forest practices appeals board; and the energy facilities site evaluation council.

~~((The committee))~~ (2) The department of personnel shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position.

~~((3) Committee members shall be reimbursed by the department of personnel for travel expenses under RCW 43.03.050 and 43.03.060.))~~

**Sec. 3.** RCW 34.12.100 and 1986 c 155 s 10 are each amended to read as follows:

The chief administrative law judge shall be paid a salary fixed by the governor after recommendation of the ~~((state committee on agency officials' salaries))~~ department of personnel. The salaries of administrative law judges appointed under the terms of this chapter shall be determined by the chief administrative law judge after recommendation of the ~~((state committee on agency officials' salaries))~~ department of personnel.

**Sec. 4.** RCW 42.17.370 and 1995 c 397 s 17 are each amended to read as follows:

The commission is empowered to:

(1) Adopt, promulgate, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint and set, within the limits established by the (~~committee on agency officials' salaries~~) department of personnel under RCW 43.03.028, the compensation of an executive director who shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor shall it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish such reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) Make from time to time, on its own motion, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence and require the production of any books, papers, correspondence, memorandums, or other records relevant or material for the purpose of any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt and promulgate a code of fair campaign practices;

(8) Relieve, by rule, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor made expenditures in connection with any election campaign of more than one thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of and reporting on a quarterly basis costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. The term "legislative information," for the purposes of this subsection, means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his or her regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations in his or her examination reports concerning those agencies;

(10) After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his or her immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to

the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding and no request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted. The commission shall adopt administrative rules governing the proceedings. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order; and

(11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be adopted as rules under chapter 34.05 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985;

(12) Develop and provide to filers a system for certification of reports required under this chapter which are transmitted by facsimile or electronically to the commission. Implementation of the program is contingent on the availability of funds.

**Sec. 5.** RCW 43.03.040 and 2009 c 5 s 5 are each amended to read as follows:

The directors of the several departments and members of the several boards and commissions, whose salaries are fixed by the governor and the chief executive officers of the agencies named in RCW 43.03.028~~((2))~~ (1) as now or hereafter amended shall each severally receive such salaries, payable in monthly installments, as shall be fixed by the governor or the appropriate salary fixing authority, in an amount not to exceed the recommendations of the ~~((committee on agency officials' salaries))~~ department of personnel. For the twelve months following February 18, 2009, a salary or wage increase shall not be granted to any position under this section.

#### **Airport Impact Mitigation Advisory Board**

**Sec. 6.** RCW 43.63A.760 and 2003 1st sp.s. c 26 s 928 are each amended to read as follows:



(1) The airport impact mitigation account is created in the custody of the state treasury. Moneys deposited in the account, including moneys received from the port of Seattle for purposes of this section, may be used only for airport mitigation purposes as provided in this section. Only the director of ~~((the department of community, trade, and economic development))~~ commerce or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The department of ~~((community, trade, and economic development))~~ commerce shall establish a competitive process to prioritize applications for airport impact mitigation assistance through the account created in subsection (1) of this section. The department shall conduct a solicitation of project applications in the airport impact area as defined in subsection ~~((4))~~ (3) of this section. Eligible applicants include public entities such as cities, counties, schools, parks, fire districts, and shall include organizations eligible to apply for grants under RCW 43.63A.125. The department ~~((of community, trade, and economic development))~~ shall evaluate and rank applications ~~((in conjunction with the airport impact mitigation advisory board established in subsection (3) of this section))~~ using objective criteria developed by the department ~~((in conjunction with the airport impact mitigation advisory board))~~. At a minimum, the criteria must consider: The extent to which the applicant is impacted by the airport; and the other resources available to the applicant to mitigate the impact, including other mitigation funds. The director of ~~((the department of community, trade, and economic development))~~ commerce shall award grants annually to the extent funds are available in the account created in subsection (1) of this section.

(3) ~~((The director of the department of community, trade, and economic development shall establish the airport impact mitigation advisory board comprised of persons in the airport impact area to assist the director in developing criteria and ranking applications under this section. The advisory board shall include representation of local governments, the public in general, businesses, schools, community services organizations, parks and recreational activities, and others at the discretion of the director. The advisory board shall be weighted toward those communities closest to the airport that are more adversely impacted by airport activities.~~

~~((4))~~ The airport impact area includes the incorporated areas of Burien, Normandy Park, Des Moines, SeaTac, ~~((Fukwila))~~ Tukwila, Kent, and Federal Way, and the unincorporated portion of west King county.

~~((5))~~ (4) The department of ~~((community, trade, and economic development))~~ commerce shall report on its activities related to the account created in this section by January 1, 2004, and each January 1st thereafter.

#### Basic Health Advisory Committee

**Sec. 7.** RCW 70.47.040 and 1993 c 492 s 211 are each amended to read as follows:

(1) The Washington basic health plan is created as a program within the Washington state health care authority. The administrative head and appointing authority of the plan shall be the administrator of the Washington state health

care authority. The administrator shall appoint a medical director. The medical director and up to five other employees of the plan shall be exempt from the civil service law, chapter 41.06 RCW.

(2) The administrator shall employ such other staff as are necessary to fulfill the responsibilities and duties of the administrator, such staff to be subject to the civil service law, chapter 41.06 RCW. In addition, the administrator may contract with third parties for services necessary to carry out its activities where this will promote economy, avoid duplication of effort, and make best use of available expertise. Any such contractor or consultant shall be prohibited from releasing, publishing, or otherwise using any information made available to it under its contractual responsibility without specific permission of the plan. The administrator may call upon other agencies of the state to provide available information as necessary to assist the administrator in meeting its responsibilities under this chapter, which information shall be supplied as promptly as circumstances permit.

(3) The administrator may appoint such technical or advisory committees as he or she deems necessary. ~~((The administrator shall appoint a standing technical advisory committee that is representative of health care professionals, health care providers, and those directly involved in the purchase, provision, or delivery of health care services, as well as consumers and those knowledgeable of the ethical issues involved with health care public policy. Individuals appointed to any technical or other advisory committee shall serve without compensation for their services as members, but may be reimbursed for their travel expenses pursuant to RCW 43.03.050 and 43.03.060.))~~

(4) The administrator may apply for, receive, and accept grants, gifts, and other payments, including property and service, from any governmental or other public or private entity or person, and may make arrangements as to the use of these receipts, including the undertaking of special studies and other projects relating to health care costs and access to health care.

(5) Whenever feasible, the administrator shall reduce the administrative cost of operating the program by adopting joint policies or procedures applicable to both the basic health plan and employee health plans.

#### **Citizens Advisory Council on Alcoholism and Drug Addiction**

NEW SECTION. Sec. 8. RCW 70.96A.070 (Citizens advisory council—Qualifications—Duties—Rules and policies) and 1994 c 231 s 2, 1989 c 270 s 9, 1973 1st ex.s. c 155 s 1, & 1972 ex.s. c 122 s 7 are each repealed.

#### **Combined Fund Drive Committee**

**Sec. 9.** RCW 41.04.033 and 2003 c 205 s 1 are each amended to read as follows:

The ~~((director of the department of personnel))~~ secretary of state is authorized to adopt rules, after consultation with state agencies, institutions of higher education, and employee organizations ~~((to create a Washington state combined fund drive committee, and))~~ for the operation of the Washington state combined fund drive.

**Sec. 10.** RCW 41.04.0331 and 2003 c 205 s 2 are each amended to read as follows:

~~To operate the Washington state combined fund ((drive's powers and duties include)) drive program, the secretary of state or the secretary's designee may but ((are)) is~~ not limited to the following:

(1) ~~((Raising))~~ Raise money for charity, and reducing the disruption to government caused by multiple fund drives;

(2) ~~((Establishing))~~ Establish criteria by which a public or private nonprofit organization may participate in the combined fund drive;

(3) ~~((Engaging))~~ Engage in or encouraging fund-raising activities including the solicitation and acceptance of charitable gifts, grants, and donations from state employees, retired public employees, corporations, foundations, and other individuals for the benefit of the beneficiaries of the Washington state combined fund drive;

(4) ~~((Requesting))~~ Request the appointment of employees from state agencies and institutions of higher education to lead and manage workplace charitable giving campaigns within state government;

(5) ~~((Engaging))~~ Engage in educational activities, including classes, exhibits, seminars, workshops, and conferences, related to the basic purpose of the combined fund drive;

(6) ~~((Engaging))~~ Engage in appropriate fund-raising and advertising activities for the support of the administrative duties of the Washington state combined fund drive; and

(7) ~~((Charging))~~ Charge an administrative fee to the beneficiaries of the Washington state combined fund drive to fund the administrative duties of the Washington state combined fund drive.

Activities of the Washington state combined fund drive shall not result in direct commercial solicitation of state employees, or a benefit or advantage that would violate one or more provisions of chapter 42.52 RCW. This section does not authorize individual state agencies to enter into contracts or partnerships unless otherwise authorized by law.

**Sec. 11.** RCW 41.04.0332 and 2003 c 205 s 3 are each amended to read as follows:

~~The ((Washington state combined fund drive committee))~~ secretary of state may enter into contracts and partnerships with private institutions, persons, firms, or corporations for the benefit of the beneficiaries of the Washington state combined fund drive. Activities of the Washington state combined fund drive shall not result in direct commercial solicitation of state employees, or a benefit or advantage that would violate one or more provisions of chapter 42.52 RCW. This section does not authorize individual state agencies to enter into contracts or partnerships unless otherwise authorized by law.

#### **Community Transition Coordination Networks Advisory Committee**

**Sec. 12.** RCW 72.78.030 and 2007 c 483 s 103 are each amended to read as follows:

(1) The department of ~~((community, trade, and economic development))~~ commerce shall establish a community transition coordination network pilot program for the purpose of awarding grants to counties or groups of counties for

implementing coordinated reentry efforts for offenders returning to the community. Grant awards are subject to the availability of amounts appropriated for this specific purpose.

(2) By September 1, 2007, the Washington state institute for public policy shall, in consultation with the department of ~~((community, trade, and economic development))~~ commerce, develop criteria for the counties in conducting its evaluation as directed by subsection (6)(c) of this section.

(3) Effective February 1, 2008, any county or group of counties may apply for participation in the community transition coordination network pilot program by submitting a proposal for a community transition coordination network.

(4) A proposal for a community transition coordination network initiated under this section must be collaborative in nature and must seek locally appropriate evidence-based or research-based solutions and promising practices utilizing the participation of public and private entities or programs to support successful, community-based offender reentry.

(5) In developing a proposal for a community transition coordination network, counties or groups of counties and the department of corrections shall collaborate in addressing:

(a) Efficiencies that may be gained by sharing space or resources in the provision of reentry services to offenders;

(b) Mechanisms for communication of information about offenders, including the feasibility of shared access to databases;

(c) Partnerships to establish neighborhood corrections initiatives as defined in RCW 72.09.280.

(6) A proposal for a community transition coordination network must include:

(a) Descriptions of collaboration and coordination between local community policing and supervision programs and those agencies and entities identified in the inventory conducted pursuant to RCW 72.78.020 to address the risks and needs of offenders under a participating county or city misdemeanor probation or other supervision program including:

(i) A proposed method of assessing offenders to identify the offenders' risks and needs. Counties and cities are encouraged, where possible, to make use of assessment tools developed by the department of corrections in this regard;

(ii) A proposal for developing and/or maintaining an individual reentry plan for offenders;

(iii) Connecting offenders to services and resources that meet the offender's needs as identified in his or her individual reentry plan including the identification of community representatives or volunteers that may assist the offender with his or her transition; and

(iv) The communication of assessment information, individual reentry plans, and service information between parties involved with ~~((the))~~ the offender's reentry;

(b) Mechanisms to provide information to former offenders regarding services available to them in the community regardless of the length of time since the offender's release and regardless of whether the offender was released from prison or jail. Mechanisms shall, at a minimum, provide for:

(i) Maintenance of the information gathered in RCW 72.78.020 regarding services currently existing within the community that are available to offenders; and

(ii) Coordination of access to existing services with community providers and provision of information to offenders regarding how to access the various type of services and resources that are available in the community; and

(c) An evaluation of the county's or group of counties' readiness to implement a community transition coordination network including the social service needs of offenders in general, capacity of local facilities and resources to meet offenders' needs, and the cost to implement and maintain a community transition coordination network for the duration of the pilot project.

(7) The department of ~~((community, trade, and economic development))~~ commerce shall review county applications for funding through the community transition coordination network pilot program and, no later than April 1, 2008, shall select up to four counties or groups of counties. In selecting pilot counties or regions, the department shall consider the extent to which the proposal:

(a) Addresses the requirements set out in subsection (6) of this section;

(b) Proposes effective partnerships and coordination between local community policing and supervision programs, social service and treatment providers, and the department of corrections' community justice center, if a center is located in the county or region;

(c) Focuses on measurable outcomes such as increased employment and income, treatment objectives, maintenance of stable housing, and reduced recidivism;

(d) Contributes to the diversity of pilot programs, considering factors such as geographic location, size of county or region, and reentry services currently available. The department shall ensure that a grant is awarded to at least one rural county or group of counties and at least one county or group of counties where a community justice center operated by the department of corrections is located; and

(e) Is feasible, given the evaluation of the social service needs of offenders, the existing capacity of local facilities and resources to meet offenders' needs, and the cost to implement a community transition coordination network in the county or group of counties.

~~(8) ((The department of community, trade, and economic development shall convene a policy advisory committee composed of representatives from the senate, the house of representatives, the governor's office of financial management, the department of corrections, to include one representative who is a community corrections officer, the office of crime victims' advocacy, the Washington state association of counties, association of Washington cities, a nonprofit provider of reentry services, and an ex-offender who has discharged the terms of his or her sentence. The advisory committee shall meet no less than annually to receive status reports on the implementation of community transition coordination networks, review annual reports and the pilot project evaluations submitted pursuant to RCW 72.78.050, and identify evidence based, research-based, and promising practices for other counties seeking to establish community transition coordination networks.~~

~~(9))~~ Pilot networks established under this section shall extend for a period of four fiscal years, beginning July 1, 2008, and ending June 30, 2012.

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~~((10))~~ (9) This section expires June 30, 2013.

**Board of Law Enforcement Training Standards  
and Board on Correctional Training Standards**

NEW SECTION. **Sec. 13.** The following acts or parts of acts are each repealed:

- (1) RCW 43.101.310 (Board on law enforcement training standards and education—Board on correctional training standards—Created—Purpose) and 1997 c 351 s 2;
- (2) RCW 43.101.315 (Boards—Membership) and 1997 c 351 s 3;
- (3) RCW 43.101.320 (Boards—Terms of members) and 1997 c 351 s 4;
- (4) RCW 43.101.325 (Termination of membership upon termination of qualifying office or employment) and 1997 c 351 s 5;
- (5) RCW 43.101.330 (Boards—Chairs—Quorum) and 1997 c 351 s 6;
- (6) RCW 43.101.335 (Boards—Travel expenses) and 1997 c 351 s 7;
- (7) RCW 43.101.340 (Boards—Powers—Report to commission) and 1997 c 351 s 8; and
- (8) RCW 43.101.345 (Recommendations of boards—Review by commission) and 1997 c 351 s 9.

**Sec. 14.** RCW 43.101.380 and 2009 c 25 s 1 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, a five-member hearings panel shall both hear the case and make the commission's final administrative decision. Members of the commission (~~or the board on law enforcement training standards and education~~) 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 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) 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 was "discharged for disqualifying misconduct," and the discharge is "final," within the meaning of RCW 43.101.105(1)(d), 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, allow the peace 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 "has been convicted at any time of a felony offense" within the meaning of RCW 43.101.105(1)(c), the hearings panel shall revoke or deny certification if it determines that the peace 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 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), 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.

**Customer Advisory Board—Department of Information Services**

NEW SECTION. **Sec. 15.** RCW 43.105.055 (Advisory committees—Customer advisory board) and 1999 c 80 s 7 & 1987 c 504 s 9 are each repealed.

**Sec. 16.** RCW 43.105.052 and 2000 c 180 s 1 are each amended to read as follows:

The department shall:

(1) Perform all duties and responsibilities the board delegates to the department, including but not limited to:

(a) The review of agency information technology portfolios and related requests; and

(b) Implementation of statewide and interagency policies, standards, and guidelines;

(2) Make available information services to state agencies and local governments and public benefit nonprofit corporations on a full cost-recovery basis. For the purposes of this section "public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or political subdivision of another state. These services may include, but are not limited to:

(a) Telecommunications services for voice, data, and video;

(b) Mainframe computing services;

(c) Support for departmental and microcomputer evaluation, installation, and use;

(d) Equipment acquisition assistance, including leasing, brokering, and establishing master contracts;

(e) Facilities management services for information technology equipment, equipment repair, and maintenance service;

(f) Negotiation with local cable companies and local governments to provide for connection to local cable services to allow for access to these public and educational channels in the state;

(g) Office automation services;

(h) System development services; and

(i) Training.

These services are for discretionary use by customers and customers may elect other alternatives for service if those alternatives are more cost-effective or provide better service. Agencies may be required to use the backbone network portions of the telecommunications services during an initial start-up period not to exceed three years;

(3) Establish rates and fees for services provided by the department to assure that the services component of the department is self-supporting. A billing rate plan shall be developed for a two-year period to coincide with the budgeting process. The rate plan shall be subject to review at least annually by the ~~((customer advisory board))~~ office of financial management. The rate plan shall show the proposed rates by each cost center and will show the components of the rate structure as mutually determined by the department and the ~~((customer advisory board))~~ office of financial management. The same rate structure will apply to all user agencies of each cost center. The rate plan and any adjustments to rates shall be approved by the office of financial



management. The services component shall not subsidize the operations of the strategic planning and policy component;

(4) With the advice of the information services board and agencies, develop a state strategic information technology plan and performance reports as required under RCW 43.105.160;

(5) Develop plans for the department's achievement of statewide goals and objectives set forth in the state strategic information technology plan required under RCW 43.105.160. These plans shall address such services as telecommunications, central and distributed computing, local area networks, office automation, and end user computing. The department shall seek the advice of the ~~((customer advisory board and the))~~ board in the development of these plans;

(6) Under direction of the information services board and in collaboration with the department of personnel, and other agencies as may be appropriate, develop training plans and coordinate training programs that are responsive to the needs of agencies;

(7) Identify opportunities for the effective use of information services and coordinate appropriate responses to those opportunities;

(8) Assess agencies' projects, acquisitions, plans, information technology portfolios, or overall information processing performance as requested by the board, agencies, the director of financial management, or the legislature. Agencies may be required to reimburse the department for agency-requested reviews;

(9) Develop planning, budgeting, and expenditure reporting requirements, in conjunction with the office of financial management, for agencies to follow;

(10) Assist the office of financial management with budgetary and policy review of agency plans for information services;

(11) Provide staff support from the strategic planning and policy component to the board for:

(a) Meeting preparation, notices, and minutes;

(b) Promulgation of policies, standards, and guidelines adopted by the board;

(c) Supervision of studies and reports requested by the board;

(d) Conducting reviews and assessments as directed by the board;

(12) Be the lead agency in coordinating video telecommunications services for all state agencies and develop, pursuant to board policies, standards and common specifications for leased and purchased telecommunications equipment. The department shall not evaluate the merits of school curriculum, higher education course offerings, or other education and training programs proposed for transmission and/or reception using video telecommunications resources. Nothing in this section shall abrogate or abridge the legal responsibilities of licensees of telecommunications facilities as licensed by the federal communication commission on March 27, 1990; and

(13) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

**Revenue-Simplified Sales and Use Tax  
Administration Advisory Group**

**Sec. 17.** RCW 82.58.020 and 2002 c 267 s 4 are each amended to read as follows:

~~((1))~~ For the purposes of reviewing or amending the agreement embodying the simplification requirements in RCW 82.58.050, the state shall enter into multistate discussions. For purposes of these discussions, the state shall be represented by the department. ~~((The governor may appoint up to four persons to consult with the department at these discussions. The persons advising the department shall not be compensated and are not entitled to payment of travel expenses by the state.~~

~~(2) The department shall regularly consult with an advisory group composed of one member from each of the two largest caucuses of the senate, appointed by the majority and minority leaders of the senate; one member from each of the two largest caucuses of the house of representatives, appointed by the speaker and minority leader of the house of representatives; representatives of retailers, including those selling via mail, telephone, and the internet; representatives of large and small businesses; and representatives of counties and cities. The department shall use its best efforts to consult with the advisory group before any multistate discussions in which it is anticipated that amendments may be proposed to the agreement embodying the simplification requirements in RCW 82.58.050.)~~

**Driver Instructors' Advisory Committee**

**Sec. 18.** RCW 46.20.100 and 2002 c 195 s 1 are each amended to read as follows:

(1) **Application.** The application of a person under the age of eighteen years for a driver's license or a motorcycle endorsement must be signed by a parent or guardian with custody of the minor. If the person under the age of eighteen has no father, mother, or guardian, then the application must be signed by the minor's employer.

(2) **Traffic safety education requirement.** For a person under the age of eighteen years to obtain a driver's license he or she must meet the traffic safety education requirements of this subsection.

(a) To meet the traffic safety education requirement for a driver's license the applicant must satisfactorily complete a traffic safety education course as defined in RCW 28A.220.020 for a course offered by a school district, or as defined by the department of licensing for a course offered by a driver training school licensed under chapter 46.82 RCW. The course offered by a school district or an approved private school must meet the standards established by the office of the state superintendent of public instruction. The course offered by a driver training school must meet the standards established by the department of licensing ~~((with the advice of the driver instructors' advisory committee, pursuant to RCW 46.82.300)).~~ The traffic safety education course may be provided by:

- (i) A recognized secondary school; or

(ii) A driver training school licensed under chapter 46.82 RCW that is annually approved by the department of licensing.

(b) To meet the traffic safety education requirement for a motorcycle endorsement, the applicant must successfully complete a motorcycle safety education course that meets the standards established by the department of licensing.

(c) The department may waive the traffic safety education requirement for a driver's license if the applicant demonstrates to the department's satisfaction that:

(i) He or she was unable to take or complete a traffic safety education course;

(ii) A need exists for the applicant to operate a motor vehicle; and

(iii) He or she has the ability to operate a motor vehicle in such a manner as not to jeopardize the safety of persons or property.

The department may adopt rules to implement this subsection (2)(c) in concert with the supervisor of the traffic safety education section of the office of the superintendent of public instruction.

(d) The department may waive the traffic safety education requirement if the applicant was licensed to drive a motor vehicle or motorcycle outside this state and provides proof that he or she has had education equivalent to that required under this subsection.

**Sec. 19.** RCW 46.82.280 and 2009 c 101 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) (~~"Advisory committee" means the driving instructors' advisory committee as created in this chapter.~~

~~(2))~~ (2) "Behind-the-wheel instruction" means instruction in an approved driver training school instruction vehicle according to and inclusive of the minimum required curriculum. Behind-the-wheel instruction is characterized by driving experience.

~~((3))~~ (3) "Classroom" means a space dedicated to and used exclusively by a driver training instructor for the instruction of students. With prior department approval, a branch office classroom may be located within alternative facilities, such as a public or private library, school, community college, college or university, or a business training facility.

~~((4))~~ (4) "Classroom instruction" means that portion of a traffic safety education course that is characterized by classroom-based student instruction conducted by or under the direct supervision of a licensed instructor or licensed instructors.

~~((5))~~ (5) "Director" means the director of the department of licensing of the state of Washington.

~~((6))~~ (6) "Driver training education course" means a course of instruction in traffic safety education approved and licensed by the department of licensing that consists of classroom and behind-the-wheel instruction as documented by the minimum approved curriculum.

~~((7))~~ (7) "Driver training school" means a commercial driver training school engaged in the business of giving instruction, for a fee, in the operation of automobiles.

~~((8))~~ (7) "Enrollment" means the collecting of a fee or the signing of a contract for a driver training education course. "Enrollment" does not include the collecting of names and contact information for enrolling students once a driver training school is licensed to instruct.

~~((9))~~ (8) "Fraudulent practices" means any conduct or representation on the part of a driver training school owner or instructor including:

(a) Inducing anyone to believe, or to give the impression, that a license to operate a motor vehicle or any other license granted by the director may be obtained by any means other than those prescribed by law, or furnishing or obtaining the same by illegal or improper means, or requesting, accepting, or collecting money for such purposes;

(b) Operating a driver training school without a license, providing instruction without an instructor's license, verifying enrollment prior to being licensed, misleading or false statements on applications for a commercial driver training school license or instructor's license or on any required records or supporting documentation;

(c) Failing to fully document and maintain all required driver training school records of instruction, school operation, and instructor training;

(d) Issuing a driver training course certificate without requiring completion of the necessary behind-the-wheel and classroom instruction.

~~((10))~~ (9) "Instructor" means any person employed by or otherwise associated with a driver training school to instruct persons in the operation of an automobile.

~~((11))~~ (10) "Owner" means an individual, partnership, corporation, association, or other person or group that holds a substantial interest in a driver training school.

~~((12))~~ (11) "Person" means any individual, firm, corporation, partnership, or association.

~~((13))~~ (12) "Place of business" means a designated location at which the business of a driver training school is transacted or its records are kept.

~~((14))~~ (13) "Student" means any person enrolled in an approved driver training course.

~~((15))~~ (14) "Substantial interest holder" means a person who has actual or potential influence over the management or operation of any driver training school. Evidence of substantial interest includes, but is not limited to, one or more of the following:

(a) Directly or indirectly owning, operating, managing, or controlling a driver training school or any part of a driver training school;

(b) Directly or indirectly profiting from or assuming liability for debts of a driver training school;

(c) Is an officer or director of a driver training school;

(d) Owning ten percent or more of any class of stock in a privately or closely held corporate driver training school, or five percent or more of any class of stock in a publicly traded corporate driver training school;

(e) Furnishing ten percent or more of the capital, whether in cash, goods, or services, for the operation of a driver training school during any calendar year; or

(f) Directly or indirectly receiving a salary, commission, royalties, or other form of compensation from the activity in which a driver training school is or seeks to be engaged.

NEW SECTION. **Sec. 20.** RCW 46.82.300 (Driver instructors' advisory committee) and 2009 c 101 s 2, 2006 c 219 s 3, 2002 c 195 s 5, 1984 c 287 s 93, & 1979 ex.s. c 51 s 3 are each repealed.

**Sec. 21.** RCW 46.82.330 and 2009 c 101 s 6 are each amended to read as follows:

(1) The application for an instructor's license shall document the applicant's fitness, knowledge, skills, and abilities to teach the classroom and behind-the-wheel phases of a driver training education program in a commercial driver training school.

(2) An applicant shall be eligible to apply for an original instructor's certificate if the applicant possesses and meets the following qualifications and conditions:

(a) Has been licensed to drive for five or more years and possesses a current and valid Washington driver's license or is a resident of a jurisdiction immediately adjacent to Washington state and possesses a current and valid license issued by such jurisdiction, and does not have on his or her driving record any of the violations or penalties set forth in (a)(i), (ii), or (iii) of this subsection. The director shall have the right to examine the driving record of the applicant from the department of licensing and from other jurisdictions and from these records determine if the applicant has had:

(i) Not more than one moving traffic violation within the preceding twelve months or more than two moving traffic violations in the preceding twenty-four months;

(ii) No drug or alcohol-related traffic violation or incident within the preceding three years. If there are two or more drug or alcohol-related traffic violations in the applicant's driving history, the applicant is no longer eligible to be a driving instructor; and

(iii) No driver's license suspension, cancellation, revocation, or denial within the preceding two years, or no more than two of these occurrences in the preceding five years;

(b) Is a high school graduate or the equivalent and at least twenty-one years of age;

(c) Has completed an acceptable application on a form prescribed by the director;

(d) Has satisfactorily completed a course of instruction in the training of drivers acceptable to the director that is no less than sixty hours in length and includes instruction in classroom and behind-the-wheel teaching methods and supervised practice behind-the-wheel teaching of driving techniques; and

(e) Has paid an examination fee as set by rule of the department and has successfully completed an instructor's examination (~~as approved by the advisory committee~~).

**Sec. 22.** RCW 46.82.420 and 2008 c 125 s 3 are each amended to read as follows:

(1) The (~~advisory committee shall consult with the~~) department (~~in the development and maintenance of~~) shall develop and maintain a basic minimum

required curriculum and ~~((the department))~~ shall furnish to each qualifying applicant for an instructor's license or a driver training school license a copy of such curriculum.

(2) In addition to information on the safe, lawful, and responsible operation of motor vehicles on the state's highways, the basic minimum required curriculum shall include information on:

(a) Intermediate driver's license issuance, passenger and driving restrictions and sanctions for violating the restrictions, and the effect of traffic violations and collisions on the driving privileges;

(b) The effects of alcohol and drug use on motor vehicle operators, including information on drug and alcohol related traffic injury and mortality rates in the state of Washington and the current penalties for driving under the influence of drugs or alcohol;

(c) Motorcycle awareness, approved by the director, to ensure new operators of motor vehicles have been instructed in the importance of safely sharing the road with motorcyclists;

(d) Bicycle safety, to ensure that operators of motor vehicles have been instructed in the importance of safely sharing the road with bicyclists; and

(e) Pedestrian safety, to ensure that operators of motor vehicles have been instructed in the importance of safely sharing the road with pedestrians.

(3) Should the director be presented with acceptable proof that any licensed instructor or driver training school is not showing proper diligence in teaching such basic minimum curriculum as required, the instructor or school shall be required to appear before the ~~((advisory committee))~~ director and show cause why the license of the instructor or school should not be revoked for such negligence. If the ~~((committee))~~ director does not accept such reasons as may be offered, the director may revoke the license of the instructor or school, or both.

### **Emergency Medical Services Licensing and Certification Advisory Committee**

NEW SECTION. Sec. 23. The following acts or parts of acts are each repealed:

(1) RCW 18.73.040 (Emergency medical services licensing and certification advisory committee) and 1990 c 269 s 6, 1984 c 279 s 55, 1981 c 338 s 13, 1979 ex.s. c 261 s 2, 1975-'76 2nd ex.s. c 34 s 43, & 1973 1st ex.s. c 208 s 4; and

(2) RCW 18.73.050 (Committee—Duties—Review of rules) and 1990 c 269 s 7, 1987 c 214 s 3, 1979 ex.s. c 261 s 3, & 1973 1st ex.s. c 208 s 5.

Sec. 24. RCW 18.71.205 and 1996 c 191 s 55 and 1996 c 178 s 6 are each reenacted and amended to read as follows:

(1) The secretary of the department of health ~~((, in conjunction with the advice and assistance of the emergency medical services licensing and certification advisory committee as prescribed in RCW 18.73.050, and the commission,))~~ shall prescribe:

(a) Practice parameters, training standards for, and levels of, physician trained emergency medical service intermediate life support technicians and paramedics;

(b) Minimum standards and performance requirements for the certification and recertification of physician's trained emergency medical service intermediate life support technicians and paramedics; and

(c) Procedures for certification, recertification, and decertification of physician's trained emergency medical service intermediate life support technicians and paramedics.

(2) Initial certification shall be for a period established by the secretary pursuant to RCW 43.70.250 and 43.70.280.

(3) Recertification shall be granted upon proof of continuing satisfactory performance and education, and shall be for a period established by the secretary pursuant to RCW 43.70.250 and 43.70.280.

(4) As used in chapters 18.71 and 18.73 RCW, "approved medical program director" means a person who:

(a) Is licensed to practice medicine and surgery pursuant to chapter 18.71 RCW or osteopathic medicine and surgery pursuant to chapter 18.57 RCW; and

(b) Is qualified and knowledgeable in the administration and management of emergency care and services; and

(c) Is so certified by the department of health for a county, group of counties, or cities with populations over four hundred thousand in coordination with the recommendations of the local medical community and local emergency medical services and trauma care council.

(5) The Uniform Disciplinary Act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of certificates, and the disciplining of certificate holders under this section. The secretary shall be the disciplining authority under this section. Disciplinary action shall be initiated against a person credentialed under this chapter in a manner consistent with the responsibilities and duties of the medical program director under whom such person is responsible.

(6) Such activities of physician's trained emergency medical service intermediate life support technicians and paramedics shall be limited to actions taken under the express written or oral order of medical program directors and shall not be construed at any time to include free standing or nondirected actions, for actions not presenting an emergency or life-threatening condition.

**Sec. 25.** RCW 18.73.030 and 2005 c 193 s 2 are each amended to read as follows:

~~((Unless a different meaning is plainly required by the context, the following words and phrases as used in this chapter shall have the meanings indicated.))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Secretary" means the secretary of the department of health.

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

(3) ~~("Committee" means the emergency medical services licensing and certification advisory committee.~~

~~(4))~~ "Ambulance" means a ground or air vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.

~~((5))~~ (4) "Aid vehicle" means a vehicle used to carry aid equipment and individuals trained in first aid or emergency medical procedure.

~~((6))~~ (5) "Emergency medical technician" means a person who is authorized by the secretary to render emergency medical care pursuant to RCW 18.73.081.

~~((7))~~ (6) "Ambulance service" means an organization that operates one or more ambulances.

~~((8))~~ (7) "Aid service" means an organization that operates one or more aid vehicles.

~~((9))~~ (8) "Emergency medical service" means medical treatment and care which may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

~~((10))~~ (9) "Communications system" means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an emergency medical services and trauma care system.

~~((11))~~ (10) "Prehospital patient care protocols" means the written procedure adopted by the emergency medical services medical program director which direct the out-of-hospital emergency care of the emergency patient which includes the trauma care patient. These procedures shall be based upon the assessment of the patient's medical needs and what treatment will be provided for emergency conditions. The protocols shall meet or exceed statewide minimum standards developed by the department in rule as authorized in chapter 70.168 RCW.

~~((12))~~ (11) "Patient care procedures" means written operating guidelines adopted by the regional emergency medical services and trauma care council, in consultation with the local emergency medical services and trauma care councils, emergency communication centers, and the emergency medical services medical program director, in accordance with statewide minimum standards. The patient care procedures shall identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility to first receive the patient, and the name and location of other trauma care facilities to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures in chapter 70.170 RCW.

~~((13))~~ (12) "Emergency medical services medical program director" means a person who is an approved medical program director as defined by RCW 18.71.205(4).

~~((14))~~ (13) "Council" means the local or regional emergency medical services and trauma care council as authorized under chapter 70.168 RCW.

~~((15))~~ (14) "Basic life support" means noninvasive emergency medical services requiring basic medical treatment skills as defined in chapter 18.73 RCW.

~~((16))~~ (15) "Advanced life support" means invasive emergency medical services requiring advanced medical treatment skills as defined by chapter 18.71 RCW.

~~((17))~~ (16) "First responder" means a person who is authorized by the secretary to render emergency medical care as defined by RCW 18.73.081.

~~((18))~~ (17) "Stretcher" means a cart designed to serve as a litter for the transportation of a patient in a prone or supine position as is commonly used in



the ambulance industry, such as wheeled stretchers, portable stretchers, stair chairs, solid backboards, scoop stretchers, basket stretchers, or flexible stretchers. The term does not include personal mobility aids that recline at an angle or remain at a flat position, that are owned or leased for a period of at least one week by the individual using the equipment or the individual's guardian or representative, such as wheelchairs, personal gurneys, or banana carts.

**Sec. 26.** RCW 18.73.101 and 2000 c 93 s 17 are each amended to read as follows:

The secretary may grant a variance from a provision of this chapter and RCW 18.71.200 through 18.71.220 if no detriment to health and safety would result from the variance and compliance is expected to cause reduction or loss of existing emergency medical services. Variances may be granted for a period of no more than one year. A variance may be renewed by the secretary (~~upon approval of the committee~~).

#### Employee Retirement Benefits Board

**NEW SECTION. Sec. 27.** RCW 41.50.086 (Employee retirement benefits board—Created—Membership) and 2001 c 181 s 1, 1998 c 341 s 506, & 1995 c 239 s 301 are each repealed.

**Sec. 28.** RCW 41.50.088 and 2005 c 327 s 14 are each amended to read as follows:

(1) The ~~((board))~~ director shall adopt rules as necessary and exercise the following powers and duties:

(a) The ~~((board))~~ director shall recommend to the state investment board types of options for member self-directed investment in the teachers' retirement system plan 3, the school employees' retirement system plan 3, and the public employees' retirement system plan 3 as deemed by the ~~((board))~~ director to be reflective of the members' preferences;

(b) By July 1, 2005, subject to favorable tax determination by the internal revenue service, the ~~((board))~~ director shall make optional actuarially equivalent life annuity benefit payment schedules available to members and survivors that may be purchased from the combined plan 2 and plan 3 funds under RCW 41.50.075; and

(c) Determination of the basis for administrative charges to the self-directed investment fund to offset self-directed account expenses;

(2) The ~~((board))~~ director shall recommend to the state investment board types of options for participant self-directed investment in the state deferred compensation plan, as deemed by the ~~((board))~~ director to be reflective of the participants' preferences.

**Sec. 29.** RCW 41.50.770 and 1998 c 116 s 11 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. 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, or fixed and/or variable annuity contracts from any insurance company or any investment company licensed to contract business in this state.

(3) Employees participating in the state deferred compensation plan 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 (4) of this section.

(4) 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, 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 plans. The state investment board, after consultation with the ~~((employee retirement benefits board))~~ 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 such a plan 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.

(5) Coverage of an employee under a deferred compensation plan under this section shall not render such employee ineligible for simultaneous membership and participation in any pension system for public employees.

**Sec. 30.** RCW 41.50.780 and 2008 c 229 s 12 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 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, 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(3).

(b) Neither the ~~((employee retirement benefits board))~~ 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(3).

(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.

**Sec. 31.** RCW 41.34.020 and 2000 c 247 s 401 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated:

(1) "Actuary" means the state actuary or the office of the state actuary.

(2) (~~"Board"~~) means the employee retirement benefits board authorized in chapter 41.50 RCW.

~~(3))~~ (3) "Department" means the department of retirement systems.

~~((4))~~ (3)(a) "Compensation" for teachers for purposes of this chapter is the same as "earnable compensation" for plan 3 in chapter 41.32 RCW except that the compensation may be reported when paid, rather than when earned.

(b) "Compensation" for classified employees for purposes of this chapter is the same as "compensation earnable" for plan 3 in RCW 41.35.010, except that the compensation may be reported when paid, rather than when earned.

(c) "Compensation" for public employees for purposes of this chapter is the same as "compensation earnable" for plan 3 in RCW 41.40.010, except that the compensation may be reported when paid, rather than when earned.

~~((5))~~ (4)(a) "Employer" for teachers for purposes of this chapter means the same as "employer" for plan 3 in chapter 41.32 RCW.

(b) "Employer" for classified employees for purposes of this chapter means the same as "employer" for plan 3 in RCW 41.35.010.

(c) "Employer" for public employees for purposes of this chapter means the same as "employer" for plan 3 in RCW 41.40.010.

~~((6))~~ (5) "Member" means any employee included in the membership of a retirement system as provided for in chapter 41.32 RCW of plan 3, chapter 41.35 RCW of plan 3, or chapter 41.40 RCW of plan 3.

~~((7))~~ (6) "Member account" or "member's account" means the sum of the contributions and earnings on behalf of the member.

~~((8))~~ (7) "Retiree" means any member in receipt of an allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

~~((9))~~ (8) "Teacher" means a member of the teachers' retirement system plan 3 as defined in RCW 41.32.010(29).

~~((10))~~ (9) "Classified employee" means a member of the school employees' retirement system plan 3 as defined in RCW 41.35.010.

~~((11))~~ (10) "Public employee" means a member of the public employees' retirement system plan 3 as defined in RCW 41.40.010.

**Sec. 32.** RCW 41.34.040 and 2003 c 156 s 1 are each amended to read as follows:

(1) A member shall contribute from his or her compensation according to one of the following rate structures in addition to the mandatory minimum five percent:

<u>Option A</u>	<u>Contribution Rate</u>
All Ages	0.0% fixed
<u>Option B</u>	
Up to Age 35	0.0%
Age 35 to 44	1.0%
Age 45 and above	2.5%
<u>Option C</u>	
Up to Age 35	1.0%
Age 35 to 44	2.5%
Age 45 and above	3.5%
<u>Option D</u>	
All Ages	2.0%
<u>Option E</u>	
All Ages	5.0%
<u>Option F</u>	
All Ages	10.0%

(2) The ~~((board))~~ department shall have the right to offer contribution rate options in addition to those listed in subsection (1) of this section, provided that no significant additional administrative costs are created. All options offered by the ~~((board))~~ department shall conform to the requirements stated in subsections (3) and (5) of this section.

(3)(a) For members of the teachers' retirement system entering plan 3 under RCW 41.32.835 or members of the school employees' retirement system entering plan 3 under RCW 41.35.610, within ninety days of becoming a member he or she has an option to choose one of the above contribution rate structures. If the member does not select an option within the ninety-day period, he or she shall be assigned option A.

(b) For members of the public employees' retirement system entering plan 3 under RCW 41.40.785, within the ninety days described in RCW 41.40.785 an

employee who irrevocably chooses plan 3 shall select one of the above contribution rate structures. If the member does not select an option within the ninety-day period, he or she shall be assigned option A.

(c) For members of the teachers' retirement system transferring to plan 3 under RCW 41.32.817, members of the school employees' retirement system transferring to plan 3 under RCW 41.35.510, or members of the public employees' retirement system transferring to plan 3 under RCW 41.40.795, upon election to plan 3 he or she must choose one of the above contribution rate structures.

(d) Within ninety days of the date that an employee changes employers, he or she has an option to choose one of the above contribution rate structures. If the member does not select an option within this ninety-day period, he or she shall be assigned option A.

(4) Each year, members may change their contribution rate option by notifying their employer in writing during the month of January.

(5) Contributions shall begin the first day of the pay cycle in which the rate option is made, or the first day of the pay cycle in which the end of the ninety-day period occurs.

**Sec. 33.** RCW 41.34.070 and 2005 c 327 s 3 are each amended to read as follows:

(1) If the member retires, becomes disabled, or otherwise terminates employment, the balance in the member's account may be distributed in accordance with an option selected by the member either as a lump sum or pursuant to other options authorized by the ~~((board))~~ department.

(2) If the member dies while in service, the balance of the member's account may be distributed in accordance with an option selected by the member either as a lump sum or pursuant to other options authorized by the ~~((board))~~ department. The distribution is as follows:

(a) The distribution shall be made to such person or persons as the member shall have nominated by written designation duly executed and filed with the department;

(b) If there be no such designated person or persons still living at the time of the member's death, the balance of the member's account in the retirement system, less any amount identified as owing to an obligee upon withdrawal of such account balance pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation;

(c) If there is no surviving spouse, then to such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(d) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(3) If a member has a terminal illness and terminates from employment, the member may choose to have the balance in the member's account distributed as a lump sum payment based on the most recent valuation in order to expedite the distribution. The department shall make this payment within ten working days after receipt of notice of termination of employment, documentation verifying the terminal illness, and an application for payment.

(4) The distribution under subsections (1), (2), or (3) of this section shall be less any amount identified as owing to an obligee upon withdrawal pursuant to a court order filed under RCW 41.50.670.

**Sec. 34.** RCW 41.34.130 and 2001 c 181 s 3 are each amended to read as follows:

(1) The state investment board has the full authority to invest all self-directed investment moneys in accordance with RCW 43.84.150 and 43.33A.140, and cumulative investment directions received pursuant to RCW 41.34.060 and this section. In carrying out this authority the state investment board, after consultation with the ~~((employee retirement benefits board))~~ department regarding any recommendations made pursuant to RCW 41.50.088(1)(b), shall provide a set of options for members to choose from for self-directed investment.

(2) All investment and operating costs of the state investment board associated with making self-directed investments shall be paid by members and recovered under procedures agreed to by the ~~((board))~~ department and the state investment board pursuant to the principles set forth in RCW 43.33A.160 and 43.84.160. All other expenses caused by self-directed investment shall be paid by the member in accordance with rules established by the ~~((board))~~ department under RCW 41.50.088. With the exception of these expenses, all earnings from self-directed investments shall accrue to the member's account.

(3)(a)(i) The department shall keep or cause to be kept full and adequate accounts and records of each individual member's account. The department shall account for and report on the investment of defined contribution assets or may enter into an agreement with the state investment board for such accounting and reporting under this chapter.

(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.

**Sec. 35.** RCW 41.34.140 and 1999 c 265 s 2 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 or required pursuant to RCW 41.34.060 (1) or (3).

(2) Neither the ~~((board))~~ 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 reasonable efforts to implement investment directions pursuant to RCW 41.34.060 (1) or (3).

(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(2).

(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(2).

**Sec. 36.** RCW 43.33A.135 and 1998 c 116 s 13 are each amended to read as follows:

The state investment board has the full power to establish investment policy, develop participant investment options, and manage investment funds for the state deferred compensation plan, consistent with the provisions of RCW 41.50.770 and 41.50.780. The board may continue to offer the investment options provided as of June 11, 1998, until the board establishes a deferred compensation plan investment policy and adopts new investment options after considering the recommendations of the ~~((employee retirement benefits board))~~ department of retirement systems.

### **Environmental and Land Use Hearings Board**

NEW SECTION. **Sec. 37.** The following acts or parts of acts are each repealed:

- (1) RCW 43.21L.005 (Purpose) and 2003 c 393 s 1;
- (2) RCW 43.21L.010 (Definitions) and 2003 c 393 s 2;
- (3) RCW 43.21L.020 (Exclusive review process—Exception—Procedural rules) and 2003 c 393 s 3;
- (4) RCW 43.21L.030 (Designation as qualifying project—Request for determination—Duties of office of permit assistance) and 2003 c 393 s 4;
- (5) RCW 43.21L.040 (Environmental and land use hearings board) and 2003 c 393 s 5;
- (6) RCW 43.21L.050 (Review proceedings—Commencement—Rules for filing and service) and 2003 c 393 s 6;
- (7) RCW 43.21L.060 (Standing) and 2003 c 393 s 7;
- (8) RCW 43.21L.070 (Petition requirements) and 2003 c 393 s 8;
- (9) RCW 43.21L.080 (Affidavit certifying applications for permits—Initial hearing on jurisdictional and preliminary matters) and 2003 c 393 s 9;
- (10) RCW 43.21L.090 (Expedited review of petitions) and 2003 c 393 s 10;
- (11) RCW 43.21L.100 (Stay or suspension of board action) and 2003 c 393 s 11;
- (12) RCW 43.21L.110 (Decision record—Certified copy to board—Costs) and 2003 c 393 s 12;
- (13) RCW 43.21L.120 (Board review of permit decisions—Correction of errors and omissions—Pretrial discovery—Requests for records under chapter 42.56 RCW) and 2005 c 274 s 295 & 2003 c 393 s 13;



- (14) RCW 43.21L.130 (Standards for granting relief—Action by board) and 2003 c 393 s 14;  
 (15) RCW 43.21L.140 (Judicial review) and 2003 c 393 s 15;  
 (16) RCW 43.21L.900 (Implementation—2003 c 393) and 2003 c 393 s 24;  
 and  
 (17) RCW 43.21L.901 (Effective date—2003 c 393) and 2003 c 393 s 25.

**Sec. 38.** RCW 36.70C.030 and 2003 c 393 s 17 are each amended to read as follows:

(1) This chapter replaces the writ of certiorari for appeal of land use decisions and shall be the exclusive means of judicial review of land use decisions, except that this chapter does not apply to:

(a) Judicial review of:

(i) Land use decisions made by bodies that are not part of a local jurisdiction;

(ii) Land use decisions of a local jurisdiction that are subject to review by a quasi-judicial body created by state law, such as the shorelines hearings board (~~the environmental and land use hearings board~~), or the growth management hearings board;

(b) Judicial review of applications for a writ of mandamus or prohibition; or

(c) Claims provided by any law for monetary damages or compensation. If one or more claims for damages or compensation are set forth in the same complaint with a land use petition brought under this chapter, the claims are not subject to the procedures and standards, including deadlines, provided in this chapter for review of the petition. The judge who hears the land use petition may, if appropriate, preside at a trial for damages or compensation.

(2) The superior court civil rules govern procedural matters under this chapter to the extent that the rules are consistent with this chapter.

**Sec. 39.** RCW 43.21B.005 and 2003 c 393 s 18 and 2003 c 39 s 22 are each reenacted and amended to read as follows:

(1) There is created an environmental hearings office of the state of Washington. The environmental hearings office shall consist of the pollution control hearings board created in RCW 43.21B.010, the forest practices appeals board created in RCW 76.09.210, the shorelines hearings board created in RCW 90.58.170, (~~the environmental and land use hearings board created in chapter 43.21L RCW,~~) and the hydraulic appeals board created in RCW (~~77.55.170~~) 77.55.301. The chair of the pollution control hearings board shall be the chief executive officer of the environmental hearings office. Membership, powers, functions, and duties of the pollution control hearings board, the forest practices appeals board, the shorelines hearings board, and the hydraulic appeals board shall be as provided by law.

(2) The chief executive officer of the environmental hearings office may appoint an administrative appeals judge who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, in cases before the boards comprising the office. The administrative appeals judge shall have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. Additional administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.

(3) The administrative appeals judges appointed under subsection (2) of this section are subject to discipline and termination, for cause, by the chief executive officer. Upon written request by the person so disciplined or terminated, the chief executive officer shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(4) The chief executive officer may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

(5) The chief executive officer may also contract for required services.

#### **Family Practice Education Advisory Board**

NEW SECTION. **Sec. 40.** The following acts or parts of acts are each repealed:

(1) RCW 70.112.030 (Family practice education advisory board—Chairman—Membership) and 1975 1st ex.s. c 108 s 3;

(2) RCW 70.112.040 (Advisory board—Terms of members—Filling vacancies) and 1975 1st ex.s. c 108 s 4; and

(3) RCW 70.112.050 (Advisory board—Duties) and 1998 c 245 s 111 & 1975 1st ex.s. c 108 s 5.

**Sec. 41.** RCW 70.112.010 and 1975 1st ex.s. c 108 s 1 are each amended to read as follows:

(1) "School of medicine" means the University of Washington school of medicine located in Seattle, Washington;

(2) "Residency programs" mean community based family practice residency educational programs either in existence or established under this chapter;

(3) "Affiliated" means established or developed in cooperation with the school of medicine;

(4) "Family practice unit" means the community facility or classroom used for training of ambulatory health skills within a residency training program; and

~~((5) "Advisory board" means the family practice education advisory board created by this chapter.))~~

**Sec. 42.** RCW 70.112.020 and 1975 1st ex.s. c 108 s 2 are each amended to read as follows:

There is established a statewide medical education system for the purpose of training resident physicians in family practice. The dean of the school of medicine shall be responsible for implementing the development and expansion of residency programs in cooperation with the medical profession, hospitals, and clinics located throughout the state. The chairman of the department of family medicine in the school of medicine ~~((, with the consent of the advisory board,))~~ shall determine where affiliated residency programs shall exist; giving consideration to communities in the state where the population, hospital facilities, number of physicians, and interest in medical education indicate the potential success of the residency program. The medical education system shall provide financial support for residents in training for those programs which are affiliated with the school of medicine and shall establish positions for appropriate faculty to staff these programs. The number of programs shall be determined by the board and be in keeping with the needs of the state.

**Fire Protection Policy Board**

NEW SECTION. **Sec. 43.** The following acts or parts of acts are each repealed:

(1) RCW 43.43.932 (State fire protection policy board—Created—Members) and 2005 c 35 s 1, 1995 c 369 s 15, & 1986 c 266 s 55; and

(2) RCW 43.43.936 (State fire protection policy board—Advisory duties) and 1995 c 369 s 17, 1993 c 280 s 70, & 1986 c 266 s 57.

**Sec. 44.** RCW 43.43.930 and 1995 c 369 s 14 are each amended to read as follows:

The legislature finds that fire protection services at the state level are provided by different, independent state agencies. This has resulted in a lack of a comprehensive state-level focus for state fire protection services, funding, and policy. The legislature further finds that the paramount duty of the state in fire protection services is to enhance the capacity of all local jurisdictions to assure that their personnel with fire suppression, prevention, inspection, origin and cause, and arson investigation responsibilities are adequately trained to discharge their responsibilities. It is the intent of the legislature to consolidate fire protection services into a single state agency ~~((and to create a state board with the responsibility of (1) establishing a comprehensive state policy regarding fire protection services and (2) advising the chief of the Washington state patrol and the director of fire protection on matters relating to their duties under state law))~~. It is also the intent of the legislature that the fire protection services program created herein will assist local fire protection agencies in program development without encroaching upon their historic autonomy. It is the further intent of the legislature that the fire protection services program be implemented incrementally to assure a smooth transition, to build local, regional, and state capacity, and to avoid undue burdens on jurisdictions with limited resources.

**Sec. 45.** RCW 43.43.934 and 2003 c 316 s 1 are each amended to read as follows:

~~((Except for matters relating to the statutory duties of the chief of the Washington state patrol that are to be carried out through))~~ The director of fire protection ~~((; the board shall have the responsibility of developing a comprehensive state policy regarding fire protection services. In carrying out its duties, the board))~~ shall:

(1)(a) ~~((Adopt a state fire training and education master plan that allows to the maximum feasible extent for negotiated agreements:))~~ (i) With the state board for community and technical colleges ~~((; the board))~~, provide academic, vocational, and field training programs for the fire service; and (ii) with the higher education coordinating board and the state colleges and universities ~~((; the board))~~, provide instructional programs requiring advanced training, especially in command and management skills;

(b) ~~((Adopt minimum standards for each level of responsibility among personnel with fire suppression, prevention, inspection, and investigation responsibilities that assure continuing assessment of skills and are flexible enough to meet emerging technologies. With particular respect to training for fire investigations, the master plan shall encourage cross training in appropriate law enforcement skills. To meet special local needs, fire agencies may adopt more stringent requirements than those adopted by the state;))~~

~~(e))~~ Cooperate with the common schools, technical and community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule;

~~((d))~~ (c) Develop and adopt a master plan for constructing, equipping, maintaining, and operating necessary fire service training and education facilities subject to the provisions of chapter 43.19 RCW;

~~((e))~~ (d) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary for fire service training and education facilities in a manner provided by law; and

~~((f))~~ (e) Develop and adopt a plan with a goal of providing firefighter one and wildland training ~~(, as defined by the board,)~~ to all firefighters in the state. Wildland training reimbursement will be provided if a fire protection district or a city fire department has and is fulfilling their interior attack policy or if they do not have an interior attack policy. The plan will include a reimbursement for fire protection districts and city fire departments of not less than three dollars for every hour of firefighter one or wildland training. The Washington state patrol shall not provide reimbursement for more than two hundred hours of firefighter one or wildland training for each firefighter trained.

(2) ~~(In addition to its responsibilities for fire service training, the board shall:~~

~~(a) Adopt a state fire protection master plan;~~

~~(b) Monitor fire protection in the state and develop objectives and priorities to improve fire protection for the state's citizens including: (i) The comprehensiveness of state and local inspections required by law for fire and life safety; (ii) the level of skills and training of inspectors, as well as needs for additional training; and (iii) the efforts of local, regional, and state inspection agencies to improve coordination and reduce duplication among inspection efforts;~~

~~(c) Establish and promote state arson control programs and ensure development of local arson control programs;~~

~~(d) Provide representation for local fire protection services to the governor in state level fire protection planning matters such as, but not limited to, hazardous materials control;~~

~~(e) Recommend to the adjutant general rules on minimum information requirements of automatic location identification for the purposes of enhanced 911 emergency service;~~

~~(f) Seek and solicit grants, gifts, bequests, devises, and matching funds for use in furthering the objectives and duties of the board, and establish procedures for administering them;~~

~~((g))~~ (a) Promote mutual aid and disaster planning for fire services in this state;

~~((h))~~ (b) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention; and

~~((i))~~ (c) Implement any legislation enacted by the legislature to meet the requirements of any acts of congress that apply to this section.

(3) In carrying out its statutory duties, the ~~((board))~~ office of the state fire marshal shall give particular consideration to the appropriate roles to be played by the state and by local jurisdictions with fire protection responsibilities. Any determinations on the division of responsibility shall be made in consultation with local fire officials and their representatives.

To the extent possible, the ~~((board))~~ office of the state fire marshal shall encourage development of regional units along compatible geographic, population, economic, and fire risk dimensions. Such regional units may serve to: (a) Reinforce coordination among state and local activities in fire service training, reporting, inspections, and investigations; (b) identify areas of special need, particularly in smaller jurisdictions with inadequate resources; (c) assist the state in its oversight responsibilities; (d) identify funding needs and options at both the state and local levels; and (e) provide models for building local capacity in fire protection programs.

**Sec. 46.** RCW 43.43.938 and 1995 c 369 s 18 are each amended to read as follows:

(1) Wherever the term state fire marshal appears in the Revised Code of Washington or the Washington Administrative Code it shall mean the director of fire protection.

(2) The chief of the Washington state patrol shall appoint an officer who shall be known as the director of fire protection. ~~((The board, after consulting with the chief of the Washington state patrol, shall prescribe qualifications for the position of director of fire protection. The board shall submit to the chief of the Washington state patrol a list containing the names of three persons whom the board believes meet its qualifications. If requested by the chief of the Washington state patrol, the board shall submit one additional list of three persons whom the board believes meet its qualifications. The appointment shall be from one of the lists of persons submitted by the board.))~~

(3) The director of fire protection may designate one or more deputies and may delegate to those deputies his or her duties and authorities as deemed appropriate.

(4) The director of fire protection ~~((in accordance with the policies, objectives, and priorities of the fire protection policy board,))~~ shall prepare a biennial budget pertaining to fire protection services. Such biennial budget shall be submitted as part of the Washington state patrol's budget request.

(5) The director of fire protection, shall implement and administer, within constraints established by budgeted resources, ~~((the policies, objectives, and priorities of the board and))~~ all duties of the chief of the Washington state patrol that are to be carried out through the director of fire protection, and all of the duties of the director of fire protection. Such administration shall include negotiation of agreements with the state board for community and technical colleges, the higher education coordinating board, and the state colleges and universities as provided in RCW ~~((43.63A.320))~~ 43.43.934. Programs covered by such agreements shall include, but not be limited to, planning curricula,

developing and delivering instructional programs and materials, and using existing instructional personnel and facilities. Where appropriate, such contracts shall also include planning and conducting instructional programs at the state fire service training center.

~~((6) The chief of the Washington state patrol, through the director of fire protection, shall seek the advice of the board in carrying out his or her duties under law.))~~

**Sec. 47.** RCW 43.43.962 and 2003 c 405 s 3 are each amended to read as follows:

The ~~((state fire protection policy board))~~ director of fire protection shall review and make recommendations to the chief on the refinement and maintenance of the Washington state fire services mobilization plan, which shall include the procedures to be used during fire and other emergencies for coordinating local, regional, and state fire jurisdiction resources. In carrying out this duty, the director of fire protection ~~((policy board))~~ shall consult with and solicit recommendations from representatives of state and local fire and emergency management organizations, regional fire defense boards, and the department of natural resources. The Washington state fire services mobilization plan shall be consistent with, and made part of, the Washington state comprehensive emergency management plan. The chief shall review the fire services mobilization plan as submitted by the director of fire protection ~~((policy board))~~, recommend changes that may be necessary, and approve the fire services mobilization plan for inclusion within the state comprehensive emergency management plan.

It is the responsibility of the chief to mobilize jurisdictions under the Washington state fire services mobilization plan. The state fire marshal shall serve as the state fire resources coordinator when the Washington state fire services mobilization plan is mobilized.

**Sec. 48.** RCW 43.43.963 and 1997 c 49 s 11 are each amended to read as follows:

Regions within the state are initially established as follows but may be adjusted as necessary by the state fire marshal:

- (1) Northwest region - Whatcom, Skagit, Snohomish, San Juan, and Island counties;
  - (2) Northeast region - Okanogan, Ferry, Stevens, Pend Oreille, Spokane, and Lincoln counties;
  - (3) Olympic region - Clallam and Jefferson counties;
  - (4) South Puget Sound region - Kitsap, Mason, King, and Pierce counties;
  - (5) Southeast region - Chelan, Douglas, Kittitas, Grant, Adams, Whitman, Yakima, Klickitat, Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties;
  - (6) Central region - Grays Harbor, Thurston, Pacific, and Lewis counties;
- and
- (7) Southwest region - Wahkiakum, Cowlitz, Clark, and Skamania counties.

Within each of these regions there is created a regional fire defense board. The regional fire defense boards shall consist of two members from each county in the region. One member from each county shall be appointed by the county fire chiefs' association or, in the event there is no such county association, by the

county's legislative authority. Each county's office of emergency management or, in the event there is no such office, the county's legislative authority shall select the second representative to the regional board. The department of natural resources fire control chief shall appoint a representative from each department of natural resources region to serve as a member of the appropriate regional fire defense board. Members of each regional board will select a chairperson and secretary as officers. Members serving on the regional boards do so in a voluntary capacity and are not eligible for reimbursement for meeting-related expenses from the state.

Regional defense boards shall develop regional fire service plans that include provisions for organized fire agencies to respond across municipal, county, or regional boundaries. Each regional plan shall be consistent with the incident command system, the Washington state fire services mobilization plan, and regional response plans already adopted and in use in the state. The regional boards shall work with the relevant local government entities to facilitate development of intergovernmental agreements if any such agreements are required to implement a regional fire service plan. Each regional plan shall be approved by the ~~((fire protection policy board before implementation))~~ director of fire protection.

**Sec. 49.** RCW 43.44.030 and 1991 c 170 s 2 are each amended to read as follows:

~~((Nonconstruction standards relative to fire prevention and safety for all schools under the jurisdiction of the superintendent of public instruction and state board of education shall be established by the state fire protection board.))~~  
The director of fire protection shall make or cause to be made plan reviews and construction inspections for all E-1 occupancies as may be necessary to insure compliance with the state building code and standards for schools adopted under chapter 19.27 RCW. Nothing in this section prohibits the director of fire protection from delegating construction inspection authority to any local jurisdiction.

**Sec. 50.** RCW 43.44.060 and 1999 c 231 s 1 are each amended to read as follows:

(1) The chief of each organized fire department, or the sheriff or other designated county official having jurisdiction over areas not within the jurisdiction of any fire department, shall report statistical information and data to the chief of the Washington state patrol, through the director of fire protection, on each fire occurring within the official's jurisdiction and, within two business days, report any death resulting from fire. Reports shall be consistent with the national fire incident reporting system developed by the United States fire administration and rules established by the chief of the Washington state patrol, through the director of fire protection. The chief of the Washington state patrol, through the director of fire protection, and the department of natural resources shall jointly determine the statistical information to be reported on fires on land under the jurisdiction of the department of natural resources.

(2) The chief of the Washington state patrol, through the director of fire protection, shall analyze the information and data reported, compile a report, and distribute a copy annually by July 1st to each chief fire official in the state. Upon request, the chief of the Washington state patrol, through the director of

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fire protection, shall also furnish a copy of the report to any other interested person at cost.

~~((3) In carrying out the duties relating to collecting, analyzing, and reporting statistical fire data, the fire protection policy board may purchase statistical fire data from a qualified individual or organization. The information shall meet the diverse needs of state and local fire reporting agencies and shall be (a) defined in understandable terms of common usage in the fire community; (b) adaptable to the varying levels of resources available; (c) maintained in a manner that will foster both technical support and resource sharing; and (d) designed to meet both short and long term needs.))~~

**Sec. 51.** RCW 38.52.530 and 2006 c 210 s 1 are each amended to read as follows:

The enhanced 911 advisory committee is created to advise and assist the state enhanced 911 coordinator in coordinating and facilitating the implementation and operation of enhanced 911 throughout the state. The director shall appoint members of the committee who represent diverse geographical areas of the state and include state residents who are members of the national emergency number association, the associated public communications officers Washington chapter, the Washington state fire chiefs association, the Washington association of sheriffs and police chiefs, the Washington state council of firefighters, the Washington state council of police officers, the Washington ambulance association, ~~((the state fire protection policy board,))~~ the Washington state firefighters association, the Washington state association of fire marshals, the Washington fire commissioners association, the Washington state patrol, the association of Washington cities, the Washington state association of counties, the utilities and transportation commission or commission staff, a representative of a voice over internet protocol company, and an equal number of representatives of large and small local exchange telephone companies and large and small radio communications service companies offering commercial mobile radio service in the state. This section expires December 31, 2011.

**Sec. 52.** RCW 49.26.120 and 1995 c 218 s 6 are each amended to read as follows:

(1) No person may assign any employee, contract with, or permit any individual or person to remove or encapsulate asbestos in any facility unless performed by a certified asbestos worker and under the direct, on-site supervision of a certified asbestos supervisor. In cases in which an employer conducts an asbestos abatement project in its own facility and by its own employees, supervision can be performed in the regular course of a certified asbestos supervisor's duties. Asbestos workers must have access to certified asbestos supervisors throughout the duration of the project.

(2) The department shall require persons undertaking asbestos projects to provide written notice to the department before the commencement of the project except as provided in RCW 49.26.125. The notice shall include a written description containing such information as the department requires by rule. The department may by rule allow a person to report multiple projects at one site in one report. The department shall by rule establish the procedure and criteria by



which a person will be considered to have attempted to meet the prenotification requirement.

(3) The department shall consult with the ~~((state fire protection policy board))~~ Washington state association of fire chiefs and may establish any additional policies and procedures for municipal fire department and fire district personnel who clean up sites after fires which have rendered it likely that asbestos has been or will be disturbed or released into the air.

#### **Hazardous Substance Mixed Waste Advisory Board**

NEW SECTION. **Sec. 53.** The following acts or parts of acts are each repealed:

- (1) RCW 70.105E.070 (Disclosure of costs and clean-up budgets) and 2005 c 1 s 7; and
- (2) RCW 70.105E.090 (Advisory board—Public involvement—Funding) and 2005 c 1 s 9.

#### **Health and Welfare Advisory Board and Property and Liability Advisory Board**

NEW SECTION. **Sec. 54.** The following acts or parts of acts are each repealed:

- (1) RCW 48.62.051 (Health and welfare advisory board—Creation—Membership—Duties) and 1991 sp.s. c 30 s 5; and
- (2) RCW 48.62.041 (Property and liability advisory board—Creation—Membership—Duties) and 1991 sp.s. c 30 s 4.

**Sec. 55.** RCW 48.62.061 and 1991 sp.s. c 30 s 6 are each amended to read as follows:

The state risk manager~~((, in consultation with the property and liability advisory board))~~ shall adopt rules governing the management and operation of both individual and joint local government self-insurance programs covering property or liability risks. The state risk manager shall also adopt rules governing the management and operation of both individual and joint local government self-insured health and welfare benefits programs ~~((in consultation with the health and welfare benefits advisory board))~~. All rules shall be appropriate for the type of program and class of risk covered. The state risk manager's rules shall include:

- (1) Standards for the management, operation, and solvency of self-insurance programs, including the necessity and frequency of actuarial analyses and claims audits;
- (2) Standards for claims management procedures; and
- (3) Standards for contracts between self-insurance programs and private businesses including standards for contracts between third-party administrators and programs.

**Sec. 56.** RCW 48.62.161 and 1991 sp.s. c 30 s 16 are each amended to read as follows:

- (1) The state risk manager shall establish and charge an investigation fee in an amount necessary to cover the costs for the initial review and approval of a

self-insurance program. The fee must accompany the initial submission of the plan of operation and management.

(2) The costs of subsequent reviews and investigations shall be charged to the self-insurance program being reviewed or investigated in accordance with the actual time and expenses incurred in the review or investigation.

(3) ~~((After the formation of the two advisory boards, each board))~~ The state risk manager may calculate, levy, and collect from each joint property and liability self-insurance program and each individual and joint health and welfare benefit program regulated by this chapter a start-up assessment to pay initial expenses and operating costs of ~~((the boards and))~~ the risk manager's office in administering this chapter. Any program failing to remit its assessment when due is subject to denial of permission to operate or to a cease and desist order until the assessment is paid.

#### **Higher Education Coordinating Board Advisory Council**

NEW SECTION. Sec. 57. RCW 28B.76.100 (Advisory council) and 2007 c 458 s 103, 2004 c 275 s 2, & 1985 c 370 s 9 are each repealed.

#### **Higher Education Coordinating Board Research Advisory Group**

**Sec. 58.** RCW 28B.76.280 and 2004 c 275 s 12 are each amended to read as follows:

(1) In consultation with the institutions of higher education and state education agencies, the board shall identify the data needed to carry out its responsibilities for policy analysis, accountability, program improvements, and public information. The primary goals of the board's data collection and research are to describe how students and other beneficiaries of higher education are being served; to support higher education accountability; and to assist state policymakers and institutions in making policy decisions.

(2) The board shall ~~((convene a research advisory group and shall collaborate with the group to))~~ identify the most cost-effective manner for the board to collect data or access existing data. The board shall ~~((work with the advisory group to))~~ develop research priorities, policies, and common definitions to maximize the reliability and consistency of data across institutions. ~~((The advisory group shall include representatives of public and independent higher education institutions and other state agencies, including the state board for community and technical colleges, the office of the superintendent of public instruction, the office of financial management, the employment security department, the workforce training and education coordinating board, and other agencies as appropriate.))~~

(3) Specific protocols shall be developed by the board ~~((and the advisory group))~~ to protect the privacy of individual student records while ensuring the availability of student data for legitimate research purposes.

#### **Industry Cluster Advisory Committee**

**Sec. 59.** RCW 43.330.090 and 2009 c 151 s 1 are each amended to read as follows:

(1) The department shall work with private sector organizations, industry and sector associations, federal agencies, state agencies that use a sector-based approach to service delivery, local governments, local associate development organizations, and higher education and training institutions in the development of industry sector-based strategies to diversify the economy, facilitate technology transfer and diffusion, and increase value-added production. The industry sectors targeted by the department may include, but are not limited to, aerospace, agriculture, food processing, forest products, marine services, health and biomedical, software, digital and interactive media, transportation and distribution, and microelectronics. The department shall, on a continuing basis, evaluate the potential return to the state from devoting additional resources to an industry sector-based approach to economic development and identifying and assisting additional sectors.

(2) The department's sector-based strategies shall include, but not be limited to, cluster-based strategies that focus on assisting regional industry sectors and related firms and institutions that meet the definition of an industry cluster in this section and based on criteria identified by the working group established in this chapter.

(3)(a) The department shall promote, market, and encourage growth in the production of films and videos, as well as television commercials within the state; to this end the department is directed to assist in the location of a film and video production studio within the state.

(b) The department may, in carrying out its efforts to encourage film and video production in the state, solicit and receive gifts, grants, funds, fees, and endowments, in trust or otherwise, from tribal, local, or other governmental entities, as well as private sources, and may expend the same or any income therefrom for the encouragement of film and video production. All revenue received for such purposes shall be deposited into the film and video promotion account created in RCW 43.330.092.

(4) In assisting in the development of regional and statewide industry cluster-based strategies, the department's activities shall include, but are not limited to:

(a) Facilitating regional focus group discussions and conducting studies to identify industry clusters, appraise the current information linkages within a cluster, and identify issues of common concern within a cluster;

(b) Supporting industry and cluster associations, publications of association and cluster directories, and related efforts to create or expand the activities of industry and cluster associations;

(c) Administering a competitive grant program to fund economic development activities designed to further regional cluster growth. In administering the program, the department shall work with ~~((an industry cluster advisory committee with equal representation from))~~ the economic development commission, the workforce training and education coordinating board, the state board for community and technical colleges, the employment security department, business, and labor.

(i) The ~~((industry cluster advisory committee))~~ department shall ~~((recommend))~~ seek recommendations on criteria for evaluating applications for grant funds and recommend applicants for receipt of grant funds. Criteria shall include not duplicating the purpose or efforts of industry skill panels.

(ii) Applicants must include organizations from at least two counties and participants from the local business community. Eligible organizations include, but are not limited to, local governments, economic development councils, chambers of commerce, federally recognized Indian tribes, workforce development councils, and educational institutions.

(iii) Applications must evidence financial participation of the partner organizations.

(iv) Eligible activities include the formation of cluster economic development partnerships, research and analysis of economic development needs of the cluster, the development of a plan to meet the economic development needs of the cluster, and activities to implement the plan.

(v) Priority shall be given to applicants that complement industry skill panels and will use the grant funds to build linkages and joint projects.

(vi) The maximum amount of a grant is one hundred thousand dollars.

(vii) A maximum of one hundred thousand dollars total can go to King, Pierce, Kitsap, and Snohomish counties combined.

(viii) No more than ten percent of funds received for the grant program may be used by the department for administrative costs.

(5) As used in this chapter, "industry cluster" means a geographic concentration of interconnected companies in a single industry, related businesses in other industries, including suppliers and customers, and associated institutions, including government and education.

#### **Integrated Justice Information Board**

NEW SECTION. **Sec. 60.** The following acts or parts of acts are each repealed:

(1) RCW 10.98.200 (Findings—Intent) and 2005 c 274 s 208 & 2003 c 104 s 1;

(2) RCW 10.98.210 (Washington integrated justice information board—Members) and 2003 c 104 s 3;

(3) RCW 10.98.220 (Washington integrated justice information board—Meetings) and 2003 c 104 s 4;

(4) RCW 10.98.230 (Washington integrated justice information board—Powers and duties) and 2003 c 104 s 5; and

(5) RCW 10.98.240 (Washington integrated justice information board—Report) and 2003 c 104 s 6.

#### **Juvenile Justice Advisory Committee**

**Sec. 61.** RCW 2.56.031 and 1993 c 415 s 2 are each amended to read as follows:

The administrator for the courts shall develop a plan to improve the collection and reporting of information on juvenile offenders by all juvenile courts in the state. The information related to juvenile offenders shall include, but is not limited to, social, demographic, education, and economic data on juvenile offenders and where possible, their families. Development and implementation of the plan shall be accomplished in consultation with the human rights commission, ~~((the governor's juvenile justice advisory~~

~~committee~~)) superior court judges, juvenile justice administrators, and interested juvenile justice practitioners and researchers. The plan shall include a schedule and budget for implementation and shall be provided to the office of financial management by September 15, 1993.

**Sec. 62.** RCW 13.40.510 and 1997 c 338 s 61 are each amended to read as follows:

(1) In order to receive funds under RCW 13.40.500 through 13.40.540, local governments may, through their respective agencies that administer funding for consolidated juvenile services, submit proposals that establish community juvenile accountability programs within their communities. These proposals must be submitted to the juvenile rehabilitation administration of the department of social and health services for certification.

(2) The proposals must:

(a) Demonstrate that the proposals were developed with the input of ~~((the community public health and safety networks established under RCW 70.190.060, and))~~ the local law and justice councils established under RCW 72.09.300;

(b) Describe how local community groups or members are involved in the implementation of the programs funded under RCW 13.40.500 through 13.40.540;

(c) Include a description of how the grant funds will contribute to the expected outcomes of the program and the reduction of youth violence and juvenile crime in their community. Data approaches are not required to be replicated if the networks have information that addresses risks in the community for juvenile offenders.

(3) A local government receiving a grant under this section shall agree that any funds received must be used efficiently to encourage the use of community-based programs that reduce the reliance on secure confinement as the sole means of holding juvenile offenders accountable for their crimes. The local government shall also agree to account for the expenditure of all funds received under the grant and to submit to audits for compliance with the grant criteria developed under RCW 13.40.520.

(4) The juvenile rehabilitation administration, in consultation with the Washington association of juvenile court administrators~~((;))~~ and the state law and justice advisory council, ~~((and the family policy council;))~~ shall establish guidelines for programs that may be funded under RCW 13.40.500 through 13.40.540. The guidelines must:

(a) Target diverted and adjudicated juvenile offenders;

(b) Include assessment methods to determine services, programs, and intervention strategies most likely to change behaviors and norms of juvenile offenders;

(c) Provide maximum structured supervision in the community. Programs should use natural surveillance and community guardians such as employers, relatives, teachers, clergy, and community mentors to the greatest extent possible;

(d) Promote good work ethic values and educational skills and competencies necessary for the juvenile offender to function effectively and positively in the community;

- (e) Maximize the efficient delivery of treatment services aimed at reducing risk factors associated with the commission of juvenile offenses;
  - (f) Maximize the reintegration of the juvenile offender into the community upon release from confinement;
  - (g) Maximize the juvenile offender's opportunities to make full restitution to the victims and amends to the community;
  - (h) Support and encourage increased court discretion in imposing community-based intervention strategies;
  - (i) Be compatible with research that shows which prevention and early intervention strategies work with juvenile offenders;
  - (j) Be outcome-based in that it describes what outcomes will be achieved or what outcomes have already been achieved;
  - (k) Include an evaluation component; and
  - (l) Recognize the diversity of local needs.
- (5) The state law and justice advisory council (~~(, with the assistance of the family policy council and the governor's juvenile justice advisory committee,)~~) may provide support and technical assistance to local governments for training and education regarding community-based prevention and intervention strategies.

**K-20 Educational Network Board  
K-20 Network Technical Steering Committee**

NEW SECTION. Sec. 63. The following acts or parts of acts are each repealed:

- (1) RCW 43.105.800 (K-20 educational network board) and 1999 c 285 s 2; and
- (2) RCW 43.105.810 (K-20 network technical steering committee) and 1999 c 285 s 6.

**Sec. 64.** RCW 43.105.020 and 2009 c 565 s 32, 2009 c 509 s 7, and 2009 c 486 s 14 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly (~~(required [requires])~~) requires otherwise.

- (1) "Administrator" means the community technology opportunity program administrator designated by the department.
- (2) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network.
- (3) "Board" means the information services board.
- (4) "Broadband" means a high-speed, high capacity transmission medium, using land-based, satellite, wireless, or any other mechanism, that can carry either signals or transmit data, or both, over long distances by using a wide range of frequencies.
- (5) "Committee" means the state interoperability executive committee.
- (6) "Common vendor registration and bid notification system" has the definition in RCW 39.29.006.

(7) "Community technology programs" means programs that are engaged in diffusing information and communications technology in local communities, particularly in unserved and underserved areas of the state. These programs may include, but are not limited to, programs that provide education and skill-building opportunities, hardware and software, internet connectivity, digital media literacy, development of locally relevant content, and delivery of vital services through technology.

(8) "Council" means the advisory council on digital inclusion created in RCW 43.105.400.

(9) "Department" means the department of information services.

(10) "Director" means the director of the department.

(11) "Educational sectors" means those institutions of higher education, school districts, and educational service districts that use the network for distance education, data transmission, and other uses permitted by the K-20 board.

(12) "Equipment" means the machines, devices, and transmission facilities used in information processing, such as computers, word processors, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment.

(13) "High-speed internet" means broadband.

(14) "Information" includes, but is not limited to, data, text, voice, and video.

(15) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions.

(16) "Information services" means data processing, telecommunications, office automation, and computerized information systems.

(17) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

~~(18) ("K-20 educational network board" or "K-20 board" means the K-20 educational network board created in RCW 43.105.800.~~

~~(19)) "K-20 network" means the network established in RCW 43.105.820.~~

~~((20) "K-20 network technical steering committee" or "committee" means the K-20 network technical steering committee created in RCW 43.105.810.~~

~~(21)) (19) "Local governments" includes all municipal and quasi municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately.~~

~~((22)) (20) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications.~~

~~((23)) (21) "Proprietary software" means that software offered for sale or license.~~

~~((24)) (22) "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. This term includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, telecommunications installation and maintenance,~~

data entry, keypunch services, programming services, and computer time-sharing.

~~((25))~~ (23) "Small business" has the definition in RCW 39.29.006.

~~((26))~~ (24) "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other means.

~~((27))~~ (25) "Video telecommunications" means the electronic interconnection of two or more sites for the purpose of transmitting and/or receiving visual and associated audio information. Video telecommunications shall not include existing public television broadcast stations as currently designated by the department of commerce under chapter 43.330 RCW.

**Sec. 65.** RCW 43.105.041 and 2009 c 486 s 13 are each amended to read as follows:

(1) The board shall have the following powers and duties related to information services:

(a) To develop standards and procedures governing the acquisition and disposition of equipment, proprietary software and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;

(b) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: PROVIDED, That, agencies and institutions of state government are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200, except that the board, the department, and state agencies, as delegated, must post notices of technology procurement bids on the state's common vendor registration and bid notification system. This subsection (1)(b) does not apply to the legislative branch;

(c) To develop statewide or interagency technical policies, standards, and procedures;

(d) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a statewide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(e) To provide direction concerning strategic planning goals and objectives for the state. The board shall seek input from the legislature and the judiciary;

(f) To develop and implement a process for the resolution of appeals by:

(i) Vendors concerning the conduct of an acquisition process by an agency or the department; or



(ii) A customer agency concerning the provision of services by the department or by other state agency providers;

(g) To establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education; and

(iii) Project management;

(h) To set its meeting schedules and convene at scheduled times, or meet at the request of a majority of its members, the chair, or the director;

(i) To review and approve that portion of the department's budget requests that provides for support to the board; and

(j) To develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments.

(2) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The board shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems. Local governments are strongly encouraged to follow the standards established by the board; and

(b) Require agencies to consider electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the board is encouraged to include the state library, state archives, and appropriate representatives of state and local government.

(3)(a) The board (~~(, in consultation with the K-20 board,)~~) has the duty to govern, operate, and oversee the technical design, implementation, and operation of the K-20 network including, but not limited to, the following duties: Establishment and implementation of K-20 network technical policy, including technical standards and conditions of use; review and approval of network design; procurement of shared network services and equipment; and resolving user/provider disputes concerning technical matters. The board shall delegate general operational and technical oversight to the (~~(K-20 network technical steering committee)~~) department as appropriate.

(b) The board has the authority to adopt rules under chapter 34.05 RCW to implement the provisions regarding the technical operations and conditions of use of the K-20 network.

**Sec. 66.** RCW 43.105.805 and 1999 c 285 s 3 are each amended to read as follows:

The (~~(K-20)~~) board has the following powers and duties:

(1) In cooperation with the educational sectors and other interested parties, to establish goals and measurable objectives for the network;

(2) To ensure that the goals and measurable objectives of the network are the basis for any decisions or recommendations regarding the technical development and operation of the network;

(3) To adopt, modify, and implement policies to facilitate network development, operation, and expansion. Such policies may include but need not be limited to the following issues: Quality of educational services; access to the network by recognized organizations and accredited institutions that deliver educational programming, including public libraries; prioritization of programming within limited resources; prioritization of access to the system and the sharing of technological advances; network security; identification and evaluation of emerging technologies for delivery of educational programs; future expansion or redirection of the system; network fee structures; and costs for the development and operation of the network;

(4) To prepare and submit to the governor and the legislature a coordinated budget for network development, operation, and expansion. The budget shall include the recommendations of the ((K-20)) board on (a) any state funding requested for network transport and equipment, distance education facilities and hardware or software specific to the use of the network, and proposed new network end sites, (b) annual copayments to be charged to public educational sector institutions and other public entities connected to the network, and (c) charges to nongovernmental entities connected to the network;

(5) To adopt and monitor the implementation of a methodology to evaluate the effectiveness of the network in achieving the educational goals and measurable objectives;

(6) To authorize the release of funds from the K-20 technology account under RCW 43.105.830 for network expenditures;

(7) To establish by rule acceptable use policies governing user eligibility for participation in the K-20 network, acceptable uses of network resources, and procedures for enforcement of such policies. The ((K-20)) board shall set forth appropriate procedures for enforcement of acceptable use policies, that may include suspension of network connections and removal of shared equipment for violations of network conditions or policies. ~~((However, the information services))~~ The board shall have sole responsibility for the implementation of enforcement procedures relating to technical conditions of use.

**Sec. 67.** RCW 43.105.820 and 1999 c 285 s 11 are each amended to read as follows:

The information services board shall prepare a technical plan for the design and construction of the K-20 telecommunication system. The board shall ensure that the technical plan adheres to the goals and objectives established under RCW 43.105.041. The board shall provide formal project approval and oversight during the development and implementation of the K-20 telecommunications network. In approving the plan, the board shall conduct a request for proposal process. The technical plan shall be developed in phases as follows:

(1) Phase one shall provide a telecommunication backbone connecting educational service districts, the main campuses of public baccalaureate institutions, the branch campuses of public research institutions, and the main campuses of community colleges and technical colleges.

(2) Phase two shall provide for (a) connection to the network by entities that include, but need not be limited to: School districts, public higher education off-campus and extension centers, and branch campuses of community colleges and technical colleges, as prioritized by the K-20 telecommunications oversight and

policy committee, or as modified by the board; (b) distance education facilities and components for entities listed in subsections (1) and (2) of this section; and (c) connection for independent nonprofit institutions of higher education, provided that:

(i) The ~~((K-20))~~ board and each independent nonprofit institution of higher education to be connected agree in writing to terms and conditions of connectivity. The terms and conditions shall ensure, among other things, that the provision of K-20 services does not violate Article VIII, section 5 of the state Constitution and that the institution shall adhere to network policies; and

(ii) The ~~((K-20))~~ board determines that inclusion of the independent nonprofit institutions of higher education will not significantly affect the network's eligibility for federal universal service fund discounts or subsidies.

(3) Subsequent phases may include, but need not be limited to, connections to public libraries, state and local governments, community resource centers, and the private sector.

#### Washington Main Street Advisory Committee

NEW SECTION. **Sec. 68.** RCW 43.360.040 (Washington main street advisory committee) and 2005 c 514 s 911 are each repealed.

#### Mortgage Brokers

NEW SECTION. **Sec. 69.** RCW 19.146.280 (Mortgage broker commission—Code of conduct—Complaint review) and 2009 c 518 s 1, 2006 c 19 s 17, 2001 c 177 s 6, 1997 c 106 s 20, 1994 c 33 s 26, & 1993 c 468 s 21 are each repealed.

**Sec. 70.** RCW 19.146.225 and 2006 c 19 s 14 are each amended to read as follows:

In accordance with the administrative procedure act, chapter 34.05 RCW, the director may issue rules under this chapter only ~~((after seeking the advice of the mortgage broker commission and only))~~ for the purpose of governing the activities of licensed mortgage brokers, loan originators, and other persons subject to this chapter.

#### Oil Spill Advisory Council

NEW SECTION. **Sec. 71.** The following acts or parts of acts are each repealed:

(1) RCW 90.56.120 (Oil spill advisory council—Meetings—Travel expenses and compensation) and 2006 c 372 s 907 & 2005 c 304 s 2; and

(2) RCW 90.56.130 (Council—Duties—Work plan—Reports) and 2005 c 304 s 3.

**Sec. 72.** RCW 90.56.005 and 2005 c 304 s 1 are each amended to read as follows:

(1) The legislature declares that water borne transportation as a source of supply for oil and hazardous substances poses special concern for the state of Washington. Each year billions of gallons of crude oil and refined petroleum products are transported as cargo and fuel by vessels on the navigable waters of

the state. These shipments are expected to increase in the coming years. Vessels transporting oil into Washington travel on some of the most unique and special marine environments in the United States. These marine environments are a source of natural beauty, recreation, and economic livelihood for many residents of this state. As a result, the state has an obligation to ensure the citizens of the state that the waters of the state will be protected from oil spills.

(2) The legislature finds that prevention is the best method to protect the unique and special marine environments in this state. The technology for containing and cleaning up a spill of oil or hazardous substances is at best only partially effective. Preventing spills is more protective of the environment and more cost-effective when all the response and damage costs associated with responding to a spill are considered. Therefore, the legislature finds that the primary objective of the state is to achieve a zero spills strategy to prevent any oil or hazardous substances from entering waters of the state.

(3) The legislature also finds that:

(a) Recent accidents in Washington, Alaska, southern California, Texas, Pennsylvania, and other parts of the nation have shown that the transportation, transfer, and storage of oil have caused significant damage to the marine environment;

(b) Even with the best efforts, it is nearly impossible to remove all oil that is spilled into the water, and average removal rates are only fourteen percent;

(c) Washington's navigable waters are treasured environmental and economic resources that the state cannot afford to place at undue risk from an oil spill;

(d) The state has a fundamental responsibility, as the trustee of the state's natural resources and the protector of public health and the environment to prevent the spill of oil; and

(e) In section 5002 of the federal oil pollution act of 1990, the United States congress found that many people believed that complacency on the part of industry and government was one of the contributing factors to the Exxon Valdez spill and, further, that one method to combat this complacency is to involve local citizens in the monitoring and oversight of oil spill plans. Congress also found that a mechanism should be established that fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals. Moreover, congress concluded that, in addition to Alaska, a program of citizen monitoring and oversight should be established in other major crude oil terminals in the United States because recent oil spills indicate that the safe transportation of oil is a national problem.

(4) In order to establish a comprehensive prevention and response program to protect Washington's waters and natural resources from spills of oil, it is the purpose of this chapter:

(a) To establish state agency expertise in marine safety and to centralize state activities in spill prevention and response activities;

(b) To prevent spills of oil and to promote programs that reduce the risk of both catastrophic and small chronic spills;

(c) To ensure that responsible parties are liable, and have the resources and ability, to respond to spills and provide compensation for all costs and damages;

(d) To provide for state spill response and wildlife rescue planning and implementation;

(e) To support and complement the federal oil pollution act of 1990 and other federal law, especially those provisions relating to the national contingency plan for cleanup of oil spills and discharges, including provisions relating to the responsibilities of state agencies designated as natural resource trustees. The legislature intends this chapter to be interpreted and implemented in a manner consistent with federal law;

(f) To provide broad powers of regulation to the department of ecology relating to spill prevention and response;

(g) To provide for ~~((an)) independent ((oil spill advisory council to))~~ review on an ongoing basis the adequacy of oil spill prevention, preparedness, and response activities in this state; and

(h) To provide an adequate funding source for state response and prevention programs.

**Sec. 73.** RCW 90.56.060 and 2005 c 304 s 4 are each amended to read as follows:

(1) The department shall prepare and annually update a statewide master oil and hazardous substance spill prevention and contingency plan. In preparing the plan, the department shall consult with an advisory committee representing diverse interests concerned with oil and hazardous substance spills, including the United States coast guard, the federal environmental protection agency, state agencies, local governments, port districts, private facilities, environmental organizations, oil companies, shipping companies, containment and cleanup contractors, tow companies, and hazardous substance manufacturers~~((and with the oil spill advisory council))~~.

(2) The state master plan prepared under this section shall at a minimum:

(a) Take into consideration the elements of oil spill prevention and contingency plans approved or submitted for approval pursuant to this chapter and chapter 88.46 RCW and oil and hazardous substance spill contingency plans prepared pursuant to other state or federal law or prepared by federal agencies and regional entities;

(b) State the respective responsibilities as established by relevant statutes and rules of each of the following in the prevention of and the assessment, containment, and cleanup of a worst case spill of oil or hazardous substances into the environment of the state: (i) State agencies; (ii) local governments; (iii) appropriate federal agencies; (iv) facility operators; (v) property owners whose land or other property may be affected by the oil or hazardous substance spill; and (vi) other parties identified by the department as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance spill;

(c) State the respective responsibilities of the parties identified in (b) of this subsection in an emergency response;

(d) Identify actions necessary to reduce the likelihood of spills of oil and hazardous substances;

(e) Identify and obtain mapping of environmentally sensitive areas at particular risk to oil and hazardous substance spills;

(f) Establish an incident command system for responding to oil and hazardous substances spills; and

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(g) Establish a process for immediately notifying affected tribes of any oil spill.

(3) In preparing and updating the state master plan, the department shall:

(a) Consult with federal, provincial, municipal, and community officials, other state agencies, the state of Oregon, and with representatives of affected regional organizations;

(b) Submit the draft plan to the public for review and comment;

(c) Submit to the appropriate standing committees of the legislature for review, not later than November 1st of each year, the plan and any annual revision of the plan; and

(d) Require or schedule unannounced oil spill drills as required by RCW 90.56.260 to test the sufficiency of oil spill contingency plans approved under RCW 90.56.210.

(4) The department shall evaluate the functions of advisory committees created by the department regarding oil spill prevention, preparedness, and response programs, and shall revise or eliminate those functions which are no longer necessary.

**Olympic Natural Resources Center Policy Advisory Board**

**Sec. 74.** RCW 43.30.820 and 1991 c 316 s 3 are each amended to read as follows:

The Olympic natural resources center shall operate under the authority of the board of regents of the University of Washington. It shall be administered by a director appointed jointly by the deans of the college of forest resources and the college of ocean and fishery sciences. The director shall be a member of the faculty of one of those colleges. The director shall appoint and maintain a scientific or technical committee, and other committees as necessary, to advise the director on the efficiency, effectiveness, and quality of the center's activities.

~~((A policy advisory board consisting of eleven members shall be appointed by the governor to advise the deans and the director on policies for the center that are consistent with the purposes of the center. Membership on the policy advisory board shall broadly represent the various interests concerned with the purposes of the center, including state and federal government, environmental organizations, local community, timber industry, and Indian tribes.~~

~~Service on boards and committees of the center shall be without compensation but actual travel expenses incurred in connection with service to the center may be reimbursed from appropriated funds in accordance with RCW 43.03.050 and 43.03.060.)~~

**On-site Wastewater Treatment Systems Advisory Committee**

NEW SECTION. **Sec. 75.** The following acts or parts of acts are each repealed:

(1) RCW 18.210.040 (Advisory committee) and 1999 c 263 s 5; and

(2) RCW 18.210.070 (Advisory committee—Duties) and 1999 c 263 s 8.

**Sec. 76.** RCW 18.210.010 and 1999 c 263 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) ("Advisory committee" means a group of individuals with broad knowledge and experience in the design, construction, and regulation of on-site wastewater treatment systems, appointed under this chapter to offer recommendations to the board and the director on the administration of the program established under this chapter.~~

~~(2))~~ (2) "Board" means the board of registration for professional engineers and land surveyors as defined in chapter 18.43 RCW.

~~((3))~~ (2) "Designer," "licensee," or "permit holder" means an individual authorized under this chapter to perform design services for on-site wastewater treatment systems.

~~((4))~~ (3) "Director" means the director of the Washington state department of licensing.

~~((5))~~ (4) "Engineer" means a professional engineer licensed under chapter 18.43 RCW.

~~((6))~~ (5) "Practice of engineering" has the meaning set forth in RCW 18.43.020(5).

~~((7))~~ (6) "On-site wastewater treatment system" means an integrated system of components that: Convey, store, treat, and/or provide subsurface soil treatment and disposal of wastewater effluent on the property where it originates or on adjacent or other property and includes piping, treatment devices, other accessories, and soil underlying the disposal component of the initial and reserve areas, for on-site wastewater treatment under three thousand five hundred gallons per day when not connected to a public sewer system.

~~((8))~~ (7) "On-site wastewater design" means the development of plans, details, specifications, instructions, or inspections by application of specialized knowledge in analysis of soils, on-site wastewater treatment systems, disposal methods, and technologies to create an integrated system of collection, transport, distribution, treatment, and disposal of on-site wastewater.

~~((9))~~ (8) "Local health jurisdiction" or "jurisdictional health department" means an administrative agency created under chapter 70.05, 70.08, or 70.46 RCW, that administers the regulation and codes regarding on-site wastewater treatment systems.

~~((10))~~ (9) "Practice permit" means an authorization to practice granted to an individual who designs on-site wastewater treatment systems and who has been authorized by a local health jurisdiction to practice on or before July 1, 2000.

~~((11))~~ (10) "License" means a license to design on-site wastewater treatment systems under this chapter.

~~((12))~~ (11) "Certificate of competency" means a certificate issued to employees of local health jurisdictions indicating that the certificate holder has passed the licensing examination required under this chapter.

**Sec. 77.** RCW 18.210.050 and 1999 c 263 s 6 are each amended to read as follows:

The director may:

(1) ~~(Appoint and reappoint members to the advisory committee, including temporary additional members, and remove committee members for just cause;~~

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- ~~(2))~~ Employ administrative, clerical, and investigative staff as necessary to administer and enforce this chapter;
- ~~((3))~~ (2) Establish fees for applications, examinations, and renewals in accordance with chapter 43.24 RCW;
- ~~((4))~~ (3) Issue practice permits and licenses to applicants who meet the requirements of this chapter; and
- ~~((5))~~ (4) Exercise rule-making authority to implement this section.

**Sec. 78.** RCW 18.210.060 and 2002 c 86 s 258 are each amended to read as follows:

- ~~((1))~~ The board may:
  - ~~((a))~~ (1) Adopt rules to implement this chapter including, but not limited to, evaluation of experience, examinations, and scope and standards of practice;
  - ~~((b))~~ (2) Administer licensing examinations; and
  - ~~((c))~~ (3) Review and approve or deny initial and renewal license applications.
- ~~((2) The board shall consider recommendations of the advisory committee made in accordance with this chapter.)~~

**On-site Sewage Disposal Systems Alternative Systems  
Technical Review Committee**

NEW SECTION. **Sec. 79.** RCW 70.118.100 (Alternative systems—  
Technical review committee) and 1997 c 447 s 3 are each repealed.

**Sec. 80.** RCW 70.118.110 and 1997 c 447 s 5 are each amended to read as follows:

In order to assure that technical guidelines and standards keep pace with advancing technologies, the department of health in collaboration with ~~(the technical review committee)~~ local health departments~~(,)~~ and other interested parties, must review and update as appropriate, the state guidelines and standards for alternative on-site sewage disposal every three years. The first review and update must be completed by January 1, 1999.

**Regional Fisheries Enhancement Group Advisory Board**

NEW SECTION. **Sec. 81.** The following acts or parts of acts are each repealed:

- (1) RCW 77.95.110 (Regional fisheries enhancement group advisory board) and 2000 c 107 s 108; and
- (2) RCW 77.95.120 (Regional fisheries enhancement group advisory board—Duties and authority) and 2000 c 107 s 109, 1998 c 96 s 1, & 1995 c 367 s 6.

**Sec. 82.** RCW 77.95.100 and 2000 c 107 s 107 are each amended to read as follows:

The department may provide start-up funds to regional fisheries enhancement groups for costs associated with any enhancement project. The ~~((regional fisheries enhancement group advisory board and the))~~ commission shall develop guidelines for providing funds to the regional fisheries enhancement groups.



**Sec. 83.** RCW 77.95.180 and 1995 c 367 s 3 are each amended to read as follows:

To maximize available state resources, the department and the department of transportation shall work in partnership (~~with the regional fisheries enhancement group advisory board~~) to identify cooperative projects to eliminate fish passage barriers caused by state roads and highways. (~~The advisory board may provide input to the department to aid in identifying priority barrier removal projects that can be accomplished with the assistance of regional fisheries enhancement groups.~~) The department of transportation shall provide engineering and other technical services to assist regional fisheries enhancement groups with fish passage barrier removal projects, provided that the barrier removal projects have been identified as a priority by the department of fish and wildlife and the department of transportation has received an appropriation to continue the fish barrier removal program.

**Sec. 84.** RCW 77.95.190 and 1995 c 367 s 10 are each amended to read as follows:

The department shall (~~coordinate with the regional fisheries enhancement group advisory board to~~) field test coho and chinook salmon remote site incubators. The purpose of field testing efforts shall be to gather conclusive scientific data on the effectiveness of coho and chinook remote site incubators.

#### State Solid Waste Advisory Committee

##### NEW SECTION. **Sec. 85.**

The following acts or parts of acts are each repealed:

- (1) RCW 70.95.040 (Solid waste advisory committee—Members—Meetings—Travel expenses—"Governor's award of excellence.") and 1991 c 319 s 401, 1987 c 115 s 1, 1982 c 108 s 1, & 1977 c 10 s 1;
- (2) RCW 70.95.050 (Solid waste advisory committee—Staff services and facilities) and 1969 ex.s. c 134 s 5;
- (3) RCW 70.95.070 (Review of standards prior to adoption—Revisions, additions and modifications—Factors) and 1975-'76 2nd ex.s. c 41 s 4 & 1969 ex.s. c 134 s 7; and
- (4) RCW 70.105.060 (Review of rules, regulations, criteria and fee schedules) and 1975-'76 2nd ex.s. c 101 s 6.

**Sec. 86.** RCW 70.95.030 and 2004 c 101 s 1 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

- (1) "City" means every incorporated city and town.
- (2) "Commission" means the utilities and transportation commission.
- (3) (~~"Committee" means the state solid waste advisory committee.~~)
- (~~4~~) "Composted material" means organic solid waste that has been subjected to controlled aerobic degradation at a solid waste facility in compliance with the requirements of this chapter. Natural decay of organic solid waste under uncontrolled conditions does not result in composted material.
- (~~5~~) (4) "Department" means the department of ecology.
- (~~6~~) (5) "Director" means the director of the department of ecology.
- (~~7~~) (6) "Disposal site" means the location where any final treatment, utilization, processing, or deposit of solid waste occurs.

~~((8))~~ (7) "Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste.

~~((9))~~ (8) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.

~~((10))~~ (9) "Incineration" means a process of reducing the volume of solid waste operating under federal and state environmental laws and regulations by use of an enclosed device using controlled flame combustion.

~~((11))~~ (10) "Inert waste landfill" means a landfill that receives only inert waste, as determined under RCW 70.95.065, and includes facilities that use inert wastes as a component of fill.

~~((12))~~ (11) "Jurisdictional health department" means city, county, city-county, or district public health department.

~~((13))~~ (12) "Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.

~~((14))~~ (13) "Local government" means a city, town, or county.

~~((15))~~ (14) "Modify" means to substantially change the design or operational plans including, but not limited to, removal of a design element previously set forth in a permit application or the addition of a disposal or processing activity that is not approved in the permit.

~~((16))~~ (15) "Multiple family residence" means any structure housing two or more dwelling units.

~~((17))~~ (16) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

~~((18))~~ (17) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan. Prior to the adoption of the local comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2), local governments may identify recyclable materials by ordinance from July 23, 1989.

~~((19))~~ (18) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.

~~((20))~~ (19) "Residence" means the regular dwelling place of an individual or individuals.

~~((21))~~ (20) "Sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials, generated from a wastewater treatment system, that does not meet the requirements of chapter 70.95J RCW.

~~((22))~~ (21) "Soil amendment" means any substance that is intended to improve the physical characteristics of the soil, except composted material, commercial fertilizers, agricultural liming agents, unmanipulated animal manures, unmanipulated vegetable manures, food wastes, food processing wastes, and materials exempted by rule of the department, such as biosolids as defined in chapter 70.95J RCW and wastewater as regulated in chapter 90.48 RCW.

~~((23))~~ (22) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

~~((24))~~ (23) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from solid wastes or the conversion of the energy in solid wastes to more useful forms or combinations thereof.

~~((25))~~ (24) "Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

~~((26))~~ (25) "Vehicle" includes every device physically capable of being moved upon a public or private highway, road, street, or watercourse and in, upon, or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, or watercourse, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

~~((27))~~ (26) "Waste-derived soil amendment" means any soil amendment as defined in this chapter that is derived from solid waste as defined in ~~((RCW 70.95.030))~~ this section, but does not include biosolids or biosolids products regulated under chapter 70.95J RCW or wastewaters regulated under chapter 90.48 RCW.

~~((28))~~ (27) "Waste reduction" means reducing the amount or toxicity of waste generated or reusing materials.

~~((29))~~ (28) "Yard debris" means plant material commonly created in the course of maintaining yards and gardens, and through horticulture, gardening, landscaping, or similar activities. Yard debris includes but is not limited to grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, vegetable garden debris, holiday trees, and tree prunings four inches or less in diameter.

**Sec. 87.** RCW 43.21A.520 and 1989 c 431 s 47 are each amended to read as follows:

(1) The department of ecology shall develop and implement an environmental excellence awards program that recognizes products that are produced, labeled, or packaged in a manner that helps ensure environmental protection. The award shall be in recognition of products that are made from recycled materials, easy to recycle, substitute for more hazardous products, or otherwise help protect the environment. Application for the award shall be voluntary. The awards may be made in a variety of product categories including, but not limited to:

- (a) Paint products;
- (b) Cleaning products;
- (c) Pest control products;
- (d) Automotive, marine, and related maintenance products;
- (e) Hobby and recreation products; and
- (f) Any other product available for retail or wholesale sale.

(2) ~~((The state solid waste advisory committee shall establish an environmental excellence product award subcommittee to develop and~~

~~recommend criteria for awarding environmental excellence awards for products. The subcommittee shall also review award applications and make recommendations to the department. The subcommittee shall consist of equal representation of: (a) Product manufacturing or other business representatives; (b) environmental representatives; (c) labor or consumer representatives; and (d) independent technical experts. Members of the subcommittee need not necessarily be regular members of the state solid waste advisory committee.~~

(3)) Products receiving an environmental excellence award pursuant to this section shall be entitled to display a logo or other symbol developed by the department to signify the award. Awards shall be given each year to as many products as qualify. The award logo may be displayed for a period to be determined by the department.

**Sec. 88.** RCW 70.105.010 and 2009 c 549 s 1027 are each amended to read as follows:

The words and phrases defined in this section shall have the meanings indicated when used in this chapter unless the context clearly requires otherwise.

(1) "Dangerous wastes" means any discarded, useless, unwanted, or abandoned substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:

(a) Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or

(b) Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.

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

(3) "Designated zone facility" means any facility that requires an interim or final status permit under rules adopted under this chapter and that is not a preempted facility as defined in this section.

(4) "Director" means the director of the department of ecology or the director's designee.

(5) "Disposal site" means a geographical site in or upon which hazardous wastes are disposed of in accordance with the provisions of this chapter.

(6) "Dispose or disposal" means the discarding or abandoning of hazardous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned.

(7) "Extremely hazardous waste" means any dangerous waste which((+)):

(a) Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form

(i) Presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of human beings or wildlife, and

(ii) Is highly toxic to human beings or wildlife

(b) If disposed of at a disposal site in such quantities as would present an extreme hazard to human beings or the environment.

(8) "Facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for recycling, storing, treating, incinerating, or disposing of hazardous waste.

(9) "Hazardous household substances" means those substances identified by the department as hazardous household substances in the guidelines developed under RCW 70.105.220.

(10) "Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as described in rules adopted under this chapter.

(11) "Hazardous waste" means and includes all dangerous and extremely hazardous waste, including substances composed of both radioactive and hazardous components.

(12) "Local government" means a city, town, or county.

(13) "Moderate-risk waste" means (a) any waste that exhibits any of the properties of hazardous waste but is exempt from regulation under this chapter solely because the waste is generated in quantities below the threshold for regulation, and (b) any household wastes which are generated from the disposal of substances identified by the department as hazardous household substances.

(14) "Person" means any person, firm, association, county, public or municipal or private corporation, agency, or other entity whatsoever.

(15) "Pesticide" shall have the meaning of the term as defined in RCW 15.58.030 as now or hereafter amended.

(16) "Preempted facility" means any facility that includes as a significant part of its activities any of the following operations: (a) Landfill, (b) incineration, (c) land treatment, (d) surface impoundment to be closed as a landfill, or (e) waste pile to be closed as a landfill.

(17) "Service charge" means an assessment imposed under RCW 70.105.280 against those facilities that store, treat, incinerate, or dispose of dangerous or extremely hazardous waste that contains both a nonradioactive hazardous component and a radioactive component. Service charges shall also apply to facilities undergoing closure under this chapter in those instances where closure entails the physical characterization of remaining wastes which contain both a nonradioactive hazardous component and a radioactive component or the management of such wastes through treatment or removal, except any commercial low-level radioactive waste facility.

~~((18) "Solid waste advisory committee" means the same advisory committee as per RCW 70.95.040 through 70.95.070.))~~

**Sec. 89.** RCW 70.105.160 and 1998 c 245 s 110 are each amended to read as follows:

The department shall conduct a study to determine the best management practices for categories of waste for the priority waste management methods established in RCW 70.105.150, with due consideration in the course of the study to sound environmental management and available technology. As an element of the study, the department shall review methods that will help achieve the priority of RCW 70.105.150(1)(a), waste reduction. Before issuing any proposed rules, the department shall conduct public hearings regarding the best management practices for the various waste categories studied by the department. After conducting the study, the department shall prepare new rules or modify existing rules as appropriate to promote implementation of the priorities established in RCW 70.105.150 for management practices which assure use of sound environmental management techniques and available

technology. The preliminary study shall be completed by July 1, 1986, and the rules shall be adopted by July 1, 1987. ~~((The solid waste advisory committee shall review the studies and the new or modified rules.))~~

The studies shall be updated at least once every five years. The funding for these studies shall be from the hazardous waste control and elimination account, subject to legislative appropriation.

#### Special License Plate Review Board

NEW SECTION. **Sec. 90.** RCW 46.16.705 (Special license plate review board—Created) and 2005 c 319 s 117 & 2003 c 196 s 101 are each repealed.

**Sec. 91.** RCW 46.16.233 and 2003 c 361 s 501 and 2003 c 196 s 401 are each reenacted and amended to read as follows:

(1) Except for those license plates issued under RCW 46.16.305(1) before January 1, 1987, under RCW 46.16.305(3), and to commercial vehicles with a gross weight in excess of twenty-six thousand pounds, effective with vehicle registrations due or to become due on January 1, 2001, the appearance of the background of all vehicle license plates may vary in color and design but must be legible and clearly identifiable as a Washington state license plate, as designated by the department. Additionally, to ensure maximum legibility and reflectivity, the department shall periodically provide for the replacement of license plates, except for commercial vehicles with a gross weight in excess of twenty-six thousand pounds. Frequency of replacement shall be established in accordance with empirical studies documenting the longevity of the reflective materials used to make license plates.

(2) Special license plate series approved by the special license plate review board created under RCW 46.16.705 and enacted by the legislature prior to June 30, 2010, may display a symbol or artwork approved by the special license plate review board. Beginning July 1, 2010, special license plate series approved by the department and enacted into law by the legislature may display a symbol or artwork approved by the department.

(3) By November 1, 2003, in providing for the periodic replacement of license plates, the department shall offer to vehicle owners the option of retaining their current license plate numbers. The department shall charge a retention fee of twenty dollars if this option is exercised. Revenue generated from the retention fee must be deposited into the multimodal transportation account.

**Sec. 92.** RCW 46.16.316 and 2005 c 210 s 2 are each amended to read as follows:

Except as provided in RCW 46.16.305:

(1) When a person who has been issued a special license plate or plates: (a) Under RCW 46.16.30901, 46.16.30903, 46.16.30905, or 46.16.301 as it existed before amendment by section 5, chapter 291, Laws of 1997, or under RCW 46.16.305(2) or 46.16.324; (b) approved by the former special license plate review board ~~((under RCW 46.16.715 through 46.16.775))~~; or (c) under RCW 46.16.601 sells, trades, or otherwise transfers or releases ownership of the vehicle upon which the special license plate or plates have been displayed, he or she shall immediately report the transfer of such plate or plates to an acquired vehicle or vehicle eligible for such plates pursuant to departmental rule, or he or

she shall surrender such plates to the department immediately if such surrender is required by departmental rule. If a person applies for a transfer of the plate or plates to another eligible vehicle, a transfer fee of ten dollars shall be charged in addition to all other applicable fees. Such transfer fees shall be deposited in the motor vehicle fund. Failure to surrender the plates when required is a traffic infraction.

(2) If the special license plate or plates issued by the department become lost, defaced, damaged, or destroyed, application for a replacement special license plate or plates shall be made and fees paid as provided by law for the replacement of regular license plates.

**Sec. 93.** RCW 46.16.715 and 2005 c 319 s 118 are each amended to read as follows:

~~((1) The board shall meet periodically at the call of the chair, but must meet at least one time each year within ninety days before an upcoming regular session of the legislature. The board may adopt its own rules and may establish its own procedures. It shall act collectively in harmony with recorded resolutions or motions adopted by a majority vote of the members, and it must have a quorum present to take a vote on a special license plate application.~~

~~(2) The board will be compensated from the general appropriation for the department of licensing in accordance with RCW 43.03.250. Each board member will be compensated in accordance with RCW 43.03.250 and reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the board or that are incurred in the discharge of duties requested by the chair. However, in no event may a board member be compensated in any year for more than one hundred twenty days, except the chair may be compensated for not more than one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.~~

~~(3) The board shall keep proper records and is subject to audit by the state auditor or other auditing entities.~~

~~(4)) The department of licensing shall ((provide administrative support to the board, which must include at least the following)):~~

~~((a) Provide general staffing to meet the administrative needs of the board;~~

~~(b) Report to the board on the reimbursement status of any new special license plate series for which the state had to pay the start-up costs;~~

~~(e)) (1) Process special license plate applications and confirm that the sponsoring organization has submitted all required documentation. If an incomplete application is received, the department must return it to the sponsoring organization; and~~

~~((d)) (2) Compile the annual financial reports submitted by sponsoring organizations with active special license plate series ((and present those reports to the board for review and approval)).~~

**Sec. 94.** RCW 46.16.725 and 2009 c 470 s 710 are each amended to read as follows:

~~(1) ((The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.~~

~~(2))~~ The ~~((board))~~ department must review and either approve or reject special license plate applications submitted by sponsoring organizations.

~~((3))~~ (2) Duties of the ~~((board))~~ department include but are not limited to the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the senate and house transportation committees;

(b) Report annually to the senate and house transportation committees on the special license plate applications that were considered by the ~~((board))~~ department;

(c) Issue approval and rejection notification letters to sponsoring organizations, ~~((the department,))~~ the chairs of the senate and house of representatives transportation committees, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application;

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The ~~((board))~~ department may submit a recommendation to discontinue a special plate series to the chairs of the senate and house of representatives transportation committees;

~~(e) Provide policy guidance and directions to the department concerning the adoption of rules necessary to limit the number of special license plates that an organization or a governmental entity may apply for).~~

~~((4))~~ (3) Except as provided in chapter 72, Laws of 2008, in order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until July 1, 2011. During this period of time, ~~((the special license plate review board created in RCW 46.16.705 and))~~ the department of licensing ~~((are))~~ is prohibited from accepting, reviewing, processing, or approving any applications. Additionally, no special license plate may be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the board before February 15, 2005.

**Sec. 95.** RCW 46.16.745 and 2005 c 210 s 8 are each amended to read as follows:

(1) A sponsoring organization meeting the requirements of RCW 46.16.735, applying for the creation of a special license plate ~~((to the special license plate review board))~~ must, on an application supplied by the department, provide the minimum application requirements in subsection (2) of this section.

(2) The sponsoring organization shall:

(a) Submit prepayment of all start-up costs associated with the creation and implementation of the special license plate in an amount determined by the department. The department shall place this money into the special license plate applicant trust account created under RCW 46.16.755~~((4))~~ (3);

(b) Provide a proposed license plate design;

(c) Provide a marketing strategy outlining short and long-term marketing plans for each special license plate and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenues derived from the sale of the special license plate;

(d) Provide a signature of a legislative sponsor and proposed legislation creating the special license plate;



(e) Provide proof of organizational qualifications as determined by the department as provided for in RCW 46.16.735;

(f) Provide signature sheets that include signatures from individuals who intend to purchase the special license plate and the number of plates each individual intends to purchase. The sheets must reflect a minimum of three thousand five hundred intended purchases of the special license plate.

(3) After an application is approved by the ~~((special license plate review board))~~ department, the application need not be reviewed again ~~((by the board))~~ for a period of three years.

**Sec. 96.** RCW 46.16.755 and 2004 c 222 s 4 are each amended to read as follows:

(1)(a) Revenues generated from the sale of special license plates for those sponsoring organizations who used the application process in RCW 46.16.745~~((3))~~ must be deposited into the motor vehicle account until the department determines that the state's implementation costs have been fully reimbursed. The department shall apply the application fee required under RCW 46.16.745~~((3)(a))~~ towards those costs.

(b) When it is determined that the state has been fully reimbursed the department must notify the house of representatives and senate transportation committees, the sponsoring organization, and the treasurer, and commence the distribution of the revenue as otherwise provided by law.

(2) If reimbursement does not occur within two years from the date the plate is first offered for sale to the public, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the plate series must be discontinued immediately. Special plates issued before discontinuation are valid until replaced under RCW 46.16.233.

(3) The special license plate applicant trust account is created in the custody of the state treasurer. All receipts from special license plate applicants, except the application fee as provided in RCW 46.16.745~~((3))~~, must be deposited into the account. Only the director of the department or the director's designee may authorize disbursements from the account. The account is not subject to the allotment procedures under chapter 43.88 RCW, nor is an appropriation required for disbursements.

(4) The department shall provide the special license plate applicant with a written receipt for the payment.

(5) The department shall maintain a record of each special license plate applicant trust account deposit, including, but not limited to, the name and address of each special license plate applicant whose funds are being deposited, the amount paid, and the date of the deposit.

(6) After the department receives written notice that the special license plate applicant's application has been:

(a) Approved by the legislature, the director shall request that the money be transferred to the motor vehicle account;

(b) Denied by the ~~((special license plate review board))~~ department or the legislature, the director shall provide a refund to the applicant within thirty days; or

(c) Withdrawn by the special license plate applicant, the director shall provide a refund to the applicant within thirty days.

**Sec. 97.** RCW 46.16.775 and 2003 c 196 s 304 are each amended to read as follows:

(1) A special license plate series created by the legislature after January 1, ~~((2004))~~ 2011, that has not been reviewed and approved by the ~~((special license plate review board))~~ department is subject to the following requirements:

(a) The organization sponsoring the license plate series shall, within thirty days of enactment of the legislation creating the plate series, submit prepayment of all start-up costs associated with the creation and implementation of the special license plate in an amount determined by the department. The prepayment will be credited to the motor vehicle fund. The creation and implementation of the plate series may not commence until payment is received by the department.

(b) If the sponsoring organization is not able to meet the prepayment requirements in (a) of this subsection and can demonstrate this fact to the satisfaction of the department, the revenues generated from the sale of the special license plates must be deposited in the motor vehicle account until the department determines that the state's portion of the implementation costs have been fully reimbursed. When it is determined that the state has been fully reimbursed the department must notify the treasurer to commence distribution of the revenue according to statutory provisions.

(c) The sponsoring organization must provide a proposed license plate design to the department within thirty days of enactment of the legislation creating the plate series.

(2) The state must be reimbursed for its portion of the implementation costs within two years from the date the new plate series goes on sale to the public. If the reimbursement does not occur within the two-year time frame, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the plate series must be discontinued immediately. Those plates issued before discontinuation are valid until replaced under RCW 46.16.233.

(3) If the sponsoring organization ceases to exist or the purpose of the special plate series ceases to exist, revenues generated from the sale of the special license plates must be deposited into the motor vehicle account.

(4) A sponsoring organization may not seek to redesign their plate series until all of the existing inventory is sold or purchased by the organization itself. All cost for redesign of a plate series must be paid by the sponsoring organization.

**Sec. 98.** RCW 46.16.30901 and 2004 c 35 s 1 are each amended to read as follows:

The department shall issue a special license plate displaying a symbol, approved by the special license plate review board before June 30, 2010, for professional firefighters and paramedics who are members of the Washington State Council of Firefighters. Upon initial application and subsequent renewals, applicants must show proof of eligibility by providing a certificate of current membership from the Washington State Council of Firefighters. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles

registered under chapter 46.87 RCW, upon the terms and conditions established by the department.

**Sec. 99.** RCW 46.16.30903 and 2004 c 48 s 1 are each amended to read as follows:

~~((1) The legislature recognizes the Helping Kids Speak license plate has been reviewed by the special license plate review board under RCW 46.16.725, and found to fully comply with all provisions of RCW 46.16.715 through 46.16.775.~~

(2)) The department shall issue a special license plate displaying a symbol, as approved by the special license plate review board before June 30, 2010, recognizing an organization that supports programs that provide no-cost speech pathology programs to children. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special plates will commemorate an organization that supports programs that provide free diagnostic and therapeutic services to children who have a severe delay in language or speech development.

**Sec. 100.** RCW 46.16.30905 and 2004 c 221 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the law enforcement memorial license plate has been reviewed by the special license plate review board as specified in chapter 196, Laws of 2003, and was found to fully comply with all provisions of chapter 196, Laws of 2003.~~

(2)) The department shall issue a special license plate displaying a symbol, as approved by the special license plate review board before June 30, 2010, honoring law enforcement officers in Washington killed in the line of duty. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon the terms and conditions established by the department.

**Sec. 101.** RCW 46.16.30907 and 2005 c 42 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the Washington's Wildlife license plate collection, to include three distinct designs including bear, deer, and elk, has been reviewed by the special license plate review board under RCW 46.16.725 and was found to fully comply with all provisions of RCW 46.16.715 through 46.16.775.~~

(2)) The department shall issue a special license plate collection displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing Washington's wildlife, that may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department.

**Sec. 102.** RCW 46.16.30909 and 2005 c 44 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the Washington state parks and recreation commission license plate application has been reviewed by the special~~

~~license plate review board under RCW 46.16.725 and was found to fully comply with all provisions of RCW 46.16.715 through 46.16.775.~~

~~(2))~~ The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources, that may be used in lieu of regular or personalized license plates for vehicles required to display one and two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department.

**Sec. 103.** RCW 46.16.30911 and 2005 c 48 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the "Washington Lighthouses" license plate has been reviewed by the special license plate review board under RCW 46.16.725, and found to fully comply with RCW 46.16.715 through 46.16.775.~~

~~(2))~~ The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing an organization that supports selected Washington state lighthouses and provides environmental education programs. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department.

**Sec. 104.** RCW 46.16.30913 and 2005 c 53 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the "Keep Kids Safe" license plate has been reviewed and approved by the special license plate review board under RCW 46.16.725, and found to fully comply with all provisions of RCW 46.16.715 through 46.16.775.~~

~~(2))~~ The department shall issue a special license plate displaying artwork, as approved by the special license plate review board before June 30, 2010, recognizing efforts to prevent child abuse and neglect. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department.

**Sec. 105.** RCW 46.16.30914 and 2005 c 71 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the "we love our pets" license plate has been reviewed by the special license plate review board under RCW 46.16.725, and found to fully comply with all provisions of RCW 46.16.715 through 46.16.775.~~

~~(2))~~ The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board before June 30, 2010, recognizing 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, in order to reduce pet overpopulation. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates,

excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department.

**Sec. 106.** RCW 46.16.30916 and 2005 c 85 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the Gonzaga University alumni association license plate has been reviewed by the special license plate review board under RCW 46.16.725, and found to fully comply with all provisions of RCW 46.16.715 through 46.16.775.~~

~~(2))~~ The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board before June 30, 2010, recognizing the Gonzaga University alumni association. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department.

**Sec. 107.** RCW 46.16.30918 and 2005 c 177 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the "Washington's National Park Fund" license plate has been reviewed by the special license plate review board under RCW 46.16.725, and found to fully comply with RCW 46.16.715 through 46.16.775.~~

~~(2))~~ The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing Washington's National Park Fund, that may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department.

**Sec. 108.** RCW 46.16.30920 and 2008 c 183 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the armed forces license plate collection has been reviewed and approved by the special license plate review board.~~

~~(2))~~ The department shall issue a special license plate collection, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing the contribution of veterans, active duty military personnel, reservists, and members of the national guard. The collection 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.

~~((3))~~ (2) Armed forces special license plates may be used in lieu of regular or personalized license plates for vehicles required to display one and two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department.

~~((4))~~ (3) Upon request, the department must make available to the purchaser, at no additional cost, a decal indicating the purchaser's military status. The department must work with the department of veterans affairs to establish a list of the decals to be made available. The list of available decals must include,

but is not limited to, "veteran," "disabled veteran," "reservist," "retiree," or "active duty." The department may specify where the decal may be placed on the license plate. Decals are required to be made available only for standard six-inch by twelve-inch license plates.

~~((5))~~ (4) Armed forces license plates and decals are available only to veterans as defined in RCW 41.04.007, active duty military personnel, reservists, members of the national guard, and the families of veterans and service members. Upon initial application, any purchaser requesting an armed forces license plate and decal will be required to show proof of eligibility by providing: A DD-214 or discharge papers if a veteran; a military identification or retired military identification card; or a declaration of fact attesting to the purchaser's eligibility as required under this section. "Family" or "families" means an individual's spouse, child, parent, sibling, aunt, uncle, or cousin. A child includes stepchild, adopted child, foster child, grandchild, and son or daughter-in-law. A parent includes stepparent, grandparent, and in-laws. A sibling includes brother, half brother, stepbrother, sister, half sister, stepsister, and brother or sister-in-law.

~~((6))~~ (5) The department of veterans affairs must enter into an agreement with the department to reimburse the department for the costs associated with providing military status decals described in subsection ~~((4))~~ (3) of this section.

~~((7))~~ (6) Armed forces license plates are not available free of charge to disabled veterans, former prisoners of war, or spouses of deceased former prisoners of war under the privileges defined in RCW 73.04.110 and 73.04.115.

**Sec. 109.** RCW 46.16.30922 and 2005 c 220 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the "Ski & Ride Washington" license plate has been reviewed and approved by the special license plate review board under RCW 46.16.725, and found to fully comply with RCW 46.16.715 through 46.16.775.~~

(2)) The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing the Washington snowsports industry, that may be used in lieu of regular or personalized license plates for vehicles required to display vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department.

**Sec. 110.** RCW 46.16.30924 and 2005 c 224 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the Wild On Washington license plate has been reviewed by the special license plate review board under RCW 46.16.725 and was found to fully comply with all provisions of RCW 46.16.715 through 46.16.775.~~

(2)) The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, referred to as "Wild On Washington license plates," that may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles

registered under chapter 46.87 RCW, upon terms and conditions established by the department.

**Sec. 111.** RCW 46.16.30926 and 2005 c 225 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the Endangered Wildlife license plate has been reviewed by the special license plate review board under RCW 46.16.725 and was found to fully comply with all provisions of RCW 46.16.715 through 46.16.775.~~

(2)) The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, referred to as "Endangered Wildlife license plates," that may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department.

**Sec. 112.** RCW 46.16.30928 and 2005 c 426 s 1 are each amended to read as follows:

~~((1) The legislature recognizes that the "Share the Road" license plate has been reviewed by the special license plate review board under RCW 46.16.725, and found to fully comply with RCW 46.16.715 through 46.16.775.~~

(2)) The department shall issue a special license plate displaying a symbol or artwork, as approved by the special license plate review board and the legislature before June 30, 2010, recognizing an organization that promotes bicycle safety and awareness education. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special plates will commemorate the life of Cooper Jones.

#### **Strategic Health Planning Office Technical Advisory Committee**

**Sec. 113.** RCW 43.370.020 and 2009 c 343 s 1 are each amended to read as follows:

(1) The office shall serve as a coordinating body for public and private efforts to improve quality in health care, promote cost-effectiveness in health care, and plan health facility and health service availability. In addition, the office shall facilitate access to health care data collected by public and private organizations as needed to conduct its planning responsibilities.

(2) The office shall:

(a) Conduct strategic health planning activities related to the preparation of the strategy, as specified in this chapter;

(b) Develop a computerized system for accessing, analyzing, and disseminating data relevant to strategic health planning responsibilities. The office may contract with an organization to create the computerized system capable of meeting the needs of the office;

(c) Have access to the information submitted as part of the health professional licensing application and renewal process, excluding social security

number and background check information, whether the license is issued by the secretary of the department of health or a board or commission. The office shall also have access to information submitted to the department of health as part of the medical or health facility licensing process. Access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines, and the office shall maintain the same degree of confidentiality as the department of health. For professional licensing information provided to the office, the department of health shall replace any social security number with an alternative identifier capable of linking all licensing records of an individual; and

(d) Conduct research and analysis or arrange for research and analysis projects to be conducted by public or private organizations to further the purposes of the strategy.

~~((3) The office shall establish a technical advisory committee to assist in the development of the strategy. Members of the committee shall include health economists, health planners, representatives of government and nongovernment health care purchasers, representatives of state agencies that use or regulate entities with an interest in health planning, representatives of acute care facilities, representatives of long-term care facilities, representatives of community-based long-term care providers, representatives of health care providers, a representative of one or more federally recognized Indian tribes, and representatives of health care consumers. The committee shall include members with experience in the provision of health services to rural communities.))~~

**Sec. 114.** RCW 43.370.030 and 2007 c 259 s 52 are each amended to read as follows:

(1) The office~~(, in consultation with the technical advisory committee established under RCW 43.370.020,)~~ shall develop a statewide health resources strategy. The strategy shall establish statewide health planning policies and goals related to the availability of health care facilities and services, quality of care, and cost of care. The strategy shall identify needs according to geographic regions suitable for comprehensive health planning as designated by the office.

(2) The development of the strategy shall consider the following general goals and principles:

(a) That excess capacity of health services and facilities place considerable economic burden on the public who pay for the construction and operation of these facilities as patients, health insurance purchasers, carriers, and taxpayers; and

(b) That the development and ongoing maintenance of current and accurate health care information and statistics related to cost and quality of health care, as well as projections of need for health facilities and services, are essential to effective strategic health planning.

(3) The strategy, with public input by health service areas, shall include:

(a) A health system assessment and objectives component that:

(i) Describes state and regional population demographics, health status indicators, and trends in health status and health care needs; and

(ii) Identifies key policy objectives for the state health system related to access to care, health outcomes, quality, and cost-effectiveness;

(b) A health care facilities and services plan that shall assess the demand for health care facilities and services to inform state health planning efforts and



direct certificate of need determinations, for those facilities and services subject to certificate of need as provided in chapter 70.38 RCW. The plan shall include:

(i) An inventory of each geographic region's existing health care facilities and services;

(ii) Projections of need for each category of health care facility and service, including those subject to certificate of need;

(iii) Policies to guide the addition of new or expanded health care facilities and services to promote the use of quality, evidence-based, cost-effective health care delivery options, including any recommendations for criteria, standards, and methods relevant to the certificate of need review process; and

(iv) An assessment of the availability of health care providers, public health resources, transportation infrastructure, and other considerations necessary to support the needed health care facilities and services in each region;

(c) A health care data resource plan that identifies data elements necessary to properly conduct planning activities and to review certificate of need applications, including data related to inpatient and outpatient utilization and outcomes information, and financial and utilization information related to charity care, quality, and cost. The plan shall inventory existing data resources, both public and private, that store and disclose information relevant to the health planning process, including information necessary to conduct certificate of need activities pursuant to chapter 70.38 RCW. The plan shall identify any deficiencies in the inventory of existing data resources and the data necessary to conduct comprehensive health planning activities. The plan may recommend that the office be authorized to access existing data sources and conduct appropriate analyses of such data or that other agencies expand their data collection activities as statutory authority permits. The plan may identify any computing infrastructure deficiencies that impede the proper storage, transmission, and analysis of health planning data. The plan shall provide recommendations for increasing the availability of data related to health planning to provide greater community involvement in the health planning process and consistency in data used for certificate of need applications and determinations;

(d) An assessment of emerging trends in health care delivery and technology as they relate to access to health care facilities and services, quality of care, and costs of care. The assessment shall recommend any changes to the scope of health care facilities and services covered by the certificate of need program that may be warranted by these emerging trends. In addition, the assessment may recommend any changes to criteria used by the department to review certificate of need applications, as necessary;

(e) A rural health resource plan to assess the availability of health resources in rural areas of the state, assess the unmet needs of these communities, and evaluate how federal and state reimbursement policies can be modified, if necessary, to more efficiently and effectively meet the health care needs of rural communities. The plan shall consider the unique health care needs of rural communities, the adequacy of the rural health workforce, and transportation needs for accessing appropriate care.

(4) The office shall submit the initial strategy to the governor and the appropriate committees of the senate and house of representatives by January 1, 2010. Every two years the office shall submit an updated strategy. The health

care facilities and services plan as it pertains to a distinct geographic planning region may be updated by individual categories on a rotating, biannual schedule.

(5) The office shall hold at least one public hearing and allow opportunity to submit written comments prior to the issuance of the initial strategy or an updated strategy. A public hearing shall be held prior to issuing a draft of an updated health care facilities and services plan, and another public hearing shall be held before final adoption of an updated health care facilities and services plan. Any hearing related to updating a health care facilities and services plan for a specific planning region shall be held in that region with sufficient notice to the public and an opportunity to comment.

### Veterans Innovation Program Board

**Sec. 115.** RCW 43.60A.170 and 2006 c 343 s 5 are each amended to read as follows:

(1) The competitive grant program is created to fund innovative initiatives to provide crisis and emergency relief, education, training, and employment assistance to veterans and their families in their communities.

~~((1) The veterans innovations program board is created to exercise the powers granted under RCW 43.60A.160 through 43.60A.185 related to the competitive grant program.~~

~~(a) The board consists of seven citizens of the state, appointed by the governor, with recognized experience in serving veterans and their families in the community regarding transition and readjustment issues; education, training, and employment needs; and other needs experienced by veterans and their families stemming from service to their country.~~

~~(b) The members of the board select the chair.~~

~~(c) The department shall provide staff support to the board.~~

~~(d) Members of the board receive no compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.)~~

(2) The ~~(board)~~ department shall:

(a) Establish a competitive process to solicit proposals for and prioritize project applications for potential funding. The purpose of the proposals shall be in three categories:

(i) Crisis and emergency relief;

(ii) Education, training, and employment assistance; and

(iii) Community outreach and resources; and

(b) Report on January 1, 2007, to the appropriate standing committees of the legislature and to the joint committee on veterans and military affairs on the implementation of chapter 343, Laws of 2006. The report must include, but is not limited to, information on the number of applications for assistance, the grant amount awarded each project, a description of each project, and performance measures of the program.

**Sec. 116.** RCW 43.131.406 and 2006 c 343 s 11 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2017:

(1) 2006 c 343 § 1 (uncodified);

(2) RCW 43.60A.160 and 2006 c 343 § 3;

- (3) RCW 43.60A.165 and 2006 c 343 § 4;
- (4) RCW 43.60A.170 and section 115 of this act & 2006 c 343 § 5;
- (5) RCW 43.60A.175 and 2006 c 343 § 6;
- (6) RCW 43.60A.180 and 2006 c 343 § 7; and
- (7) RCW 43.60A.185 and 2006 c 343 § 8.

**Sec. 117.** RCW 43.60A.010 and 2006 c 343 s 2 are each amended to read as follows:

As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- (1) "Department" means the department of veterans affairs.
- (2) "Director" means the director of the department of veterans affairs.
- (3) "Committee" means the veterans affairs advisory committee.
- ~~((4) "Board" means the veterans innovations program board.))~~

NEW SECTION. **Sec. 118.** RCW 43.60A.180 (Conflicts of interest) and 2006 c 343 s 7 are each repealed.

#### **Vehicle Equipment Safety Commission**

NEW SECTION. **Sec. 119.** The following acts or parts of acts are each repealed:

- (1) RCW 46.38.010 (Compact enacted—Provisions) and 1963 c 204 s 1;
- (2) RCW 46.38.020 (Legislative findings) and 1987 c 330 s 735 & 1963 c 204 s 2;
- (3) RCW 46.38.030 (Effective date of rules, etc. of vehicle safety equipment commission) and 1987 c 330 s 736, 1967 ex.s. c 145 s 57, & 1963 c 204 s 3;
- (4) RCW 46.38.040 (Appointment of commissioner and alternate commissioner) and 1987 c 330 s 737 & 1963 c 204 s 4;
- (5) RCW 46.38.050 (Cooperation of state agencies with vehicle equipment safety commission) and 1963 c 204 s 5;
- (6) RCW 46.38.060 (State officers for the filing of documents and receipt of notices) and 1987 c 330 s 738 & 1963 c 204 s 6;
- (7) RCW 46.38.070 (Vehicle equipment safety commission to submit budgets to director of financial management) and 1979 c 151 s 160 & 1963 c 204 s 7;
- (8) RCW 46.38.080 (State auditor to inspect accounts of vehicle equipment safety commission) and 1963 c 204 s 8; and
- (9) RCW 46.38.090 (Withdrawal from compact, "executive head" defined) and 1963 c 204 s 9.

#### **Water Supply Advisory Committee**

NEW SECTION. **Sec. 120.** RCW 70.119A.160 (Water supply advisory committee) and 1998 c 245 s 112 & 1995 c 376 s 4 are each repealed.

**Sec. 121.** RCW 70.119A.180 and 2003 1st sp.s. c 5 s 7 are each amended to read as follows:

- (1) It is the intent of the legislature that the department establish water use efficiency requirements designed to ensure efficient use of water while maintaining water system financial viability, improving affordability of supplies, and enhancing system reliability.

(2) The requirements of this section shall apply to all municipal water suppliers and shall be tailored to be appropriate to system size, forecasted system demand, and system supply characteristics.

(3) For the purposes of this section:

(a) Water use efficiency includes conservation planning requirements, water distribution system leakage standards, and water conservation performance reporting requirements; and

(b) "Municipal water supplier" and "municipal water supply purposes" have the meanings provided by RCW 90.03.015.

(4) To accomplish the purposes of this section, the department shall adopt rules necessary to implement this section by December 31, 2005. The department shall:

(a) Develop conservation planning requirements that ensure municipal water suppliers are: (i) Implementing programs to integrate conservation with water system operation and management; and (ii) identifying how to appropriately fund and implement conservation activities. Requirements shall apply to the conservation element of water system plans and small water system management programs developed pursuant to chapter 43.20 RCW. In establishing the conservation planning requirements the department shall review the current department conservation planning guidelines and include those elements that are appropriate for rule. Conservation planning requirements shall include but not be limited to:

(A) Selection of cost-effective measures to achieve a system's water conservation objectives. Requirements shall allow the municipal water supplier to select and schedule implementation of the best methods for achieving its conservation objectives;

(B) Evaluation of the feasibility of adopting and implementing water delivery rate structures that encourage water conservation;

(C) Evaluation of each system's water distribution system leakage and, if necessary, identification of steps necessary for achieving water distribution system leakage standards developed under (b) of this subsection;

(D) Collection and reporting of water consumption and source production and/or water purchase data. Data collection and reporting requirements shall be sufficient to identify water use patterns among utility customer classes, where applicable, and evaluate the effectiveness of each system's conservation program. Requirements, including reporting frequency, shall be appropriate to system size and complexity. Reports shall be available to the public; and

(E) Establishment of minimum requirements for water demand forecast methodologies such that demand forecasts prepared by municipal water suppliers are sufficient for use in determining reasonably anticipated future water needs;

(b) Develop water distribution system leakage standards to ensure that municipal water suppliers are taking appropriate steps to reduce water system leakage rates or are maintaining their water distribution systems in a condition that results in leakage rates in compliance with the standards. Limits shall be developed in terms of percentage of total water produced and/or purchased and shall not be lower than ten percent. The department may consider alternatives to the percentage of total water supplied where alternatives provide a better evaluation of the water system's leakage performance. The department shall

institute a graduated system of requirements based on levels of water system leakage. A municipal water supplier shall select one or more control methods appropriate for addressing leakage in its water system;

(c) Establish minimum requirements for water conservation performance reporting to assure that municipal water suppliers are regularly evaluating and reporting their water conservation performance. The objective of setting conservation goals is to enhance the efficient use of water by the water system customers. Performance reporting shall include:

(i) Requirements that municipal water suppliers adopt and achieve water conservation goals. The elected governing board or governing body of the water system shall set water conservation goals for the system. In setting water conservation goals the water supplier may consider historic conservation performance and conservation investment, customer base demographics, regional climate variations, forecasted demand and system supply characteristics, system financial viability, system reliability, and affordability of water rates. Conservation goals shall be established by the municipal water supplier in an open public forum;

(ii) Requirements that the municipal water supplier adopt schedules for implementing conservation program elements and achieving conservation goals to ensure that progress is being made toward adopted conservation goals;

(iii) A reporting system for regular reviews of conservation performance against adopted goals. Performance reports shall be available to customers and the public. Requirements, including reporting frequency, shall be appropriate to system size and complexity;

(iv) Requirements that any system not meeting its water conservation goals shall develop a plan for modifying its conservation program to achieve its goals along with procedures for reporting performance to the department;

(v) If a municipal water supplier determines that further reductions in consumption are not reasonably achievable, it shall identify how current consumption levels will be maintained;

(d) Adopt rules that, to the maximum extent practical, utilize existing mechanisms and simplified procedures in order to minimize the cost and complexity of implementation and to avoid placing unreasonable financial burden on smaller municipal systems.

~~(5) ((The department shall establish an advisory committee to assist the department in developing rules for water use efficiency. The advisory committee shall include representatives from public water system customers, environmental interest groups, business interest groups, a representative cross-section of municipal water suppliers, a water utility conservation professional, tribal governments, the department of ecology, and any other members determined necessary by the department. The department may use the water supply advisory committee created pursuant to RCW 70.119A.160 augmented with additional participants as necessary to comply with this subsection to assist the department in developing rules.~~

(6)) The department shall provide technical assistance upon request to municipal water suppliers and local governments regarding water conservation, which may include development of best management practices for water conservation programs, conservation landscape ordinances, conservation rate

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structures for public water systems, and general public education programs on water conservation.

~~((7))~~ (6) To ensure compliance with this section, the department shall establish a compliance process that incorporates a graduated approach employing the full range of compliance mechanisms available to the department.

~~((8))~~ (7) Prior to completion of rule making required in subsection (4) of this section, municipal water suppliers shall continue to meet the existing conservation requirements of the department and shall continue to implement their current water conservation programs.

**Sec. 122.** RCW 90.86.030 and 2005 c 60 s 3 are each amended to read as follows:

(1) The joint legislative committee on water supply during drought shall convene from time to time at the call of the chair when a drought conditions order under RCW 43.83B.405 is in effect, or when the chair determines, in consultation with the department of ecology, that it is likely that such an order will be issued within the next year.

(2) The committee may request and review information relating to water supply conditions in the state, and economic, environmental, and other impacts relating to decreased water supply being experienced or anticipated. The governor's executive water emergency committee, the department of ecology, ~~((the water supply advisory committee,))~~ and other state agencies with water management or related responsibilities shall cooperate in responding to requests from the committee.

(3) During drought conditions in which an order issued under RCW 43.83B.405 is in effect, the department of ecology shall provide to the committee no less than monthly a report describing drought response activities of the department and other state and federal agencies participating on the water supply availability committee. The report shall include information regarding applications for, and approvals and denials of emergency water withdrawals and temporary changes or transfers of, water rights under RCW 43.83B.410.

(4) The committee from time to time shall make recommendations to the senate and house of representatives on budgetary and legislative actions that will improve the state's drought response programs and planning.

**Western States School Bus Safety Commission**

NEW SECTION. **Sec. 123.** The following acts or parts of acts are each repealed:

(1) RCW 46.39.010 (Compact enacted—Provisions) and 1977 ex.s. c 88 s 1; and

(2) RCW 46.39.020 (Designation of Washington state commissioners) and 1984 c 7 s 51 & 1977 ex.s. c 88 s 2.

**Women's History Consortium**

**Sec. 124.** RCW 27.34.365 and 2005 c 391 s 3 are each amended to read as follows:

The board of advisors shall consist of fifteen members. The ~~((governor))~~ director of the state historical society shall appoint eleven members to the board

of advisors. Two members of the senate, one each representing the two largest caucuses of the senate, shall be appointed by the president of the senate, and two members of the house of representatives, one each representing the two largest caucuses of the house of representatives(~~((-))~~), shall be appointed by the speaker of the house of representatives.

The women's history consortium board of advisors may meet no more than two times per calendar year. If state funds are not available for travel, the board may meet on a voluntary basis at members' expense.

#### **Interagency Integrated Pest Management Coordinating Committee**

NEW SECTION, Sec. 125. RCW 17.15.040 (Interagency integrated pest management coordinating committee—Creation—Composition—Duties—Public notice—Progress reports) and 1997 c 357 s 5 are each repealed.

#### **Land Bank Technical Advisory Committee**

NEW SECTION, Sec. 126. RCW 79.19.070 (Land bank technical advisory committee) and 1984 c 222 s 7 are each repealed.

#### **Forest Fire Advisory Board**

NEW SECTION, Sec. 127. RCW 76.04.145 (Forest fire advisory board) and 1986 c 100 s 15 are each repealed.

**Sec. 128.** RCW 70.94.6534 and 2009 c 118 s 501 are each amended to read as follows:

(1) The department of natural resources shall have the responsibility for issuing and regulating burning permits required by it relating to the following activities for the protection of life or property and/or for the public health, safety, and welfare:

- (a) Abating a forest fire hazard;
- (b) Prevention of a fire hazard;
- (c) Instruction of public officials in methods of forest fire fighting;
- (d) Any silvicultural operation to improve the forest lands of the state; and
- (e) Silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

(2) The department of natural resources shall not retain such authority, but it shall be the responsibility of the appropriate fire protection agency for permitting and regulating outdoor burning on lands where the department of natural resources does not have fire protection responsibility.

(3) Permit fees shall be assessed for silvicultural burning under the jurisdiction of the department of natural resources and collected by the department of natural resources as provided for in this section. All fees shall be deposited in the air pollution control account, created in RCW 70.94.015. The legislature shall appropriate to the department of natural resources funds from the air pollution control account to enforce and administer the program under this section and RCW (~~(70.94.6534,)~~) 70.94.6536, 70.94.6538, and 70.94.6540. Fees shall be set by rule by the department of natural resources at the level

necessary to cover the costs of the program after receiving recommendations on such fees from the public ~~((and the forest fire advisory board established by RCW 76.04.145)).~~

**Sec. 129.** RCW 76.04.630 and 1993 c 36 s 2 are each amended to read as follows:

There is created a landowner contingency forest fire suppression account in the state treasury. Moneys in the account may be spent only as provided in this section. Disbursements from the account shall be on authorization of the commissioner of public lands or the commissioner's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

The department may expend from this account the amounts as may be available and as it considers appropriate for the payment of emergency fire costs resulting from a participating landowner fire. The department may, when moneys are available from the landowner contingency forest fire suppression account, expend moneys for summarily abating, isolating, or reducing an extreme fire hazard under RCW 76.04.660. All moneys recovered as a result of the department's actions, from the owner or person responsible, under RCW 76.04.660 shall be deposited in the landowner contingency forest fire suppression account.

When a determination is made that the fire was started by other than a landowner operation, moneys expended from this account in the suppression of such fire shall be recovered from the general fund appropriations as may be available for emergency fire suppression costs. The department shall deposit in the landowner contingency forest fire suppression account moneys paid out of the account which are later recovered, less reasonable costs of recovery.

This account shall be established and renewed by an annual special forest fire suppression account assessment paid by participating landowners at a rate to be established by the department. In establishing assessments, the department shall seek to establish and thereafter reestablish a balance in the account of three million dollars. The department may establish a flat fee assessment of no more than seven dollars and fifty cents for participating landowners owning parcels of fifty acres or less. For participating landowners owning parcels larger than fifty acres, the department may charge the flat fee assessment plus a per acre assessment for every acre over fifty acres. The per acre assessment established by the department may not exceed fifteen cents per acre per year. The assessments may differ to equitably distribute the assessment based on emergency fire suppression cost experience necessitated by landowner operations. Amounts assessed for this account shall be a lien upon the forest lands with respect to which the assessment is made and may be collected as directed by the department in the same manner as forest protection assessments. Payment of emergency costs from this account shall in no way restrict the right of the department to recover costs pursuant to RCW 76.04.495 or other laws.

When the department determines that a forest fire was started in the course of or as a result of a landowner operation, ~~((it shall notify the forest fire advisory board of the determination.))~~ the determination shall be final, unless, within ninety days of the notification, ~~((the forest fire advisory board))~~ or an interested party serves a request for a hearing before the department. The hearing shall constitute an adjudicative proceeding under chapter 34.05 RCW, the



administrative procedure act, and an appeal shall be in accordance with RCW 34.05.510 through 34.05.598.

**Sec. 130.** RCW 76.04.660 and 2007 c 480 s 13 are each amended to read as follows:

(1) The owner of land on which there is an additional fire hazard, when the hazard is the result of a landowner operation or the land is within an area covered by a forest health hazard warning issued under RCW 76.06.180, shall take reasonable measures to reduce the danger of fire spreading from the area and may abate the hazard by burning or other satisfactory means.

(2) An extreme fire hazard shall exist within areas covered by a forest health hazard order issued by the commissioner of public lands under RCW 76.06.180 in which there is an additional fire hazard caused by disturbance agents and the landowner has failed to take such action as required by the forest health hazard order. The duties and liability of such landowner under this chapter are as described in subsections (5), (6), and (7) of this section.

(3) The department shall adopt rules defining areas of extreme fire hazard that the owner and person responsible shall abate. The areas shall include but are not limited to high risk areas such as where life or buildings may be endangered, areas adjacent to public highways, and areas of frequent public use.

(4) The department may adopt rules(~~(, after consultation with the forest fire advisory board,)~~) defining other conditions of extreme fire hazard with a high potential for fire spreading to lands in other ownerships. The department may prescribe additional measures that shall be taken by the owner and person responsible to isolate or reduce the extreme fire hazard.

(5) The owner or person responsible for the existence of the extreme fire hazard is required to abate, isolate, or reduce the hazard. The duty to abate, isolate, or reduce, and liability under this chapter, arise upon creation of the extreme fire hazard. Liability shall include but not be limited to all fire suppression expenses incurred by the department, regardless of fire cause.

(6) If the owner or person responsible for the existence of the extreme fire hazard or forest debris subject to RCW 76.04.650 refuses, neglects, or unsuccessfully attempts to abate, isolate, or reduce the same, the department may summarily abate, isolate, or reduce the hazard as required by this chapter and recover twice the actual cost thereof from the owner or person responsible. Landowner contingency forest fire suppression account moneys may be used by the department, when available, for this purpose. Moneys recovered by the department pursuant to this section shall be returned to the landowner contingency forest fire suppression account.

(7) Such costs shall include all salaries and expenses of people and equipment incurred therein, including those of the department. All such costs shall also be a lien upon the land enforceable in the same manner with the same effect as a mechanic's lien.

(8) The summary action may be taken only after ten days' notice in writing has been given to the owner or reputed owner of the land on which the extreme fire hazard or forest debris subject to RCW 76.04.650 exists. The notice shall include a suggested method of abatement and estimated cost thereof. The notice shall be by personal service or by registered or certified mail addressed to the owner or reputed owner at the owner's last known place of residence.

(9) A landowner or manager may make a written request to the department to inspect their property and provide a written notice that they have complied with a forest health hazard warning or forest health hazard order, or otherwise adequately abated, isolated, or reduced an additional or extreme fire hazard. An additional or extreme fire hazard shall be considered to continue to exist unless and until the department, in its sole discretion, issues such notice.

#### State Board on Geographic Names

NEW SECTION. **Sec. 131.** The following acts or parts of acts are each repealed:

- (1) RCW 43.126.015 (Purposes) and 1983 c 273 s 1;
- (2) RCW 43.126.025 (State board on geographic names created—Membership—Chair) and 2009 c 549 s 5174 & 1983 c 273 s 2;
- (3) RCW 43.126.035 (Powers and duties) and 1983 c 273 s 3;
- (4) RCW 43.126.045 (Policies—Criteria) and 1983 c 273 s 4;
- (5) RCW 43.126.055 (Adoption of names—Procedure—Effect) and 1983 c 273 s 5;
- (6) RCW 43.126.065 (Meetings—Rules—Publication of adopted names) and 2009 c 549 s 5175 & 1983 c 273 s 6;
- (7) RCW 43.126.075 (Compensation and travel expenses of members) and 1984 c 287 s 88 & 1983 c 273 s 7; and
- (8) RCW 43.126.085 (Naming geographic features without board approval prohibited) and 1983 c 273 s 8.

#### Pesticide Advisory Board

NEW SECTION. **Sec. 132.** The following acts or parts of acts are each repealed:

- (1) RCW 17.21.230 (Pesticide advisory board) and 1994 c 283 s 26, 1989 c 380 s 54, 1988 c 36 s 8, 1974 ex.s. c 20 s 1, 1971 ex.s. c 191 s 8, 1967 c 177 s 14, & 1961 c 249 s 23;
- (2) RCW 17.21.240 (Pesticide advisory board—Vacancies) and 1994 c 283 s 27, 1989 c 380 s 55, & 1961 c 249 s 24;
- (3) RCW 17.21.250 (Pesticide advisory board—Duties) and 1989 c 380 s 56 & 1961 c 249 s 25;
- (4) RCW 17.21.260 (Pesticide advisory board—Officers, meetings) and 1994 c 283 s 28, 1989 c 380 s 57, & 1961 c 249 s 26;
- (5) RCW 17.21.270 (Pesticide advisory board—Travel expenses) and 1989 c 380 s 58, 1975-'76 2nd ex.s. c 34 s 24, & 1961 c 249 s 27; and
- (6) RCW 70.104.080 (Pesticide panel—Generally) and 1994 c 264 s 41, 1991 c 3 s 363, & 1989 c 380 s 68.

**Sec. 133.** RCW 15.92.070 and 1991 c 341 s 8 are each amended to read as follows:

The laboratory is advised by a board appointed by the dean of the Washington State University college of agriculture and home economics. The dean shall cooperate with appropriate officials in Washington, Idaho, and Oregon in selecting board members.

(1) The board shall consist of one representative from each of the following interests: A human toxicologist or a health professional knowledgeable in worker exposure to pesticides, the Washington State University vice-provost for research or research administrator, representatives from the state department of agriculture, the department of ecology, the department of health, the department of labor and ~~((industry [industries]))~~ industries, privately owned Washington pesticide analytical laboratories, federal regional pesticide laboratories, an Idaho and Oregon laboratory, whether state, university, or private, a chemical and fertilizer industry representative, farm organizations, food processors, marketers, farm labor, environmental organizations, and consumers. Each board member shall serve a three-year term. The members of the board shall serve without compensation but shall be reimbursed for travel expenses incurred while engaged in the business of the board as provided in RCW 43.03.050 and 43.03.060.

(2) The board is in liaison with ~~((the pesticide advisory board and))~~ the pesticide incident reporting and tracking panel and shall review the chemicals investigated by the laboratory according to the following criteria:

(a) Chemical uses for which a database exists on environmental fate and acute toxicology, and that appear safer environmentally than pesticides available on the market;

(b) Chemical uses not currently under evaluation by public laboratories in Idaho or Oregon for use on Washington crops;

(c) Chemicals that have lost or may lose their registration and that no reasonably viable alternatives for Washington crops are known; and

(d) Other chemicals vital to Washington agriculture.

(3) The laboratory shall conduct research activities using approved good laboratory practices, namely procedures and recordkeeping required of the national IR-4 minor use pesticide registration program.

(4) The laboratory shall coordinate activities with the national IR-4 program.

**Sec. 134.** RCW 17.21.020 and 2004 c 100 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) "Agricultural commodity" means any plant or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

(2) "Agricultural land" means land on which an agricultural commodity is produced or land that is in a government-recognized conservation reserve program. This definition does not apply to private gardens where agricultural commodities are produced for personal consumption.

(3) "Antimicrobial pesticide" means a pesticide that is used for the control of microbial pests, including but not limited to viruses, bacteria, algae, and protozoa, and is intended for use as a disinfectant or sanitizer.

(4) "Apparatus" means any type of ground, water, or aerial equipment, device, or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing,

habitating, or stored on or in such land, but shall not include any pressurized handsized household device used to apply any pesticide, or any equipment, device, or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application, or any other small equipment, device, or contrivance that is transported in a piece of equipment licensed under this chapter as an apparatus.

(5) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(6) "Certified applicator" means any individual who is licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, private applicator, limited private applicator, rancher private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA or the director as a restricted use pesticide.

(7) "Commercial pesticide applicator" means any person who engages in the business of applying pesticides to the land of another.

(8) "Commercial pesticide operator" means any employee of a commercial pesticide applicator who uses or supervises the use of any pesticide and who is required to be licensed under provisions of this chapter.

(9) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(10) "Department" means the Washington state department of agriculture.

(11) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(12) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests, but not including equipment used for the application of pesticides when sold separately from the pesticides.

(13) "Direct supervision" by certified private applicators shall mean that the designated restricted use pesticide shall be applied for purposes of producing any agricultural commodity on land owned or rented by the applicator or the applicator's employer, by a competent person acting under the instructions and control of a certified private applicator who is available if and when needed, even though such certified private applicator is not physically present at the time and place the pesticide is applied. The certified private applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied. Direct supervision by all other certified applicators means direct on-the-job supervision and shall require that the certified applicator be physically present at the application site and that the person making the application be in voice and visual contact with the certified applicator at all times during the application. However, direct supervision for forest application does not require constant voice and visual contact when general use pesticides are applied using nonapparatus type equipment, the certified applicator is physically present and readily available in the immediate application area, and the certified applicator

directly observes pesticide mixing and batching. Direct supervision of an aerial apparatus means the pilot of the aircraft must be appropriately certified.

(14) "Director" means the director of the department or a duly authorized representative.

(15) "Engage in business" means any application of pesticides by any person upon lands or crops of another.

(16) "EPA" means the United States environmental protection agency.

(17) "EPA restricted use pesticide" means any pesticide classified for restricted use by the administrator, EPA.

(18) "FIFRA" means the federal insecticide, fungicide and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

(19) "Forest application" means the application of pesticides to agricultural land used to grow trees for the commercial production of wood or wood fiber for products such as dimensional lumber, shakes, plywood, poles, posts, pilings, particle board, hardboard, oriented strand board, pulp, paper, cardboard, or other similar products.

(20) "Fumigant" means any pesticide product or combination of products that is a vapor or gas or forms a vapor or gas on application and whose method of pesticidal action is through the gaseous state.

(21) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, and yeasts, except those on or in a living person or other animals.

(22) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi.

(23) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed or other higher plant.

(24) "Immediate service call" means a landscape application to satisfy an emergency customer request for service, or a treatment to control a pest to landscape plants.

(25) "Insect" means any small invertebrate animal, in any life stage, whose adult form is segmented and which generally belongs to the class insecta, comprised of six-legged, usually winged forms, as, for example, beetles, bugs, bees, and flies. The term insect shall also apply to other allied classes of arthropods whose members are wingless and usually have more than six legs, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(26) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect.

(27) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices, and contrivances, appurtenant to or situated on, fixed or mobile, including any used for transportation.

(28) "Landscape application" means an application of any EPA registered pesticide to any exterior landscape area around residential property, commercial properties such as apartments or shopping centers, parks, golf courses, schools including nursery schools and licensed day cares, or cemeteries or similar areas. This definition shall not apply to: (a) Applications made by private applicators, limited private applicators, or rancher private applicators; (b) mosquito abatement, gypsy moth eradication, or similar wide-area pest control programs

sponsored by governmental entities; and (c) commercial pesticide applicators making structural applications.

(29) "Limited private applicator" means a certified applicator who uses or is in direct supervision, as defined for private applicators in this section, of the use of any herbicide classified by the EPA or the director as a restricted use pesticide, for the sole purpose of controlling weeds on nonproduction agricultural land owned or rented by the applicator or the applicator's employer. Limited private applicators may also use restricted use pesticides on timber areas, excluding aquatic sites, to control weeds designated for mandatory control under chapters 17.04, 17.06, and 17.10 RCW and state and local regulations adopted under chapters 17.04, 17.06, and 17.10 RCW. A limited private applicator may apply restricted use herbicides to the types of land described in this subsection of another person if applied without compensation other than trading of personal services between the applicator and the other person. This license is only valid when making applications in counties of Washington located east of the crest of the Cascade mountains.

(30) "Limited production agricultural land" means land used to grow hay and grain crops that are consumed by the livestock on the farm where produced. No more than ten percent of the hay and grain crops grown on limited production agricultural land may be sold each crop year. Limited production agricultural land does not include aquatic sites.

(31) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.

(32) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts. Nematodes may also be called nemas or eelworms.

(33) "Nonproduction agricultural land" means pastures, rangeland, fencerows, and areas around farm buildings but not aquatic sites.

(34) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(35) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed, and any form of plant or animal life or virus, except virus, bacteria, or other microorganisms on or in a living person or other animal or in or on processed food or beverages or pharmaceuticals, which is normally considered to be a pest, or which the director may declare to be a pest.

(36) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant as defined in RCW 15.58.030.

~~(37) ("Pesticide advisory board" means the pesticide advisory board as provided for in this chapter.~~

~~(38))~~ "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or their produce, but shall not include substances insofar as they are intended to be

used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

~~((39))~~ (38) "Private applicator" means a certified applicator who uses or is in direct supervision of the use of any pesticide classified by the EPA or the director as a restricted use pesticide, for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the applicator or the applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

~~((40))~~ (39) "Private-commercial applicator" means a certified applicator who uses or supervises the use of any pesticide classified by the EPA or the director as a restricted use pesticide for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

~~((41))~~ (40) "Rancher private applicator" means a certified applicator who uses or is in direct supervision, as defined for private applicators in this section, of the use of any herbicide or any rodenticide classified by the EPA or the director as a restricted use pesticide for the purpose of controlling weeds and pest animals on nonproduction agricultural land and limited production agricultural land owned or rented by the applicator or the applicator's employer. Rancher private applicators may also use restricted use pesticides on timber areas, excluding aquatic sites, to control weeds designated for mandatory control under chapters 17.04, 17.06, and 17.10 RCW and state and local regulations adopted under chapters 17.04, 17.06, and 17.10 RCW. A rancher private applicator may apply restricted use herbicides and rodenticides to the types of land described in this subsection of another person if applied without compensation other than trading of personal services between the applicator and the other person. This license is only valid when making applications in counties of Washington located east of the crest of the Cascade mountains.

~~((42))~~ (41) "Residential property" includes property less than one acre in size zoned as residential by a city, town, or county, but does not include property zoned as agricultural or agricultural homesites.

~~((43))~~ (42) "Restricted use pesticide" means any pesticide or device which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including people, lands, beneficial insects, animals, crops, and wildlife, other than pests.

~~((44))~~ (43) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents, or any other vertebrate animal which the director may declare by rule to be a pest.

~~((45))~~ (44) "School facility" means any facility used for licensed day care center purposes or for the purposes of a public kindergarten or public elementary or secondary school. School facility includes the buildings or structures, playgrounds, landscape areas, athletic fields, school vehicles, or any other area of school property.

~~((46))~~ (45) "Snails or slugs" include all harmful mollusks.

~~((47))~~ (46) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the

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economic, social, and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

~~((48))~~ (47) "Weed" means any plant which grows where it is not wanted.

**Lieutenant Governor Appointments and Assignments**

**Sec. 135.** RCW 43.15.020 and 2009 c 560 s 27 are each amended to read as follows:

The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

- (1) The lieutenant governor serves on the following boards and committees:
  - (a) Capitol furnishings preservation committee, RCW 27.48.040;
  - (b) Washington higher education facilities authority, RCW 28B.07.030;
  - (c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;
  - (d) State finance committee, RCW 43.33.010;
  - (e) State capitol committee, RCW 43.34.010;
  - (f) Washington health care facilities authority, RCW 70.37.030;
  - (g) State medal of merit nominating committee, RCW 1.40.020;
  - (h) Medal of valor committee, RCW 1.60.020; and
  - (i) Association of Washington generals, RCW 43.15.030.
- (2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:
  - (a) Civil legal aid oversight committee, RCW 2.53.010;
  - (b) Office of public defense advisory committee, RCW 2.70.030;
  - (c) Washington state gambling commission, RCW 9.46.040;
  - (d) Sentencing guidelines commission, RCW 9.94A.860;
  - (e) State building code council, RCW 19.27.070;
  - (f) Women's history consortium board of advisors, RCW 27.34.365;
  - (g) Financial ~~((literacy))~~ education public-private partnership, RCW 28A.300.450;
  - (h) Joint administrative rules review committee, RCW 34.05.610;
  - (i) Capital projects advisory review board, RCW 39.10.220;
  - (j) Select committee on pension policy, RCW 41.04.276;
  - (k) Legislative ethics board, RCW 42.52.310;
  - (l) Washington citizens' commission on salaries, RCW 43.03.305;
  - (m) Legislative oral history committee, RCW 44.04.325;
  - (n) State council on aging, RCW 43.20A.685;
  - (o) State investment board, RCW 43.33A.020;
  - (p) Capitol campus design advisory committee, RCW 43.34.080;
  - (q) Washington state arts commission, RCW 43.46.015;
  - (r) Information services board, RCW 43.105.032;
  - (s) ~~((K-20 educational network board, RCW 43.105.800;))~~
  - ~~((t))~~ (t) Municipal research council, RCW 43.110.010;
  - ~~((u))~~ (u) Council for children and families, RCW 43.121.020;
  - ~~((v))~~ (v) PNWER-Net working subgroup under chapter 43.147 RCW;
  - ~~((w))~~ (w) Community economic revitalization board, RCW 43.160.030;



~~((w))~~ (w) Washington economic development finance authority, RCW 43.163.020;  
~~((x))~~ (x) Life sciences discovery fund authority, RCW 43.350.020;  
~~((y))~~ (y) Legislative children's oversight committee, RCW 44.04.220;  
~~((z))~~ (z) Joint legislative audit and review committee, RCW 44.28.010;  
~~((aa))~~ (aa) Joint committee on energy supply and energy conservation, RCW 44.39.015;  
~~((ab))~~ (ab) Legislative evaluation and accountability program committee, RCW 44.48.010;  
~~((ac))~~ (ac) Agency council on coordinated transportation, RCW 47.06B.020;  
~~((ad))~~ (ad) Manufactured housing task force, RCW 59.22.090;  
~~((ae))~~ (ae) Washington horse racing commission, RCW 67.16.014;  
~~((af))~~ (af) Correctional industries board of directors, RCW 72.09.080;  
~~((ag))~~ (ag) Joint committee on veterans' and military affairs, RCW 73.04.150;  
~~((ah))~~ (ah) Joint legislative committee on water supply during drought, RCW 90.86.020;  
~~((ai))~~ (ai) Statute law committee, RCW 1.08.001; and  
~~((aj))~~ (aj) Joint legislative oversight committee on trade policy, RCW 44.55.020.

**Sec. 136.** RCW 43.15.020 and 2010 c . . . s 135 (section 135 of this act) are each amended to read as follows:

The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

- (1) The lieutenant governor serves on the following boards and committees:
- (a) Capitol furnishings preservation committee, RCW 27.48.040;
  - (b) Washington higher education facilities authority, RCW 28B.07.030;
  - (c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;
  - (d) State finance committee, RCW 43.33.010;
  - (e) State capitol committee, RCW 43.34.010;
  - (f) Washington health care facilities authority, RCW 70.37.030;
  - (g) State medal of merit nominating committee, RCW 1.40.020;
  - (h) Medal of valor committee, RCW 1.60.020; and
  - (i) Association of Washington generals, RCW 43.15.030.
- (2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:
- (a) Civil legal aid oversight committee, RCW 2.53.010;
  - (b) Office of public defense advisory committee, RCW 2.70.030;
  - (c) Washington state gambling commission, RCW 9.46.040;
  - (d) Sentencing guidelines commission, RCW 9.94A.860;
  - (e) State building code council, RCW 19.27.070;
  - (f) ~~(Women's history consortium board of advisors, RCW 27.34.365;~~
  - ~~(g))~~ Financial education public-private partnership, RCW 28A.300.450;
  - ~~((h))~~ (g) Joint administrative rules review committee, RCW 34.05.610;
  - ~~((i))~~ (h) Capital projects advisory review board, RCW 39.10.220;

~~((j))~~ (i) Select committee on pension policy, RCW 41.04.276;  
~~((k))~~ (j) Legislative ethics board, RCW 42.52.310;  
~~((l))~~ (k) Washington citizens' commission on salaries, RCW 43.03.305;  
~~((m))~~ (l) Legislative oral history committee, RCW 44.04.325;  
~~((n))~~ (m) State council on aging, RCW 43.20A.685;  
~~((o))~~ (n) State investment board, RCW 43.33A.020;  
~~((p))~~ (o) Capitol campus design advisory committee, RCW 43.34.080;  
~~((q))~~ (p) Washington state arts commission, RCW 43.46.015;  
~~((r))~~ (q) Information services board, RCW 43.105.032;  
~~((s))~~ (r) Municipal research council, RCW 43.110.010;  
~~((t))~~ (s) Council for children and families, RCW 43.121.020;  
~~((u))~~ (t) PNWER-Net working subgroup under chapter 43.147 RCW;  
~~((v))~~ (u) Community economic revitalization board, RCW 43.160.030;  
~~((w))~~ (v) Washington economic development finance authority, RCW 43.163.020;  
~~((x))~~ (w) Life sciences discovery fund authority, RCW 43.350.020;  
~~((y))~~ (x) Legislative children's oversight committee, RCW 44.04.220;  
~~((z))~~ (y) Joint legislative audit and review committee, RCW 44.28.010;  
~~((aa))~~ (z) Joint committee on energy supply and energy conservation, RCW 44.39.015;  
~~((bb))~~ (aa) Legislative evaluation and accountability program committee, RCW 44.48.010;  
~~((cc))~~ (bb) Agency council on coordinated transportation, RCW 47.06B.020;  
~~((dd))~~ (cc) Manufactured housing task force, RCW 59.22.090;  
~~((ee))~~ (dd) Washington horse racing commission, RCW 67.16.014;  
~~((ff))~~ (ee) Correctional industries board of directors, RCW 72.09.080;  
~~((gg))~~ (ff) Joint committee on veterans' and military affairs, RCW 73.04.150;  
~~((hh))~~ (gg) Joint legislative committee on water supply during drought, RCW 90.86.020;  
~~((ii))~~ (hh) Statute law committee, RCW 1.08.001; and  
~~((jj))~~ (ii) Joint legislative oversight committee on trade policy, RCW 44.55.020.

#### Title and Registration Advisory Committee

NEW SECTION. Sec. 137. RCW 46.01.320 (Title and registration advisory committee) and 2005 c 319 s 115, 1996 c 315 s 2, & 1992 c 216 s 3 are each repealed.

**Sec. 138.** RCW 46.01.325 and 2005 c 319 s 116 are each amended to read as follows:

(1) The director shall prepare ~~(, with the advice of the title and registration advisory committee,)~~ an annual comprehensive analysis and evaluation of agent and subagent fees. The director shall make recommendations for agent and subagent fee revisions ~~((approved by the title and registration advisory committee))~~ to the senate and house transportation committees by January 1st of every third year starting with 1996. Fee revision recommendations may be made

more frequently when justified by the annual analysis and evaluation (~~and requested by the title and registration advisory committee~~).

(2) The annual comprehensive analysis and evaluation must consider, but is not limited to:

- (a) Unique and significant financial, legislative, or other relevant developments that may impact fees;
- (b) Current funding for ongoing operating and maintenance automation project costs affecting revenue collection and service delivery;
- (c) Future system requirements including an appropriate sharing of costs between the department, agents, and subagents;
- (d) Beneficial mix of customer service delivery options based on a fee structure commensurate with quality performance standards;
- (e) Appropriate indices projecting state and national growth in business and economic conditions prepared by the United States department of commerce, the department of revenue, and the revenue forecast council for the state of Washington.

**Sec. 139.** RCW 46.01.140 and 2005 c 343 s 1 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**NEW SECTION. Sec. 140.** (1) All documents and papers, equipment, or other tangible property in the possession of the terminated entity shall be delivered to the custody of the entity assuming the responsibilities of the terminated entity or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist and equipment or other tangible property to the department of general administration.

(2) All funds held by, or other moneys due to, the terminated entity shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund.

(3) All contractual rights and duties of an entity shall be assigned or delegated to the entity assuming the responsibilities of the terminated entity, or if there is none to such entity as the governor shall direct.

(4) All rules and all pending business before any terminated entity shall be continued and acted upon by the entity assuming the responsibilities of the terminated entity.

**Sec. 141.** RCW 43.03.050 and 2003 1st sp.s. c 25 s 915 are each amended to read as follows:

(1) The director of financial management shall prescribe reasonable allowances to cover reasonable and necessary subsistence and lodging expenses for elective and appointive officials and state employees while engaged on official business away from their designated posts of duty. The director of financial management may prescribe and regulate the allowances provided in lieu of subsistence and lodging expenses and may prescribe the conditions under which reimbursement for subsistence and lodging may be allowed. The schedule of allowances adopted by the office of financial management may include special allowances for foreign travel and other travel involving higher than usual costs for subsistence and lodging. The allowances established by the director shall not exceed the rates set by the federal government for federal employees. However, during the 2003-05 fiscal biennium, the allowances for any county that is part of a metropolitan statistical area, the largest city of which is in another state, shall equal the allowances prescribed for that larger city.

(2) Those persons appointed to serve without compensation on any state board, commission, or committee, if entitled to payment of travel expenses, shall be paid pursuant to special per diem rates prescribed in accordance with subsection (1) of this section by the office of financial management.

(3) The director of financial management may prescribe reasonable allowances to cover reasonable expenses for meals, coffee, and light refreshment served to elective and appointive officials and state employees regardless of travel status at a meeting where: (a) The purpose of the meeting is to conduct official state business or to provide formal training to state employees or state officials; (b) the meals, coffee, or light refreshment are an integral part of the meeting or training session; (c) the meeting or training session takes place away from the employee's or official's regular workplace; and (d) the agency head or authorized designee approves payments in advance for the meals, coffee, or light refreshment. In order to prevent abuse, the director may regulate such allowances and prescribe additional conditions for claiming the allowances.

(4) Upon approval of the agency head or authorized designee, an agency may serve coffee or light refreshments at a meeting where: (a) The purpose of the meeting is to conduct state business or to provide formal training that benefits the state; and (b) the coffee or light refreshment is an integral part of the meeting or training session. The director of financial management shall adopt requirements necessary to prohibit abuse of the authority authorized in this subsection.

(5) The schedule of allowances prescribed by the director under the terms of this section and any subsequent increases in any maximum allowance or special allowances for areas of higher than usual costs shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature.

(6) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class one through class three or class five board, commission, council, committee, or similar group may receive an allowance for subsistence.

lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010.

**Sec. 142.** RCW 43.03.220 and 1984 c 287 s 2 are each amended to read as follows:

(1) Any part-time board, commission, council, committee, or other similar group which is established by the executive, legislative, or judicial branch to participate in state government and which functions primarily in an advisory, coordinating, or planning capacity shall be identified as a class one group.

(2) Absent any other provision of law to the contrary, no money beyond the customary reimbursement or allowance for expenses may be paid by or through the state to members of class one groups for attendance at meetings of such groups.

(3) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class one board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class one groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.

(4) Beginning July 1, 2010, through June 30, 2011, class one groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 143.** RCW 43.03.230 and 2001 c 315 s 11 are each amended to read as follows:

(1) Any agricultural commodity board or commission established pursuant to Title 15 or 16 RCW shall be identified as a class two group for purposes of compensation.

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

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class two board, commission, council, committee, or similar

group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class two groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.

(5) Beginning July 1, 2010, through June 30, 2011, class two groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 144.** RCW 43.03.240 and 1984 c 287 s 4 are each amended to read as follows:

(1) Any part-time, statutory board, commission, council, committee, or other similar group which has rule-making authority, performs quasi judicial functions, has responsibility for the administration or policy direction of a state agency or program, or performs regulatory or licensing functions with respect to a specific profession, occupation, business, or industry shall be identified as a class three group for purposes of compensation.

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

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class three board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class three groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.

(5) Beginning July 1, 2010, through June 30, 2011, class three groups that are funded by sources other than the state general fund are encouraged to reduce



travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 145.** RCW 43.03.250 and 1984 c 287 s 5 are each amended to read as follows:

(1) A part-time, statutory board, commission, council, committee, or other similar group shall be identified as a class four group for purposes of compensation if the group:

(a) Has rule-making authority, performs quasi-judicial functions, or has responsibility for the administration or policy direction of a state agency or program;

(b) Has duties that are deemed by the legislature to be of overriding sensitivity and importance to the public welfare and the operation of state government; and

(c) Requires service from its members representing a significant demand on their time that is normally in excess of one hundred hours of meeting time per year.

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

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, class four groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.

**Sec. 146.** RCW 43.03.265 and 1999 c 366 s 1 are each amended to read as follows:

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

(2) Except as otherwise provided in this section, each member of a class five group is eligible to receive compensation in an amount not to exceed two hundred fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the

chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

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

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class five groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.

(5) Beginning July 1, 2010, through June 30, 2011, class five groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

NEW SECTION. Sec. 147. (1) The director of financial management shall provide the following information on each permanent and temporary, statutory and nonstatutory board, commission, council, committee, or other similar group established by the executive and judicial branches of state government and report the information to the appropriate policy and fiscal committees of the senate and the house of representatives by September 1, 2010:

(a) Actual annual costs for fiscal years 2008 and 2009 for:

(i) Agency staff support;

(ii) Travel and lodging allowances;

(iii) Compensation payments for designated members; and

(iv) Other meeting expenses; and

(b) The sources of funds used to pay costs for each board, commission, council, committee, or other similar group.

(2) This section expires December 31, 2010.

NEW SECTION. Sec. 148. The following sections are recodified as new sections in chapter 43.215 RCW:

RCW 43.121.170

RCW 43.121.175

RCW 43.121.180

NEW SECTION. Sec. 149. Sections 119 and 123 of this act take effect June 30, 2011.

NEW SECTION. Sec. 150. Sections 1 through 118, 125 through 135, and 141 through 146 of this act take effect June 30, 2010.

NEW SECTION. Sec. 151. Section 136 of this act takes effect November 15, 2010.

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Passed by the House March 19, 2010.

Passed by the Senate March 18, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

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**CHAPTER 8**

[Engrossed Second Substitute House Bill 2782]

**SECURITY LIFELINE ACT**

AN ACT Relating to establishing the security lifeline act; amending RCW 74.04.005, 10.101.010, 26.19.071, 31.04.540, 70.123.110, 73.08.005, 74.04.0052, 74.04.120, 74.04.230, 74.04.266, 74.04.620, 74.04.770, 74.08.043, 74.08.278, 74.08.335, 74.08A.210, 74.09.010, 74.09.035, 74.09.555, and 74.50.060; reenacting and amending RCW 13.34.030; adding new sections to chapter 74.04 RCW; adding a new section to chapter 43.330 RCW; adding a new section to chapter 70.47 RCW; adding a new section to chapter 70.96A RCW; adding a new section to chapter 74.08A RCW; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

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

**NEW SECTION. Sec. 1. INTENT.** (1) The legislature finds that:

(a) Low-income families and individuals often face significant barriers to receiving the services and benefits that they are qualified to receive. These services are essential to meeting individuals' basic needs, and provide critical support to low-income individuals who are working or who have disabilities that prevent them from working;

(b) Each year millions of federal dollars go unclaimed due to underutilization of benefits such as tax credits, health care coverage, and food support;

(c) State agencies have been engaged in an effort to implement an online benefit portal to simplify and streamline access to state, federal, and local benefits that include a broad array of public benefits;

(d) Access to education and training gives low-income individuals and families the opportunity to acquire the skills they need to become successfully employed and attain self-sufficiency; and

(e) Agencies have been engaged in efforts to increase access to training and education for recipients of federal food assistance.

(2) The legislature therefore intends to strengthen existing efforts by providing enhanced structure and direction to ensure that a strong partnership among colleges, state agencies, community partners, and philanthropy be established. The legislature also intends to provide an efficient, effective, integrated approach to the delivery of basic support services and education and training programs. The integrated approach should include the creation of a one-stop-shop, online benefits portal where individuals can apply for a broad array of services, including public benefits and education and training support, and the expansion of the food stamp employment and training program.

(3) The legislature further finds that:

(a) The general assistance program can be reformed to better support the ability of persons who are unable to work due to physical or mental health impairments to either return to work, or transition to federal supplemental security income benefits; and

(b) Persons who are homeless and suffering from mental illness or chemical dependency are particularly vulnerable, because homelessness is a substantial barrier to successful participation in, and completion of, needed treatment services.

(4) Through the reforms included in this act, the legislature intends to end the general assistance program and establish the disability lifeline program, and to implement multiple strategies designed to improve the employment and basic support outcomes of persons receiving disability lifeline benefits. The legislature further intends to focus services on persons who are homeless and have a mental illness or chemical dependency by providing housing vouchers as an alternative to a cash grant so that these persons can be in stable housing and thus have a greater opportunity to succeed in treatment.

NEW SECTION. Sec. 2. A new section is added to chapter 74.04 RCW to read as follows:

**OPPORTUNITY PORTAL.** (1) An online opportunity portal shall be established to provide the public with more effective access to available state, federal, and local services. The secretary of the department of social and health services shall act as the executive branch sponsor of the portal planning process. Under the leadership of the secretary, the department shall:

(a) Identify and select an appropriate solution and acquisition approach to integrate technology systems to create a user-friendly electronic tool for Washington residents to apply for benefits;

(b) Facilitate the adaptation of state information technology systems to allow applications generated through the opportunity portal and other compatible electronic application systems to seamlessly link to appropriate state information systems;

(c) Ensure that the portal provides access to a broad array of state, federal, and local services, including but not limited to: Health care services, higher education financial aid, tax credits, civic engagement, nutrition assistance, energy assistance, family support, and disability lifeline benefits as defined in sections 4 through 13 of this act;

(d) Design an implementation strategy for the portal that maximizes collaboration with community-based organizations to facilitate its use by low-income individuals and families;

(e) Provide access to the portal at a wide array of locations including but not limited to: Community or technical colleges, community college campuses where community service offices are colocated, community-based organizations, libraries, churches, food banks, state agencies, early childhood education sites, and labor unions;

(f) Ensure project resources maximize available federal and private funds for development and initial operation of the opportunity portal. Any incidental costs to state agencies shall be derived from existing resources. This subsection does not obligate or preclude the appropriation of future state funding for the opportunity portal;

(g) Determine the solution and acquisition approach by June 1, 2010.

(2) By December 1, 2011, and annually thereafter, the department of social and health services shall report to the legislature and governor. The report shall include data and information on implementation and outcomes of the opportunity portal, including any increases in the use of public benefits and increases in federal funding.

(3) The department shall develop a plan for implementing paperless application processes for the services included in the opportunity portal for which the electronic exchange of application information is possible. The plan should include a goal of achieving, to the extent possible, the transition of these services to paperless application processes by July 1, 2012. The plan must comply with federal statutes and regulations and must allow applicants to submit applications by alternative means to ensure that access to benefits will not be restricted.

(4) To the extent that the department enters into a contractual relationship to accomplish the purposes of this section, such contract or contracts shall be performance-based.

NEW SECTION. Sec. 3. A new section is added to chapter 74.04 RCW to read as follows:

**BASIC FOOD EMPLOYMENT AND TRAINING PROGRAM.** (1) The department, the employment security department, and the state board for community and technical colleges shall work in partnership to expand the food stamp employment and training program. Subject to federal approval, the program shall be expanded to three additional community colleges or other community-based locations in 2010 and shall expand capacity at participating colleges. To the greatest extent possible, expansion shall be geographically diverse. The agencies shall:

(a) Identify and seek out partnerships with community-based organizations that can provide support services and case management to participants through performance-based contracts in the food stamp employment and training program, and do not replace the positions or work of department employees;

(b) Identify eligible nonfederal matching funds to draw down the federal match for food stamp employment and training services. Matching funds may include: Local funds, foundation grants, employer-paid costs, and the state allocation to community and technical colleges.

(2) Employment and training funds may be allocated for: Educational programs to develop skills for employability, vocational education, English as a second language courses, adult basic education, GED courses, remedial programs, job readiness training, case management, intake, assessment, evaluation, and barrier removal and support services such as tuition, books, child care, transportation, housing, and counseling services.

(3) The department shall annually track and report outcomes including those achieved through performance-based contracts as follows: Federal funding received, the number of participants served, achievement points, the number of participants who enter employment during or after participation in the food stamp employment and training program, and the average wage of jobs attained. The report shall be submitted to the governor and appropriate committees of the legislature on November 1st of each year, beginning in 2010.

(4) For purposes of this section, "food stamp employment and training program" refers to a program established and administered through the

employment security department and the department of social and health services.

**Sec. 4.** RCW 74.04.005 and 2003 1st sp.s. c 10 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) "Public assistance" or "assistance"—Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, ~~((general assistance))~~ disability lifeline benefits and federal aid assistance.

(2) "Department"—The department of social and health services.

(3) "County or local office"—The administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) "Disability lifeline program" means a program that provides aid and support in accordance with the conditions set out in this subsection.

(a) Aid and assistance shall be provided to persons who are not eligible to receive federal aid assistance, other than basic food benefits transferred electronically and medical assistance and meet one of the following conditions:

(i) Are pregnant and in need, based upon the current income and resource requirements of the federal temporary assistance for needy families program; or

(ii) Are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department. The standard for incapacity in this subsection, as evidenced by the ninety-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards; and

(A) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(B) Have furnished the department their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(C) Have not refused or failed without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(D) Have not refused or failed without good cause to participate in vocational rehabilitation services, if an assessment conducted under section 5 of this act indicates that the person might benefit from such services. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in vocational rehabilitation services, or when vocational rehabilitation services are not available to the person in the county of his or her residence.

(b)(i) Persons who initially apply and are found eligible for disability lifeline benefits based upon incapacity from gainful employment under (a) of this subsection on or after September 2, 2010, who are homeless and have been assessed as needing chemical dependency or mental health treatment or both, must agree, as a condition of eligibility for the disability lifeline program, to accept a housing voucher in lieu of a cash grant if a voucher is available. The department shall establish the dollar value of the housing voucher. The dollar value of the housing voucher may differ from the value of the cash grant. Persons receiving a housing voucher under this subsection also shall receive a cash stipend of fifty dollars per month.

(ii) If the department of commerce has determined under section 8 of this act that sufficient housing is not available, persons described in this subsection who apply for disability lifeline benefits during the time period that housing is not available shall receive a cash grant in lieu of a cash stipend and housing voucher.

(iii) Persons who refuse to accept a housing voucher under this subsection but otherwise meet the eligibility requirements of (a) of this subsection are eligible for medical care services benefits under RCW 74.09.035, subject to the time limits in (h) of this subsection.

(c) The following persons are not eligible for the disability lifeline program:

(i) Persons who are unemployable due primarily to alcohol or drug addiction. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection shall not be construed to prohibit the department from granting disability lifeline benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the disability lifeline program.

(ii) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause.

(d) Disability lifeline benefits shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in (a) of this subsection, and who will accept available services that can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(e) Persons who are likely eligible for federal supplemental security income benefits shall be moved into the disability lifeline expedited component of the disability lifeline program. Persons placed in the expedited component of the program may, if otherwise eligible, receive disability lifeline benefits pending application for federal supplemental security income benefits. The monetary value of any disability lifeline benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be



considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(f) For purposes of determining whether a person is incapacitated from gainful employment under (a) of this subsection:

(i) The department shall adopt by rule medical criteria for disability lifeline incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(ii) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(g) Persons receiving disability lifeline benefits based upon a finding of incapacity from gainful employment who remain otherwise eligible shall have their benefits discontinued unless the recipient demonstrates no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapacitation.

(h)(i) Beginning September 1, 2010, no person who is currently receiving or becomes eligible for disability lifeline program benefits shall be eligible to receive benefits under the program for more than twenty-four months in a sixty-month period. For purposes of this subsection, months of receipt of general assistance-unemployable benefits count toward the twenty-four month limit. Months during which a person received benefits under the expedited component of the disability lifeline or general assistance program or under the aged, blind, or disabled component of the disability lifeline or general assistance program shall not be included when determining whether a person has been receiving benefits for more than twenty-four months. On or before July 1, 2010, the department must review the cases of all persons who have received disability lifeline benefits or general assistance unemployable benefits for at least twenty months as of that date. On or before September 1, 2010, the department must review the cases of all remaining persons who have received disability lifeline benefits for at least twelve months as of that date. The review should determine whether the person meets the federal supplemental security income disability standard and, if the person does not meet that standard, whether the receipt of additional services could lead to employability. If a need for additional services is identified, the department shall provide case management services, such as assistance with arranging transportation or locating stable housing, that will facilitate the person's access to needed services. A person may not be determined ineligible due to exceeding the time limit unless he or she has received a case review under this subsection finding that the person does not meet the federal supplemental security income disability standard.

(ii) The time limits established under this subsection expire June 30, 2013.

(i) No person may be considered an eligible individual for disability lifeline benefits with respect to any month if during that month the person:

(i) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(ii) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(6) "Disability lifeline expedited" means a component of the disability lifeline program under which persons receiving disability lifeline benefits have been determined, after examination by an appropriate health care provider, to be likely to be eligible for federal supplemental security income benefits based on medical and behavioral health evidence that meets the disability standards used for the federal supplemental security income program.

(7) "Federal aid assistance"—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.

~~((6)(a) "General assistance"—Aid to persons in need who:~~

~~(i) Are not eligible to receive federal aid assistance, other than food stamps or food stamp benefits transferred electronically and medical assistance; however, an individual who refuses or fails to cooperate in obtaining federal aid assistance, without good cause, is not eligible for general assistance;~~

~~(ii) Meet one of the following conditions:~~

~~(A) Pregnant: PROVIDED, That need is based on the current income and resource requirements of the federal temporary assistance for needy families program; or~~

~~(B) Subject to chapter 165, Laws of 1992, incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department.~~

~~(C) Persons who are unemployable due to alcohol or drug addiction are not eligible for general assistance. Persons receiving general assistance on July 26, 1987, or becoming eligible for such assistance thereafter, due to an alcohol or drug-related incapacity, shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. Alcoholic and drug addicted clients who are receiving general assistance on July 26, 1987, may remain on general assistance if they otherwise retain their eligibility until they are assessed for services under chapter 74.50 RCW. Subsection (6)(a)(ii)(B) of this section shall not be construed to prohibit the department from granting general assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the general assistance program;~~

~~(iii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law; and~~

~~(iv) Have furnished the department their social security account number. If the social security account number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of assistance, and the social security number shall be provided to the department upon receipt.~~

~~(b) Notwithstanding the provisions of subsection (6)(a)(i), (ii), and (c) of this section, general assistance shall be provided to the following recipients of federal aid assistance:~~

~~(i) Recipients of supplemental security income whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse; or~~

~~(ii) To the extent authorized by the legislature in the biennial appropriations act, to recipients of temporary assistance for needy families whose needs are not being met because of a temporary reduction in monthly income below the entitled benefit payment level caused by loss or reduction of wages or unemployment compensation benefits or some other unforeseen circumstances. The amount of general assistance authorized shall not exceed the difference between the entitled benefit payment level and the amount of income actually received.~~

~~(c) General assistance shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in subsection (6)(a)(ii)(A) and (b) of this section, and will accept available services which can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:~~

~~(i) First failure: One week;~~

~~(ii) Second failure within six months: One month;~~

~~(iii) Third and subsequent failure within one year: Two months.~~

~~(d) Persons found eligible for general assistance based on incapacity from gainful employment may, if otherwise eligible, receive general assistance pending application for federal supplemental security income benefits. Any general assistance that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.~~

~~(e) The department shall adopt by rule medical criteria for general assistance eligibility to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information.~~

~~(f) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.~~

~~(g) Recipients of general assistance based upon a finding of incapacity from gainful employment who remain otherwise eligible shall have their benefits discontinued unless the recipient demonstrates no material improvement in their medical or mental condition. The department may discontinue benefits when there was specific error in the prior determination that found the recipient eligible by reason of incapacitation. Recipients of general assistance based upon pregnancy who relinquish their child for adoption, remain otherwise eligible, and are not eligible to receive benefits under the federal temporary assistance for needy families program shall not have their benefits terminated until the end of~~

the month in which the period of six weeks following the birth of the recipient's child falls. Recipients of the federal temporary assistance for needy families program who lose their eligibility solely because of the birth and relinquishment of the qualifying child may receive general assistance through the end of the month in which the period of six weeks following the birth of the child falls.

~~(h) No person may be considered an eligible individual for general assistance with respect to any month if during that month the person:~~

~~(i) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or~~

~~(ii) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.~~

~~(7))~~ (8) "Applicant"—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.

~~((8))~~ (9) "Recipient"—Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

~~((9))~~ (10) "Standards of assistance"—The level of income required by an applicant or recipient to maintain a level of living specified by the department.

~~((10))~~ (11) "Resource"—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) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed five thousand dollars;

(d) A motor vehicle necessary to transport a ~~((physically disabled))~~ household member with a physical disability. This exclusion is limited to one vehicle per ~~((physically disabled))~~ person with a physical disability;

(e) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance. The department shall also allow recipients of temporary assistance for needy families to exempt savings accounts with combined balances of up to an additional three thousand dollars;

(f) Applicants for or recipients of ~~((general assistance))~~ disability lifeline benefits 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: PROVIDED, That:

(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.

~~((11))~~ (12) "Income"—(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.

~~((12))~~ (13) "Need"—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.

~~((13))~~ (14) 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.

~~((14))~~ (15) 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.

NEW SECTION. Sec. 5. A new section is added to chapter 74.04 RCW to read as follows:

REFERRAL TO THE DIVISION OF VOCATIONAL REHABILITATION.

(1) The economic services administration shall work jointly with the division of vocational rehabilitation to develop an assessment tool that must be used to determine whether the programs offered by the division of vocational rehabilitation could assist persons receiving disability lifeline benefits in returning to the work force. The assessment tool shall be completed no later than December 1, 2010. The economic services administration shall begin using the tool no later than January 1, 2011. No later than December 30, 2011, the department shall report on the use of the tool and to what extent the programs offered by the division of vocational rehabilitation have been successful in returning persons receiving disability lifeline benefits to the work force.

(2) After January 1, 2011, all persons receiving disability lifeline benefits shall be assessed to determine whether they would likely benefit from a program offered by the division of vocational rehabilitation. If the assessment indicates that the person might benefit, the economic services administration shall make a referral to the division of vocational rehabilitation. If the person is found eligible for a program with the division of vocational rehabilitation, he or she must participate in that program to remain eligible for the monthly stipend and housing voucher or a cash grant. If the person refuses to participate or does not complete the program, the department shall terminate the cash stipend and housing voucher or cash grant but may not terminate medical coverage and food benefits.

NEW SECTION. **Sec. 6.** A new section is added to chapter 74.04 RCW to read as follows:

REFERRAL TO THE DEPARTMENT OF VETERANS AFFAIRS. During the application process for disability lifeline benefits, the department shall inquire of each applicant whether he or she has ever served in the United States military service. If the applicant answers in the affirmative, the department shall confer with a veterans benefit specialist with the Washington state department of veterans affairs or a contracted veterans service officer in the community to determine whether the applicant is eligible for any benefits or programs offered to veterans by either the state or the federal government.

NEW SECTION. **Sec. 7.** A new section is added to chapter 74.04 RCW to read as follows:

EARLY SSI TRANSITION PROJECT. (1) To ensure that persons who are likely eligible for supplemental security income benefits are transitioned from disability lifeline benefits to disability lifeline expedited and the medicaid program, and then to the supplemental security income program as quickly as practicable, the department shall implement the early supplemental security income transition project starting in King, Pierce, and Spokane counties no later than July 1, 2010, and extending statewide no later than October 1, 2011. The program shall be implemented through performance-based contracts with managed health care systems providing medical care services under RCW 74.09.035 or other qualified entities. The participants shall have the following responsibilities and duties under this program:

(a) The entities with whom the department contracts to provide the program shall be responsible for:

(i) Systematically screening persons receiving disability lifeline benefits at the point of eligibility determination or shortly thereafter to determine if the persons should be referred for medical or behavioral health evaluations to determine whether they are likely eligible for supplemental security income;

(ii) Immediately sharing the results of the disability screening with the department;

(iii) Managing disability lifeline incapacity evaluation examinations to provide timely access to needed medical and behavioral health evaluations and standardizing health care providers' conduct of incapacity evaluations. To maximize the timeliness and efficiency of incapacity evaluation examinations, the department must strongly consider contracting with a managed health care system with a network of health care providers that are trained and have agreed to conduct disability lifeline medical and psychological incapacity and recertification exams. The department may obtain medical evidence and other relevant information from sources other than the contracted entity if such evidence is available at the time of a person's application for disability lifeline benefits and is sufficient to support a determination that the person is incapacitated;

(iv) Maintaining a centralized appointment and clinical data system; and

(v) Assisting persons receiving disability lifeline benefits with obtaining additional medical or behavioral health examinations needed to meet the disability standard for federal supplemental security income benefits and with submission of applications for supplemental security income benefits.

(b) The department shall be responsible for:

(i) Determining incapacity and eligibility for disability lifeline benefits;

(ii) Making timely determinations that a person receiving disability lifeline benefits is likely eligible for supplemental security income based on medical evidence and other relevant information provided by a contracted entity, and immediately referring such persons to a contracted entity for services;

(iii) Developing standardized procedures for sharing data and information with the contracted entities to ensure timely identification of clients who have not been transferred to the disability lifeline expedited program within four months of their date of application, but who may, upon further review, be appropriately transferred to that program;

(iv) Providing case management, in partnership with the managed health care system or contracted entity, to support persons' transition to federal supplemental security income and medicaid benefits; and

(v) Identifying a savings determination methodology, in consultation with the contracted entities, the office of financial management, and the legislature, on or before implementation of the project.

(2) Early supplemental security income transition project contracts shall include the following performance goals:

(a) Persons receiving disability lifeline benefits should be screened within thirty days of entering the program to determine the propriety of their transfer to the disability lifeline expedited program; and

(b) Seventy-five percent of persons receiving disability lifeline benefits that appear likely to qualify for supplemental security income benefits shall be transferred to the disability lifeline expedited program within four months of their application for disability lifeline benefits.

(3) The initial focus of the efforts of the early supplemental security income transition project shall be on persons who have been receiving disability lifeline or general assistance unemployable benefits for twelve or more months as of September 1, 2010.

(4) No later than December 1, 2011, the department shall report to the governor and appropriate policy and fiscal committees on whether the early supplemental security income transition project performance goals in subsection (2) of this section were met, including the reasons those goals were or were not met.

(5) Pursuant to RCW 41.06.142(3), performance-based contracting under this section is expressly mandated by the legislature and is not subject to the processes set forth in RCW 41.06.142 (1), (4), and (5).

The statewide expansion of the program under this section shall be considered expressly mandated by the legislature and not be subject to the provisions of RCW 41.06.142 (1), (4), and (5).

NEW SECTION. Sec. 8. A new section is added to chapter 43.330 RCW to read as follows:

**DISABILITY LIFELINE HOUSING VOUCHER PROGRAM.** (1) To address the housing issues faced by the disability lifeline applicants in RCW 74.04.005(5)(b), the department of commerce and the department of social and health services shall jointly develop a housing voucher program. The departments also shall develop housing resources to be used by the applicants in RCW 74.04.005(5)(b). To the greatest extent possible, the housing resources shall follow the supportive housing model. The department of commerce shall administer the housing voucher program and shall:

(a) Identify the current supply of private and public housing including acquisition and rental of existing housing stock;

(b) Develop funding strategies for the development of housing resources; and

(c) Design the voucher program to maximize the ability of the department of social and health services to recover federal funding.

(2) If the department of commerce determines that the housing supply is inadequate to meet the need for those applicants qualifying for housing vouchers under RCW 74.04.005(5)(b), those applicants shall instead receive a cash grant administered by the department of social and health services. Upon the department of commerce's determination that the housing supply is adequate to meet the needs of the applicants in RCW 74.04.005(5)(b), housing vouchers rather than cash grants shall be issued to these applicants who apply on or after the department's determination.

(3) The department of commerce and the department of social and health services shall evaluate the impact of the use of housing vouchers under this section and report to the governor and relevant policy and fiscal committees of the legislature by November 30, 2012, on the following items:

(a) The supply, affordability, appropriateness, and use of stable housing;

(b) The following outcomes for persons receiving disability lifeline housing vouchers:

(i) Participation in and completion of chemical dependency or mental health treatment;

(ii) Contact with law enforcement, including arrest and conviction data;



- (iii) Use of emergency room services; and
- (iv) Involuntary commitment under chapter 71.05 RCW.

***\*NEW SECTION. Sec. 9. A new section is added to chapter 70.47 RCW to read as follows:***

***BASIC HEALTH PLAN ENROLLMENT. In order to ensure continuity of health care coverage and avoid deterioration in health status, persons who have lost eligibility for disability lifeline benefits under RCW 74.04.005(5) due to improvement in their health status and who are eligible for subsidized basic health coverage shall be given priority for enrollment in the basic health plan. If the administrator closes or limits subsidized enrollment, to the extent funding is available, the basic health plan must continue to accept and process applications for subsidized enrollment from persons described in this section.***

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

***NEW SECTION. Sec. 10. A new section is added to chapter 70.96A RCW to read as follows:***

***ACCESS TO CHEMICAL DEPENDENCY TREATMENT.*** If an assessment by a certified chemical dependency counselor indicates a need for drug or alcohol treatment, in order to enable a person receiving disability lifeline benefits to improve his or her health status and transition from disability lifeline benefits to employment, or transition to federal disability benefits, the person must be given high priority for enrollment in treatment, within funds appropriated for that treatment. However, first priority for receipt of treatment services must be given to pregnant women and parents of young children. This section expires June 30, 2013. Persons who are terminated from disability lifeline benefits under RCW 74.04.005(5)(h) and are actively engaged in chemical dependency treatment during the month they are terminated shall be provided the opportunity to complete their current course of treatment.

***NEW SECTION. Sec. 11. A new section is added to chapter 74.04 RCW to read as follows:***

By December 1, 2012, the Washington state institute for public policy shall submit a report to the governor and the relevant policy and fiscal committees of the legislature that:

(1) Analyzes the experience of persons who have been terminated from disability lifeline benefits pursuant to RCW 74.04.005(5). The report shall include at least the following information:

- (a) The number of persons terminated from the program who transition to supplemental security income benefits;
- (b) The number of persons who become employed;
- (c) The rate at which the affected persons use hospital emergency room services;
- (d) The number of persons involuntarily committed under chapter 71.05 RCW;

(e) The number of persons arrested or convicted of criminal offenses; and

(f) The mortality rate of the affected persons; and

(2) Reports as to whether the case review standards and early supplemental security income transition project performance goals in RCW 74.04.005(5) have been met by the department.

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**Sec. 12.** RCW 10.101.010 and 1998 c 79 s 2 are each amended to read as follows:

The following definitions shall be applied in connection with this chapter:

(1) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, (~~general assistance~~) disability lifeline benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the current federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(2) "Indigent and able to contribute" means a person who, at any stage of a court proceeding, is unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are less than the anticipated cost of counsel but sufficient for the person to pay a portion of that cost.

(3) "Anticipated cost of counsel" means the cost of retaining private counsel for representation on the matter before the court.

(4) "Available funds" means liquid assets and disposable net monthly income calculated after provision is made for bail obligations. For the purpose of determining available funds, the following definitions shall apply:

(a) "Liquid assets" means cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in motor vehicles. A motor vehicle necessary to maintain employment and having a market value not greater than three thousand dollars shall not be considered a liquid asset.

(b) "Income" means salary, wages, interest, dividends, and other earnings which are reportable for federal income tax purposes, and cash payments such as reimbursements received from pensions, annuities, social security, and public assistance programs. It includes any contribution received from any family member or other person who is domiciled in the same residence as the defendant and who is helping to defray the defendant's basic living costs.

(c) "Disposable net monthly income" means the income remaining each month after deducting federal, state, or local income taxes, social security taxes, contributory retirement, union dues, and basic living costs.

(d) "Basic living costs" means the average monthly amount spent by the defendant for reasonable payments toward living costs, such as shelter, food, utilities, health care, transportation, clothing, loan payments, support payments, and court-imposed obligations.

**Sec. 13.** RCW 13.34.030 and 2009 c 520 s 21 and 2009 c 397 s 1 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between

the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child" and "juvenile" means any individual under the age of eighteen years.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

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

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

(7) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding other than a proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" shall not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or

organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((general assistance))~~ disability lifeline benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 with whom the department has entered into a performance-based contract to provide child welfare services as defined in RCW 74.13.020.

**Sec. 14.** RCW 26.19.071 and 2009 c 84 s 3 are each amended to read as follows:

(1) **Consideration of all income.** All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) **Verification of income.** Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) **Income sources included in gross monthly income.** Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

- (a) Salaries;
- (b) Wages;
- (c) Commissions;
- (d) Deferred compensation;
- (e) Overtime, except as excluded for income in subsection (4)(h) of this section;
- (f) Contract-related benefits;
- (g) Income from second jobs, except as excluded for income in subsection (4)(h) of this section;
- (h) Dividends;
- (i) Interest;
- (j) Trust income;
- (k) Severance pay;
- (l) Annuities;
- (m) Capital gains;
- (n) Pension retirement benefits;
- (o) Workers' compensation;
- (p) Unemployment benefits;
- (q) Maintenance actually received;
- (r) Bonuses;
- (s) Social security benefits;

(t) Disability insurance benefits; and  
(u) Income from self-employment, rent, royalties, contracts, proprietorship of a business, or joint ownership of a partnership or closely held corporation.

(4) **Income sources excluded from gross monthly income.** The following income and resources shall be disclosed but shall not be included in gross income:

- (a) Income of a new spouse or new domestic partner or income of other adults in the household;
- (b) Child support received from other relationships;
- (c) Gifts and prizes;
- (d) Temporary assistance for needy families;
- (e) Supplemental security income;
- (f) (~~General assistance~~) Disability lifeline benefits;
- (g) Food stamps; and
- (h) Overtime or income from second jobs beyond forty hours per week averaged over a twelve-month period worked to provide for a current family's needs, to retire past relationship debts, or to retire child support debt, when the court finds the income will cease when the party has paid off his or her debts.

Receipt of income and resources from temporary assistance for needy families, supplemental security income, (~~general assistance~~) disability lifeline benefits, and food stamps shall not be a reason to deviate from the standard calculation.

(5) **Determination of net income.** The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

- (a) Federal and state income taxes;
- (b) Federal insurance contributions act deductions;
- (c) Mandatory pension plan payments;
- (d) Mandatory union or professional dues;
- (e) State industrial insurance premiums;
- (f) Court-ordered maintenance to the extent actually paid;
- (g) Up to five thousand dollars per year in voluntary retirement contributions actually made if the contributions show a pattern of contributions during the one-year period preceding the action establishing the child support order unless there is a determination that the contributions were made for the purpose of reducing child support; and
- (h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) **Imputation of income.** The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for

an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of records of a parent's actual earnings, the court shall impute a parent's income in the following order of priority:

- (a) Full-time earnings at the current rate of pay;
- (b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;
- (c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;
- (d) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, is recently coming off public assistance, (~~general assistance unemployable~~) disability lifeline benefits, supplemental security income, or disability, has recently been released from incarceration, or is a high school student;
- (e) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports, or such replacement report as published by the bureau of census.

**Sec. 15.** RCW 31.04.540 and 2009 c 149 s 8 are each amended to read as follows:

(1) To the extent that implementation of this section does not conflict with federal law resulting in the loss of federal funding, proprietary reverse mortgage loan advances made to a borrower must be treated as proceeds from a loan and not as income for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(2) Undisbursed reverse mortgage funds must be treated as equity in the borrower's home and not as proceeds from a loan, resources, or assets for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(3) This section applies to any law or program relating to payments, allowances, benefits, or services provided on a means-tested basis by this state including, but not limited to, optional state supplements to the federal supplemental security income program, low-income energy assistance, property tax relief, (~~general assistance~~) disability lifeline benefits, and medical assistance only to the extent this section does not conflict with Title 19 of the federal social security act.

**Sec. 16.** RCW 70.123.110 and 1997 c 59 s 9 are each amended to read as follows:

(~~General assistance~~) Disability lifeline benefits or temporary assistance for needy families payments shall be made to otherwise eligible individuals who are residing in a secure shelter, a housing network or other shelter facility which provides shelter services to persons who are victims of domestic violence. Provisions shall be made by the department for the confidentiality of the shelter addresses where victims are residing.

**Sec. 17.** RCW 73.08.005 and 2009 c 35 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) "Direct costs" includes those allowable costs that can be readily assigned to the statutory objectives of this chapter, consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(2) "Family" means the spouse or domestic partner, surviving spouse, surviving domestic partner, and dependent children of a living or deceased veteran.

(3) "Indigent" means a person who is defined as such by the county legislative authority using one or more of the following definitions:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((general assistance))~~ disability lifeline benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income;

(b) Receiving an annual income, after taxes, of up to one hundred fifty percent or less of the current federally established poverty level, or receiving an annual income not exceeding a higher qualifying income established by the county legislative authority; or

(c) Unable to pay reasonable costs for shelter, food, utilities, and transportation because his or her available funds are insufficient.

(4) "Indirect costs" includes those allowable costs that are generally associated with carrying out the statutory objectives of this chapter, but the identification and tracking of those costs cannot be readily assigned to a specific statutory objective without an accounting effort that is disproportionate to the benefit received. A county legislative authority may allocate allowable indirect costs to its veterans' assistance fund if it is accomplished in a manner consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(5) "Veteran" has the same meaning as defined in RCW 41.04.005 and 41.04.007, and includes a current member of the national guard or armed forces reserves who has been deployed to serve in an armed conflict.

(6) "Veterans' advisory board" means a board established by a county legislative authority under the authority of RCW 73.08.035.

(7) "Veterans' assistance fund" means an account in the custody of the county auditor, or the chief financial officer in a county operating under a charter, that is funded by taxes levied under the authority of RCW 73.08.080.

(8) "Veterans' assistance program" means a program approved by the county legislative authority under the authority of RCW 73.08.010 that is fully or partially funded by the veterans' assistance fund authorized by RCW 73.08.080.

**Sec. 18.** RCW 74.04.0052 and 1997 c 58 s 502 are each amended to read as follows:

(1) The department shall determine, after consideration of all relevant factors and in consultation with the applicant, the most appropriate living situation for applicants under eighteen years of age, unmarried, and pregnant who are eligible for ~~((general assistance as defined in RCW 74.04.005(6)(a)(ii)(A)))~~ disability lifeline benefits. An appropriate living situation shall include a place of residence that is maintained by the applicant's



parents, parent, legal guardian, or other adult relative as their or his or her own home and that the department finds would provide an appropriate supportive living arrangement. It also includes a living situation maintained by an agency that is licensed under chapter 74.15 RCW that the department finds would provide an appropriate supportive living arrangement. Grant assistance shall not be provided under this chapter if the applicant does not reside in the most appropriate living situation, as determined by the department.

(2) A pregnant minor residing in the most appropriate living situation, as provided under subsection (1) of this section, is presumed to be unable to manage adequately the funds paid to the minor or on behalf of the dependent child or children and, unless the minor provides sufficient evidence to rebut the presumption, shall be subject to the protective payee requirements provided for under RCW 74.12.250 and 74.08.280.

(3) The department shall consider any statements or opinions by either parent of the unmarried minor parent or pregnant minor applicant as to an appropriate living situation for the minor, whether in the parental home or other situation. If the parents or a parent of the minor request, they or he or she shall be entitled to a hearing in juvenile court regarding designation of the parental home or other relative placement as the most appropriate living situation for the pregnant or parenting minor.

The department shall provide the parents or parent with the opportunity to make a showing that the parental home, or home of the other relative placement, is the most appropriate living situation. It shall be presumed in any administrative or judicial proceeding conducted under this subsection that the parental home or other relative placement requested by the parents or parent is the most appropriate living situation. This presumption is rebuttable.

(4) In cases in which the minor is unmarried and unemployed, the department shall, as part of the determination of the appropriate living situation, provide information about adoption including referral to community-based organizations providing counseling.

(5) For the purposes of this section, "most appropriate living situation" shall not include a living situation including an adult male who fathered the qualifying child and is found to meet the elements of rape of a child as set forth in RCW 9A.44.079.

**Sec. 19.** RCW 74.04.120 and 1979 c 141 s 301 are each amended to read as follows:

Allocations of state and federal funds shall be made upon the basis of need within the respective counties as disclosed by the quarterly budgets, considered in conjunction with revenues available for the satisfaction of that need: PROVIDED, That in preparing his quarterly budget for federal aid assistance, the administrator shall include the aggregate of the individual case load approved by the department to date on the basis of need and the secretary shall approve and allocate an amount sufficient to service the aggregate case load as included in said budget, and in the event any portion of the budgeted case load cannot be serviced with moneys available for the particular category for which an application is made the committee may on the administrator's request authorize the transfer of sufficient ~~((general assistance))~~ disability lifeline program funds to the appropriation for such category to service such case load and secure the benefit of federal matching funds.

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**Sec. 20.** RCW 74.04.230 and 1982 c 204 s 16 are each amended to read as follows:

Persons eligible for ~~((general assistance under RCW 74.04.005))~~ disability lifeline benefits are eligible for mental health services to the extent that they meet the client definitions and priorities established by chapter 71.24 RCW.

**Sec. 21.** RCW 74.04.266 and 1977 ex.s. c 215 s 1 are each amended to read as follows:

In determining need for ~~((general assistance for unemployable persons as defined in RCW 74.04.005(6)(a)))~~ disability lifeline benefits, the department may by rule and regulation establish a monthly earned income exemption in an amount not to exceed the exemption allowable under disability programs authorized in Title XVI of the federal social security act.

**Sec. 22.** RCW 74.04.620 and 1983 1st ex.s. c 41 s 37 are each amended to read as follows:

(1) The department is authorized to establish a program of state supplementation to the national program of supplemental security income consistent with Public Law 92-603 and Public Law 93-66 to those persons who are in need thereof in accordance with eligibility requirements established by the department.

(2) The department is authorized to establish reasonable standards of assistance and resource and income exemptions specifically for such program of state supplementation which shall be consistent with the provisions of the Social Security Act.

(3) The department is authorized to make payments to applicants for supplemental security income, pursuant to agreements as provided in Public Law 93-368, who are otherwise eligible for ~~((general assistance))~~ disability lifeline benefits.

(4) Any agreement between the department and a supplemental security income applicant providing for the reimbursement of interim assistance to the department shall provide, if the applicant has been represented by an attorney, that twenty-five percent of the reimbursement received shall be withheld by the department and all or such portion thereof as has been approved as a fee by the United States department of health and human services shall be released directly to the applicant's attorney. The secretary may maintain such records as are deemed appropriate to measure the cost and effectiveness of such agreements and may make recommendations concerning the continued use of such agreements to the legislature.

**Sec. 23.** RCW 74.04.770 and 1997 c 59 s 11 are each amended to read as follows:

The department shall establish consolidated standards of need each fiscal year which may vary by geographical areas, program, and family size, for temporary assistance for needy families, refugee assistance, supplemental security income, and ~~((general assistance))~~ disability lifeline benefits. Standards for temporary assistance for needy families, refugee assistance, and ~~((general assistance))~~ disability lifeline benefits shall be based on studies of actual living costs and generally recognized inflation indices and shall include reasonable allowances for shelter, fuel, food, transportation, clothing, household maintenance and operations, personal maintenance, and necessary incidentals.

The standard of need may take into account the economies of joint living arrangements, but unless explicitly required by federal statute, there shall not be proration of any portion of assistance grants unless the amount of the grant standard is equal to the standard of need.

The department is authorized to establish rateable reductions and grant maximums consistent with federal law.

Payment level will be equal to need or a lesser amount if rateable reductions or grant maximums are imposed. In no case shall a recipient of supplemental security income receive a state supplement less than the minimum required by federal law.

The department may establish a separate standard for shelter provided at no cost.

**Sec. 24.** RCW 74.08.043 and 1981 1st ex.s. c 6 s 12 are each amended to read as follows:

In determining the living requirements of otherwise eligible applicants and recipients of supplemental security income and (~~general assistance~~) disability lifeline benefits, the department is authorized to consider the need for personal and special care and supervision due to physical and mental conditions.

**Sec. 25.** RCW 74.08.278 and 1979 c 141 s 327 are each amended to read as follows:

In order to comply with federal statutes and regulations pertaining to federal matching funds and to provide for the prompt payment of initial grants and adjusting payments of grants the secretary is authorized to make provisions for the cash payment of assistance by the secretary or county administrators by the establishment of a central operating fund. The secretary may establish such a fund with the approval of the state auditor from moneys appropriated to the department for the payment of (~~general assistance~~) disability lifeline benefits in a sum not to exceed one million dollars. Such funds shall be deposited as agreed upon by the secretary and the state auditor in accordance with the laws regulating the deposits of public funds. Such security shall be required of the depository in connection with the fund as the state treasurer may prescribe. Moneys remaining in the fund shall be returned to the general fund at the end of the biennium, or an accounting of proper expenditures from the fund shall be made to the state auditor. All expenditures from such central operating fund shall be reimbursed out of and charged to the proper program appropriated by the use of such forms and vouchers as are approved by the secretary of the department and the state auditor. Expenditures from such fund shall be audited by the director of financial management and the state auditor from time to time and a report shall be made by the state auditor and the secretary as are required by law.

**Sec. 26.** RCW 74.08.335 and 1997 c 59 s 13 are each amended to read as follows:

Temporary assistance for needy families and (~~general assistance~~) disability lifeline benefits shall not be granted to any person who has made an assignment or transfer of property for the purpose of rendering himself or herself eligible for the assistance. There is a rebuttable presumption that a person who has transferred or transfers any real or personal property or any interest in property within two years of the date of application for the assistance without receiving

adequate monetary consideration therefor, did so for the purpose of rendering himself or herself eligible for the assistance. Any person who transfers property for the purpose of rendering himself or herself eligible for assistance, or any person who after becoming a recipient transfers any property or any interest in property without the consent of the secretary, shall be ineligible for assistance for a period of time during which the reasonable value of the property so transferred would have been adequate to meet the person's needs under normal conditions of living: PROVIDED, That the secretary is hereby authorized to allow exceptions in cases where undue hardship would result from a denial of assistance.

**Sec. 27.** RCW 74.08A.210 and 1997 c 58 s 302 are each amended to read as follows:

(1) In order to prevent some families from developing dependency on temporary assistance for needy families, the department shall make available to qualifying applicants a diversion program designed to provide brief, emergency assistance for families in crisis whose income and assets would otherwise qualify them for temporary assistance for needy families.

(2) Diversion assistance may include cash or vouchers in payment for the following needs:

- (a) Child care;
- (b) Housing assistance;
- (c) Transportation-related expenses;
- (d) Food;
- (e) Medical costs for the recipient's immediate family;
- (f) Employment-related expenses which are necessary to keep or obtain paid unsubsidized employment.

(3) Diversion assistance is available once in each twelve-month period for each adult applicant. Recipients of diversion assistance are not included in the temporary assistance for needy families program.

(4) Diversion assistance may not exceed one thousand five hundred dollars for each instance.

(5) To be eligible for diversion assistance, a family must otherwise be eligible for temporary assistance for needy families.

(6) Families ineligible for temporary assistance for needy families or ~~((general assistance))~~ disability lifeline benefits due to sanction, noncompliance, the lump sum income rule, or any other reason are not eligible for diversion assistance.

(7) Families must provide evidence showing that a bona fide need exists according to subsection (2) of this section in order to be eligible for diversion assistance.

An adult applicant may receive diversion assistance of any type no more than once per twelve-month period. If the recipient of diversion assistance is placed on the temporary assistance for needy families program within twelve months of receiving diversion assistance, the prorated dollar value of the assistance shall be treated as a loan from the state, and recovered by deduction from the recipient's cash grant.

**Sec. 28.** RCW 74.09.010 and 2007 c 3 s 2 are each amended to read as follows:

**Sec. 28.** RCW 74.09.010 and 2007 c 3 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Children's health program" means the health care services program provided to children under eighteen years of age and in households with incomes at or below the federal poverty level as annually defined by the federal department of health and human services as adjusted for family size, and who are not otherwise eligible for medical assistance or the limited casualty program for the medically needy.

(2) "Committee" means the children's health services committee created in section 3 of this act.

(3) "County" means the board of county commissioners, county council, county executive, or tribal jurisdiction, or its designee. A combination of two or more county authorities or tribal jurisdictions may enter into joint agreements to fulfill the requirements of RCW 74.09.415 through 74.09.435.

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

(5) "Department of health" means the Washington state department of health created pursuant to RCW 43.70.020.

(6) "Internal management" means the administration of medical assistance, medical care services, the children's health program, and the limited casualty program.

(7) "Limited casualty program" means the medical care program provided to medically needy persons as defined under Title XIX of the federal social security act, and to medically indigent persons who are without income or resources sufficient to secure necessary medical services.

(8) "Medical assistance" means the federal aid medical care program provided to categorically needy persons as defined under Title XIX of the federal social security act.

(9) "Medical care services" means the limited scope of care financed by state funds and provided to ~~((general assistance))~~ disability lifeline benefits recipients, and recipients of alcohol and drug addiction services provided under chapter 74.50 RCW.

(10) "Nursing home" means nursing home as defined in RCW 18.51.010.

(11) "Poverty" means the federal poverty level determined annually by the United States department of health and human services, or successor agency.

(12) "Secretary" means the secretary of social and health services.

(13) "Full benefit dual eligible beneficiary" means an individual who, for any month: Has coverage for the month under a medicare prescription drug plan or medicare advantage plan with part D coverage; and is determined eligible by the state for full medicaid benefits for the month under any eligibility category in the state's medicaid plan or a section 1115 demonstration waiver that provides pharmacy benefits.

**Sec. 29.** RCW 74.09.035 and 1987 c 406 s 12 are each amended to read as follows:

(1) To the extent of available funds, medical care services may be provided to recipients of ~~((general assistance))~~ disability lifeline benefits, persons denied disability lifeline benefits under RCW 74.04.005(5)(b) or section 5 of this act who otherwise meet the requirements of RCW 74.04.005(5)(a), and recipients of alcohol and drug addiction services provided under chapter 74.50 RCW, in accordance with medical eligibility requirements established by the department. To the extent authorized in the operating budget, upon implementation of a

federal medicaid 1115 waiver providing federal matching funds for medical care services, these services also may be provided to persons who have been terminated from disability lifeline benefits under RCW 74.04.005(5)(h).

(2) Determination of the amount, scope, and duration of medical care services shall be limited to coverage as defined by the department, except that adult dental, and routine foot care shall not be included unless there is a specific appropriation for these services.

(3) The department shall enter into performance-based contracts with one or more managed health care systems for the provision of medical care services to recipients of disability lifeline benefits. The contract must provide for integrated delivery of medical and mental health services.

(4) The department shall establish standards of assistance and resource and income exemptions, which may include deductibles and co-insurance provisions. In addition, the department may include a prohibition against the voluntary assignment of property or cash for the purpose of qualifying for assistance.

~~((4))~~ (5) Residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for the mentally retarded, as that term is described by federal law, who are eligible for medical care services shall be provided medical services to the same extent as provided to those persons eligible under the medical assistance program.

~~((5))~~ (6) Payments made by the department under this program shall be the limit of expenditures for medical care services solely from state funds.

~~((6))~~ (7) Eligibility for medical care services shall commence with the date of certification for ~~((general assistance))~~ disability lifeline benefits or the date of eligibility for alcohol and drug addiction services provided under chapter 74.50 RCW.

**Sec. 30.** RCW 74.09.555 and 2005 c 503 s 12 are each amended to read as follows:

(1) The department shall adopt rules and policies providing that when persons with a mental disorder, who were enrolled in medical assistance immediately prior to confinement, are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The department, in collaboration with the Washington association of sheriffs and police chiefs, the department of corrections, and the regional support networks, shall establish procedures for coordination between department field offices, institutions for mental disease, and correctional institutions, as defined in RCW 9.94.049, that result in prompt reinstatement of eligibility and speedy eligibility determinations for persons who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services applications on behalf of confined persons in anticipation of their release from confinement;

(b) Expedient review of applications filed by or on behalf of confined persons and, to the extent practicable, completion of the review before the person is released;

(c) Mechanisms for providing medical assistance services identity cards to persons eligible for medical assistance services immediately upon their release from confinement; and

(d) Coordination with the federal social security administration, through interagency agreements or otherwise, to expedite processing of applications for federal supplemental security income or social security disability benefits, including federal acceptance of applications on behalf of confined persons.

(3) Where medical or psychiatric examinations during a person's confinement indicate that the person is disabled, the correctional institution or institution for mental diseases shall provide the department with that information for purposes of making medical assistance eligibility and enrollment determinations prior to the person's release from confinement. The department shall, to the maximum extent permitted by federal law, use the examination in making its determination whether the person is disabled and eligible for medical assistance.

(4) For purposes of this section, "confined" or "confinement" means incarcerated in a correctional institution, as defined in RCW 9.94.049, or admitted to an institute for mental disease, as defined in 42 C.F.R. part 435, Sec. 1009 on July 24, 2005.

(5) For purposes of this section, "likely to be eligible" means that a person:

(a) Was enrolled in medicaid or supplemental security income or (~~general assistance~~) the disability lifeline program immediately before he or she was confined and his or her enrollment was terminated during his or her confinement; or

(b) Was enrolled in medicaid or supplemental security income or (~~general assistance~~) the disability lifeline program at any time during the five years before his or her confinement, and medical or psychiatric examinations during the person's confinement indicate that the person continues to be disabled and the disability is likely to last at least twelve months following release.

(6) The economic services administration shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined person who is likely to be eligible for medicaid.

**Sec. 31.** RCW 74.50.060 and 1989 1st ex.s. c 18 s 3 are each amended to read as follows:

(1) The department shall establish a shelter assistance program to provide, within available funds, shelter for persons eligible under this chapter. "Shelter," "shelter support," or "shelter assistance" means a facility under contract to the department providing room and board in a supervised living arrangement, normally in a group or dormitory setting, to eligible recipients under this chapter. This may include supervised domiciliary facilities operated under the auspices of public or private agencies. No facility under contract to the department shall allow the consumption of alcoholic beverages on the premises. The department may contract with counties and cities for such shelter services. To the extent possible, the department shall not displace existing emergency shelter beds for use as shelter under this chapter. In areas of the state in which it is not feasible to develop shelters, due to low numbers of people needing shelter services, or in which sufficient numbers of shelter beds are not available, the department may provide shelter through an intensive protective payee program, unless the

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department grants an exception on an individual basis for less intense supervision.

(2) Persons continuously eligible for the (~~general assistance—unemployable program~~) disability lifeline program since July 25, 1987, who transfer to the program established by this chapter, have the option to continue their present living situation, but only through a protective payee.

NEW SECTION. Sec. 32. A new section is added to chapter 74.08A RCW to read as follows:

Recipients exempted from active work search activities due to incapacity or a disability shall receive disability lifeline benefits as they relate to the facilitation of enrollment in the federal supplemental security income program, access to chemical dependency treatment, referrals to vocational rehabilitation, and other services needed to assist the recipient in becoming employable. Disability lifeline benefits shall not supplant cash assistance and other services provided through the temporary assistance for needy families program. To the greatest extent possible, services shall be funded through the temporary assistance for needy families appropriations.

NEW SECTION. Sec. 33. This act shall be known and cited as the security lifeline act.

NEW SECTION. Sec. 34. Except for section 10 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 35. Section 10 of this act takes effect July 1, 2010.

NEW SECTION. Sec. 36. If private funding sufficient to implement and operate the portal authorized under section 2 of this act is not secured by December 31, 2010, section 2 of this act is null and void.

NEW SECTION. Sec. 37. Sections 1 through 10 and 29 of this act shall be implemented within the amounts appropriated specifically for these purposes in the omnibus operating appropriations act.

Passed by the House March 22, 2010.

Passed by the Senate March 22, 2010.

Approved by the Governor March 29, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2010.

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

"I am returning herewith, without my approval as to Section 9, Engrossed Second Substitute House Bill 2782 entitled:

"AN ACT Relating to establishing the security lifeline act."

This bill reforms one of the oldest safety net programs in Washington State for better efficiency and fiscal management. Section 9 would require the Health Care Authority to prioritize ineligible disability lifeline recipients for enrollment in the subsidized Basic Health Plan. The Health Care Authority would be required to continue to process these applications, even if subsidized enrollment is limited or closed due to lack of funding. Prioritizing ineligible disability lifeline recipients is counter to the reform actions exemplified within the security lifeline bill. Section 9 would limit the Health Care Authority's ability to efficiently manage enrollment to the appropriated budget, maintain a balanced risk pool, and is detrimental to the long-term viability of the Basic Health Plan.



We must preserve a viable safety net and access to health care for all Washington residents.

For these reasons, I have vetoed Section 9 of Engrossed Second Substitute House Bill 2782.

With the exception of Section 9, Engrossed Second Substitute House Bill 2782 is approved."

## CHAPTER 9

[Substitute Senate Bill 6572]

### STATE FUNDS AND ACCOUNTS—ELIMINATION

AN ACT Relating to eliminating accounts; amending RCW 43.105.805, 43.110.080, 28A.650.035, 28B.135.040, 28B.135.010, and 43.79A.040; reenacting and amending RCW 43.84.092; creating new sections; repealing RCW 28B.20.468, 28B.20.470, 28B.30.275, 28B.120.050, 39.35C.100, 41.05.510, 43.72.906, 43.99I.100, 43.99I.110, 43.99J.080, 43.105.830, 43.110.090, 47.01.310, 47.26.325, 47.26.330, 50.65.150, and 73.40.060; and providing an effective date.

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

**Sec. 1.** RCW 43.105.805 and 1999 c 285 s 3 are each amended to read as follows:

The K-20 board has the following powers and duties:

(1) In cooperation with the educational sectors and other interested parties, to establish goals and measurable objectives for the network;

(2) To ensure that the goals and measurable objectives of the network are the basis for any decisions or recommendations regarding the technical development and operation of the network;

(3) To adopt, modify, and implement policies to facilitate network development, operation, and expansion. Such policies may include but need not be limited to the following issues: Quality of educational services; access to the network by recognized organizations and accredited institutions that deliver educational programming, including public libraries; prioritization of programming within limited resources; prioritization of access to the system and the sharing of technological advances; network security; identification and evaluation of emerging technologies for delivery of educational programs; future expansion or redirection of the system; network fee structures; and costs for the development and operation of the network;

(4) To prepare and submit to the governor and the legislature a coordinated budget for network development, operation, and expansion. The budget shall include the recommendations of the K-20 board on (a) any state funding requested for network transport and equipment, distance education facilities and hardware or software specific to the use of the network, and proposed new network end sites, (b) annual copayments to be charged to public educational sector institutions and other public entities connected to the network, and (c) charges to nongovernmental entities connected to the network;

(5) To adopt and monitor the implementation of a methodology to evaluate the effectiveness of the network in achieving the educational goals and measurable objectives;

(6) ~~((To authorize the release of funds from the K-20 technology account under RCW 43.105.830 for network expenditures;~~

~~(7))~~ To establish by rule acceptable use policies governing user eligibility for participation in the K-20 network, acceptable uses of network resources, and procedures for enforcement of such policies. The K-20 board shall set forth

appropriate procedures for enforcement of acceptable use policies, that may include suspension of network connections and removal of shared equipment for violations of network conditions or policies. However, the information services board shall have sole responsibility for the implementation of enforcement procedures relating to technical conditions of use.

*\*Sec. 2. RCW 43.110.080 and 2006 c 328 s 1 are each amended to read as follows:*

*(1) The municipal research council shall contract for the provision of research and services to special purpose districts. A contract shall be made with a state agency, educational institution, or private consulting firm, that in the judgment of council members is qualified to provide such research and services.*

*(2) Research and services to special purpose districts shall consist of: (a) Studying and researching issues relating to special purpose district government; (b) acquiring, preparing, and distributing publications related to special purpose districts; and (c) furnishing legal, technical, consultative, and field services to special purpose districts concerning issues relating to special purpose district government.*

*(3) The activities, programs, and services of the municipal research council to special purpose districts shall be carried on in cooperation with the associations representing the various special purpose districts. ~~((Services to special purpose districts shall be based upon the moneys appropriated to the municipal research council from the special purpose district research services account under RCW 43.110.090.))~~*

*\*Sec. 2 was vetoed. See message at end of chapter.*

**Sec. 3.** RCW 28A.650.035 and 1993 c 336 s 708 are each amended to read as follows:

~~((1))~~ The superintendent of public instruction may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of educational technology and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

~~((2))~~ The education technology account is hereby established in the custody of the state treasurer. The superintendent of public instruction shall deposit in the account all moneys received from gifts, grants, or endowments for education technology. Moneys in the account may be spent only for education technology. Disbursements from the account shall be on authorization of the superintendent of public instruction or the superintendent's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.)

**Sec. 4.** RCW 28B.135.040 and 1999 c 375 s 4 are each amended to read as follows:

~~(Two accounts for)~~ The four-year student child care in higher education ~~(are))~~ account is established in the custody of the state treasurer. Moneys in the account~~(s))~~ may be spent only for the purposes of RCW 28B.135.010. Disbursements from ~~((one of))~~ the account~~(s))~~ shall be on the authorization of the higher education coordinating board ~~((and disbursements from the other account shall be on the authorization of the state board for community and~~

~~technical colleges~~). The ~~((accounts are))~~ account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for disbursements.

**Sec. 5.** RCW 28B.135.010 and 2008 c 162 s 2 are each amended to read as follows:

~~((Two Washington accounts for))~~ The four-year student child care in higher education ~~((are))~~ account is established. The higher education coordinating board shall administer the program for the four-year institutions of higher education ~~((and the state board for community and technical colleges shall administer the program for the two-year institutions of higher education))~~. Through these programs the board~~((s))~~ shall award either competitive or matching child care grants to state institutions of higher education to encourage programs to address the need for high quality, accessible, and affordable child care for students at higher education institutions. The grants shall be used exclusively for the provision of quality child care services for students at institutions of higher education. The university or college administration and student government association, or its equivalent, of each institution receiving the award may contribute financial support in an amount equal to or greater than the child care grant received by the institution.

**Sec. 6.** RCW 43.79A.040 and 2009 c 87 s 4 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust

fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, ~~((the city and county advance right-of-way revolving fund,))~~ the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 7.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and 2009 c 451 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, ~~((the data processing building construction account,))~~ the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, ~~((the personal health services account,))~~ the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public

facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, (~~the Washington fruit express account,~~) the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**NEW SECTION. Sec. 8.** The following acts or parts of acts are each repealed:

(1) RCW 28B.20.468 (Warren G. Magnuson institute—Trust fund) and 1991 sp.s. c 13 s 106 & 1990 c 282 s 4;

(2) RCW 28B.20.470 (Warren G. Magnuson institute—State matching funds) and 1990 c 282 s 5;

(3) RCW 28B.30.275 (State treasurer receiving agent of certain federal aid—Morrill Fund) and 1969 ex.s. c 223 s 28B.30.275;

(4) RCW 28B.120.050 (Community and technical college fund for innovation and quality) and 1999 c 169 s 8;

(5) RCW 39.35C.100 (Energy efficiency construction account) and 1996 c 186 s 414 & 1991 c 201 s 11;

(6) RCW 41.05.510 (Prescription drug purchasing account) and 2003 1st sp.s. c 29 s 4;

(7) RCW 43.72.906 (Personal health services account) and 1993 c 492 s 472;

(8) RCW 43.99I.100 (Data processing building construction account) and 1992 c 235 s 7;

(9) RCW 43.99I.110 (Dairy products commission facility account) and 1992 c 235 s 8;

(10) RCW 43.99J.080 (Fruit commission facility account) and 1993 sp.s. c 12 s 6;

(11) RCW 43.105.830 (K-20 technology account) and 2004 c 276 s 909, 1999 c 285 s 9, 1997 c 180 s 2, & 1996 c 137 s 7;

(12) RCW 43.110.090 (Special purpose district research services account) and 2006 c 328 s 2;

(13) RCW 47.01.310 (Washington fruit express account) and 2001 2nd sp.s. c 14 s 606;

(14) RCW 47.26.325 (Advance right-of-way acquisition—Revolving fund) and 2001 c 201 s 2;

(15) RCW 47.26.330 (Advance right-of-way acquisition—Management of properties and funds) and 2001 c 201 s 3;

(16) RCW 50.65.150 (Washington service corps scholarship account—Created—Use) and 1993 c 302 s 5; and

(17) RCW 73.40.060 (National World War II memorial account) and 2000 c 12 s 2.

**NEW SECTION. Sec. 9.** The funds remaining in the school construction revolving fund created in section 311(2), chapter 116, Laws of 1990 1st ex. sess. (uncodified) and the employment and training trust fund repealed by section 19, chapter 226, Laws of 1993 on the effective date of this section shall be transferred by the state treasurer to the state general fund.

**NEW SECTION. Sec. 10.** Any residual balance of funds remaining in any account eliminated in this act on the effective date of this section shall be transferred by the state treasurer to the state general fund.

**NEW SECTION. Sec. 11.** This act takes effect July 1, 2010.

Passed by the Senate March 16, 2010.

Passed by the House March 19, 2010.

Approved by the Governor March 29, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2010.

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

"I am returning herewith, without my approval as to Section 2, Substitute Senate Bill 6572 entitled:

"AN ACT Relating to eliminating accounts."

**Ch. 9 WASHINGTON LAWS, 2010 Sp. Sess.**

This bill eliminates inactive state funds and accounts to simplify the state accounting process.

Section 2 which amends a reference to the special purpose district research services account is also amended in Engrossed Second Substitute House Bill 2658 eliminating the Municipal Research Council and transferring its duties to the Department of Commerce. A veto of Section 2 eliminates this conflicting double amendment.

For this reason, I have vetoed Section 2 of Substitute Senate Bill 6572.

With the exception of Section 2, Substitute Senate Bill 6572 is approved."

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**CHAPTER 10**

[Second Engrossed Senate Bill 6221]

**LOCAL GOVERNMENT INVESTMENT POOL—PARTICIPATION**

AN ACT Relating to the clarifying and expanding participation in the Washington state local government investment pool; and amending RCW 43.250.010, 43.250.020, and 43.250.040.

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

**Sec. 1.** RCW 43.250.010 and 2001 c 31 s 1 are each amended to read as follows:

The purpose of this chapter is to enable ~~((political subdivisions))~~ eligible governmental entities, including community and technical college districts, the state board for community and technical colleges as established in chapter 28B.50 RCW, ~~((and))~~ public four-year institutions of higher education, qualifying federally recognized tribes or federally recognized political subdivisions thereof, and other governmental entities to participate with the state in providing maximum opportunities for the investment of surplus public funds consistent with the safety and protection of such funds. The legislature finds and declares that the public interest is found in providing maximum prudent investment of surplus funds, thereby reducing the need for additional taxation. The legislature also recognizes that not all ~~((political subdivisions))~~ eligible governmental entities are able to maximize the return on their temporary surplus funds. The legislature therefore provides in this chapter a mechanism whereby ~~((political subdivisions, community and technical colleges, the state board for community and technical colleges, and public four-year institutions of higher education))~~ eligible governmental entities may, at their option, utilize the resources of the state treasurer's office to maximize the potential of surplus funds while ensuring the safety of ~~((public))~~ those funds.

**Sec. 2.** RCW 43.250.020 and 2001 c 31 s 2 are each amended to read as follows:

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

(1) "Public funds investment account" or "investment pool" means the aggregate of all funds as defined in subsection (5) of this section that are placed in the custody of the state treasurer for investment and reinvestment.

(2) "~~((Political subdivision))~~ Eligible governmental entity" means any county, city, town, municipal corporation, quasi-municipal corporation, public corporation, political subdivision, or special purpose taxing district in the state, an instrumentality of any of the foregoing governmental entities created under chapter 39.34 RCW, any agency of state government, any entity issuing or executing and delivering bonds or certificates of participation with respect to



financing contracts approved by the state finance committee under RCW 39.94.040, and any qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(3) "~~(Local)~~ Government finance official" means any officer or employee of ~~(a political subdivision)~~ an eligible governmental entity who has been designated by statute or by local charter, ordinance, ~~((or))~~ resolution, or other appropriate official action, as the officer having the authority to invest the funds of the ~~(political subdivision)~~ eligible governmental entity. However, the county treasurer shall be deemed the only ~~(local)~~ government finance official for all ~~(political subdivisions)~~ public agencies for which the county treasurer has exclusive statutory authority to invest the funds thereof.

(4) "Financial officer" means the board-appointed treasurer of a community or technical college district, the state board for community and technical colleges, or a public four-year institution of higher education.

(5) "Funds" means:

(a) ~~(Public)~~ Funds of an eligible governmental entity under the control of or in the custody of any ~~(local)~~ government finance official or local funds, as defined by the office of financial management publication "Policies, Regulations and Procedures," under the control of or in the custody of a financial officer by virtue of the official's authority that are not immediately required to meet current demands;

(b) State funds deposited in the investment pool by the state treasurer that are the proceeds of bonds, notes, or other evidences of indebtedness authorized by the state finance committee under chapter 39.42 RCW, or the proceeds of bonds or certificates of participation with respect to financing contracts approved by the state finance committee under RCW 39.94.040, or payments pursuant to financing contracts under chapter 39.94 RCW, when the investments are made in order to comply with the Internal Revenue Code of 1986, as amended; and

(c) Tribal funds under the control of or in the custody of any qualifying federally recognized tribe or federally recognized political subdivisions thereof where the tribe warrants that the use or disposition of the funds are either not subject to, or are used and deposited with federal approval, and where the tribe warrants that the funds are not immediately required to meet current demands.

(6) "Qualifying federally recognized tribe or federally recognized political subdivisions thereof" means any federally recognized tribe, located in the state of Washington, authorized and empowered by its constitution or ordinance to invest its surplus funds pursuant to this section, and whose authorized tribal official has executed a deposit agreement with the office of the treasurer.

(7) "Authorized tribal official" means any officer or employee of a qualifying federally recognized tribe who has been expressly designated by tribal constitution, ordinance, or resolution as the officer having the authority to invest the funds of the qualifying federally recognized tribe or federally recognized political subdivisions thereof.

**Sec. 3.** RCW 43.250.040 and 2001 c 31 s 3 are each amended to read as follows:

If authorized by statute, local ordinance, ~~((or))~~ resolution, or other appropriate official action, the state treasurer, a ~~(local)~~ government finance official or financial officer or his or her designee, or authorized tribal official,

may place funds into the public funds investment account for investment and reinvestment by the state treasurer in those securities and investments set forth in RCW 43.84.080 and chapter 39.58 RCW. The state treasurer shall invest the funds in such manner as to effectively maximize the yield to the investment pool. In investing and reinvesting moneys in the public funds investment account and in acquiring, retaining, managing, and disposing of investments of the investment pool, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of the funds considering the probable income as well as the probable safety of the capital.

Passed by the Senate March 19, 2010.

Passed by the House March 22, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

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## CHAPTER 11

[Substitute Senate Bill 6712]

### TAX INCENTIVES—AIRCRAFT REPAIR STATIONS

AN ACT Relating to extending expiring tax incentives for certain clean alternative fuel vehicles, producers of certain biofuels, and federal aviation regulation part 145 certificated repair stations; amending RCW 82.04.250, 82.08.809, 82.12.809, 84.36.635, 84.36.640, and 82.29A.135; repealing 2008 c 81 s 19 (uncodified); repealing 2007 c 54 s 30 (uncodified); repealing 2006 c 177 s 14 (uncodified); repealing 2005 c 296 s 6 (uncodified); repealing 2007 c 54 s 5; and providing an expiration date.

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

**Sec. 1.** RCW 82.04.250 and 2008 c 81 s 5 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of making sales at retail, except persons taxable as retailers under other provisions of this chapter, as to such persons, the amount of tax with respect to such business (~~shall be~~) is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260(11) or subsection (3) of this section, as to such persons, the amount of tax with respect to such business (~~shall be~~) is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

(3) Until July 1, 2024, upon every person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and that is engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with respect to such business (~~shall be~~) is equal to the gross proceeds of sales of the business, multiplied by the rate of .2904 percent.

**Sec. 2.** RCW 82.08.809 and 2005 c 296 s 1 are each amended to read as follows:

(1)(a) The tax levied by RCW 82.08.020 does not apply to sales of new passenger cars, light duty trucks, and medium duty passenger vehicles, which are exclusively powered by a clean alternative fuel.

(b) The tax levied by RCW 82.08.020 does not apply to sales of qualifying used passenger cars, light duty trucks, and medium duty passenger vehicles, which were modified after their initial purchase, with an EPA certified conversion to be exclusively powered by a clean alternative fuel. "Qualifying used passenger cars, light duty trucks, and medium duty passenger vehicles" means vehicles that:

(i) Are part of a fleet of at least five vehicles, all owned by the same person;

(ii) Have an odometer reading of less than thirty thousand miles;

(iii) Are less than two years past their original date of manufacture; and

(iv) Are being sold for the first time after modification.

(2) The seller must keep records necessary for the department to verify eligibility under this section.

(3) As used in this section, "clean alternative fuel" means natural gas, propane, hydrogen, or electricity, when used as a fuel in a motor vehicle that meets the California motor vehicle emission standards in Title 13 of the California code of regulations, effective January 1, 2005, and the rules of the Washington state department of ecology.

(4) This section expires July 1, 2015.

**Sec. 3.** RCW 82.12.809 and 2005 c 296 s 3 are each amended to read as follows:

(1)(a) Until July 1, 2015, the provisions of this chapter do not apply in respect to the use of new passenger cars, light duty trucks, and medium duty passenger vehicles, which are exclusively powered by a clean alternative fuel.

(b) Until July 1, 2015, the provisions of this chapter do not apply to the use of qualifying used passenger cars, light duty trucks, and medium duty passenger vehicles, which were modified after their initial purchase with an EPA certified conversion to be exclusively powered by a clean alternative fuel. As used in this subsection, "qualifying used passenger cars, light duty trucks, and medium duty passenger vehicles" has the same meaning as provided in RCW 82.08.809.

(2) "Clean alternative fuel" has the same meaning as provided in RCW 82.08.809.

(3) A taxpayer is not liable for the tax imposed in RCW 82.12.020 on the use, on or after July 1, 2015, of a passenger car, light duty truck, or medium duty passenger vehicle exclusively powered by a clean alternative fuel, if the taxpayer used such vehicle in this state before July 1, 2015, and the use was exempt under this section from the tax imposed in RCW 82.12.020.

**Sec. 4.** RCW 84.36.635 and 2008 c 268 s 1 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Alcohol fuel" means any alcohol made from a product other than petroleum or natural gas, which is used alone or in combination with gasoline or other petroleum products for use as a fuel for motor vehicles, farm implements, and machines or implements of husbandry.

(b) "Anaerobic digester" has the same meaning as provided in RCW 82.08.900.

(c) "Biodiesel feedstock" means oil that is produced from an agricultural crop for the sole purpose of ultimately producing biodiesel fuel.

(d) "Biodiesel fuel" means a mono alkyl ester of long chain fatty acids derived from vegetable oils or animal fats for use in compression-ignition engines and that meets the requirements of the American society of testing and materials specification D 6751 in effect as of January 1, 2003.

(2)(a) All buildings, machinery, equipment, and other personal property which are used primarily for the manufacturing of alcohol fuel, biodiesel fuel, biodiesel feedstock, or the operation of an anaerobic digester, the land upon which this property is located, and land that is reasonably necessary in the manufacturing of alcohol fuel, biodiesel fuel, biodiesel feedstock, or the operation of an anaerobic digester, but not land necessary for growing of crops, which together comprise a new manufacturing facility or an addition to an existing manufacturing facility, are exempt from property taxation for the six assessment years following the date on which the facility or the addition to the existing facility becomes operational.

(b) For manufacturing facilities which produce products in addition to alcohol fuel, biodiesel fuel, or biodiesel feedstock, the amount of the property tax exemption (~~shall be~~) is based upon the annual percentage of the total value of all products manufactured that is the value of the alcohol fuel, biodiesel fuel, and biodiesel feedstock manufactured.

(3) Claims for exemptions authorized by this section (~~shall~~) must be filed with the county assessor on forms prescribed by the department of revenue and furnished by the assessor. Once filed, the exemption is valid for six years and (~~shall~~) may not be renewed. The assessor (~~shall~~) must verify and approve claims as the assessor determines to be justified and in accordance with this section. No claims may be filed after December 31, (~~2009~~) 2015, except for claims for anaerobic digesters, which may be filed no later than December 31, 2012.

The department of revenue may promulgate such rules, pursuant to chapter 34.05 RCW, as necessary to properly administer this section.

**Sec. 5.** RCW 84.36.640 and 2003 c 339 s 9 are each amended to read as follows:

(1) For the purposes of this section, "wood biomass fuel" means a pyrolytic liquid fuel or synthesis gas-derived liquid fuel, used in internal combustion engines, and produced from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic.

(2)(a) All buildings, machinery, equipment, and other personal property which is used primarily for the manufacturing of wood biomass fuel, the land upon which this property is located, and land that is reasonably necessary in the manufacturing of wood biomass fuel, but not land necessary for growing of crops, which together comprise a new manufacturing facility or an addition to an existing manufacturing facility, are exempt from property taxation for the six assessment years following the date on which the facility or the addition to the existing facility becomes operational.

(b) For manufacturing facilities which produce products in addition to wood biomass fuel, the amount of the property tax exemption (~~shall be~~) is based

upon the annual percentage of the total value of all products manufactured that is the value of the wood biomass fuel manufactured.

(3) Claims for exemptions authorized by this section (~~shall~~) must be filed with the county assessor on forms prescribed by the department of revenue and furnished by the assessor. Once filed, the exemption is valid for six years and (~~shall~~) may not be renewed. The assessor (~~shall~~) must verify and approve claims as the assessor determines to be justified and in accordance with this section. No claims may be filed after December 31, (~~2009~~) 2015.

The department of revenue may promulgate such rules, pursuant to chapter 34.05 RCW, as necessary to properly administer this section.

**Sec. 6.** RCW 82.29A.135 and 2008 c 268 s 2 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Alcohol fuel" means any alcohol made from a product other than petroleum or natural gas, which is used alone or in combination with gasoline or other petroleum products for use as a fuel for motor vehicles, farm implements, and machines or implements of husbandry.

(b) "Anaerobic digester" has the same meaning as provided in RCW 82.08.900.

(c) "Biodiesel feedstock" means oil that is produced from an agricultural crop for the sole purpose of ultimately producing biodiesel fuel.

(d) "Biodiesel fuel" means a mono alkyl ester of long chain fatty acids derived from vegetable oils or animal fats for use in compression-ignition engines and that meets the requirements of the American society of testing and materials specification D 6751 in effect as of January 1, 2003.

(e) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis gas-derived liquid fuel, used in internal combustion engines, and produced from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic.

(2)(a) All leasehold interests in buildings, machinery, equipment, and other personal property which are used primarily for the manufacturing of alcohol fuel, wood biomass fuel, biodiesel fuel, biodiesel feedstock, or the operation of an anaerobic digester, the land upon which this property is located, and land that is reasonably necessary in the manufacturing of alcohol fuel, wood biomass fuel, biodiesel fuel, biodiesel feedstock, or the operation of an anaerobic digester, but not land necessary for growing of crops, which together comprise a new manufacturing facility or an addition to an existing manufacturing facility, are exempt from leasehold taxes for a period of six years from the date on which the facility or the addition to the existing facility becomes operational.

(b) For manufacturing facilities which produce products in addition to alcohol fuel, wood biomass fuel, biodiesel fuel, or biodiesel feedstock, the amount of the leasehold tax exemption (~~shall be~~) is based upon the annual percentage of the total value of all products manufactured that is the value of the alcohol fuel, wood biomass fuel, biodiesel fuel, and biodiesel feedstock manufactured.

(3) Claims for exemptions authorized by this section (~~shall~~) must be filed with the department of revenue on forms prescribed by the department of revenue and furnished by the department of revenue. Once filed, the exemption

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is valid for six years and ~~((shall))~~ may not be renewed. The department of revenue ~~((shall))~~ must verify and approve claims as the department of revenue determines to be justified and in accordance with this section. No claims may be filed after December 31, ~~((2009))~~ 2015, except for claims for anaerobic digesters, which may be filed no later than December 31, 2012.

The department of revenue may promulgate such rules, pursuant to chapter 34.05 RCW, as are necessary to properly administer this section.

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

- (1) 2008 c 81 s 19 (uncodified);
- (2) 2007 c 54 s 5;
- (3) 2007 c 54 s 30 (uncodified);
- (4) 2006 c 177 s 14 (uncodified); and
- (5) 2005 c 296 s 6 (uncodified).

Passed by the Senate March 16, 2010.

Passed by the House March 22, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

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**CHAPTER 12**

[Engrossed Substitute Senate Bill 6737]

**PROPERTY TAX EXEMPTION—EMERGENCY SERVICES AIRCRAFT**

AN ACT Relating to providing an exemption from property tax for aircraft used to provide air ambulance services; amending RCW 82.48.100; adding a new section to chapter 84.36 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 84.36 RCW to read as follows:

An aircraft is exempt from taxation, if:

- (1) The aircraft is owned by a nonprofit organization that is exempt from federal income taxation under 26 U.S.C. Sec. 501(c)(3);
- (2) The aircraft is used to provide emergency medical transportation services; and
- (3) The exemption inures to the benefit of the nonprofit organization that owns the aircraft.

Sec. 2. RCW 82.48.100 and 1999 c 302 s 3 are each amended to read as follows:

This chapter ~~((shall))~~ does not apply to:

- (1) Aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which are not engaged in carrying persons or property for commercial purposes;
- (2) Aircraft registered under the laws of a foreign country;
- (3) Aircraft which are owned by a nonresident and registered in another state ~~((= PROVIDED, That))~~. However, if any such aircraft ~~((shall))~~ remains in

and/or ~~((be))~~ is based in this state for a period of ninety days or longer it ~~((shall))~~ is not ~~((be))~~ exempt under this section;

(4) Aircraft engaged principally in commercial flying which constitutes interstate or foreign commerce; and aircraft owned by the manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

(5) Aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW;

(6) Aircraft owned by a nonresident of this state if the aircraft is kept at an airport in this state and that airport is jointly owned or operated by a municipal corporation or other governmental entity of this state and a municipal corporation or other governmental entity of another state, and the owner or operator of the aircraft provides the department with proof that the owner or operator has paid all taxes, license fees, and registration fees required by the state in which the owner or operator resides; and

(7) Aircraft that are: (a) Owned by a nonprofit organization that is exempt from federal income taxation under 26 U.S.C. Sec. 501(c)(3); and (b) exclusively used to provide emergency medical transportation services.

NEW SECTION. Sec. 3. This act applies to taxes levied for collection in 2011 and thereafter.

NEW SECTION. Sec. 4. This act expires January 1, 2020.

Passed by the Senate March 22, 2010.

Passed by the House March 19, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

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## CHAPTER 13

[Second Substitute Senate Bill 6675]

### GLOBAL HEALTH TECHNOLOGIES AND PRODUCT DEVELOPMENT COMPETITIVENESS PROGRAM

AN ACT Relating to creating the Washington global health technologies and product development competitiveness program and allowing certain tax credits for program contributions; amending RCW 43.79A.040; and adding a new chapter to Title 43 RCW.

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

NEW SECTION. Sec. 1. The legislature finds that the global health sector develops new technologies and products for the improvement of health delivery locally and worldwide and that Washington is home to the world's richest collection of global health research and education programs creating new and innovative technologies on a daily basis. It is the intent of the legislature to stimulate the state's economy and foster job creation in the emerging field of global health while improving the health of people in Washington state and the world. The purpose of this act is to create a funding mechanism and a grant program to ensure that Washington remains competitive in global health innovation and to guarantee that the development, manufacture, and delivery of global health products will become an even more dynamic part of the state's economy.

NEW SECTION. Sec. 2. (1) The Washington global health technologies and product development competitiveness program is created.

(2)(a) The program must be administered by a nonprofit organization exempt from income taxation under 26 U.S.C. Sec. 501(c)(6) of the federal internal revenue code whose board of directors is appointed by the governor. The governor must make the appointments after consultation with a statewide alliance of global health research, nonprofit, and private entities. The board consists of the following members:

(i) Three members representing private companies engaged in the provision of global health products or services;

(ii) Three members representing nonprofit organizations supporting global health research or providing global health products or services;

(iii) Three members representing public research institutions engaged in global health research and education; and

(iv) One member who is a former elected official.

(b) The governor must appoint the chair of the board from among the members. The governor must appoint the members to staggered terms and each appointment may not last more than three years, but an appointee may serve more than one term.

(3) The board must contract with the department of commerce for management services to assist the board in implementing the program.

(4) The board must solicit and receive gifts, grants, bequests, royalty payments, licensing income, and other funds from businesses, foundations, and the federal government to promote the development and delivery of global health technologies and products. All federal funds received must be deposited in the Washington global health technologies and product development account created in section 3 of this act. All remaining nonstate funds received must be deposited in an account that the board creates and administers to carry out the purposes of this section. Expenditures from the account created by the board may be used only for funding activities of the program created in this section. Of the total amounts deposited into these accounts, no more than three percent of the total funds may be used for the department of commerce's management services and administrative expenses related to the program created in this section.

(5) The board must establish eligibility criteria for global health technologies and product development grants and adopt policies and procedures to facilitate the orderly process of grant application, review, and reward.

(6) In making grants to entities pursuant to contract for the development, production, promotion, and delivery of global health technologies and products, the board must consider the following:

(a) The quality of the proposed research or the proposed technical assistance in product development or production process design. Any grant funds awarded for research activities must be awarded for nonbasic research which will assist in commercialization or manufacture of global health technologies;

(b) The potential for the grant recipient to improve global health outcomes;

(c) The potential for the grant to leverage additional funding for the development of global health technologies and products;



(d) The potential for the grant to stimulate, or promote technical skills training for, employment in the development of global health technologies in the state;

(e) The willingness of the grant recipient, when appropriate, to enter into royalty or licensing income agreements with the board; and

(f) Any other factors, as the board determines.

(7) Grant contracts must specify that award recipients must conduct their research, development, and any subsequent production activities within Washington, with the exception of activities such as clinical trials that must be carried out in developing countries, and that a failure to comply with this requirement will obligate the recipient to return the amount of the award plus interest as determined by the board.

(8) Upon the recommendation of the Washington economic development commission, the board may provide funding for the recruitment and employment by public research institutions and global health nonprofit organizations in the state, of global health researchers with a history of commercialization of global health technologies.

(9) Each project receiving a grant under this section must report information to the board in the format and at the intervals as the board requires to provide accountability and to evaluate the effectiveness of the program. The information reported must include the amount of funding received; the funding, if any, leveraged by the grant; the number and types of jobs created as a result of the grant; and any other information that the board requires. The board must use the information to prepare an annual evaluation of the program for a report to the appropriate committees of the legislature and the governor, beginning December 1, 2012.

**NEW SECTION. Sec. 3.** The Washington global health technologies and product development account is created in the custody of the state treasurer. Only the board of directors of the Washington global health technologies and product development competitiveness program or the board's designee may authorize expenditures from the account. All federal moneys received from the solicitations required in section 2 of this act and all state funds appropriated for the specific purposes of the Washington global health technologies and product development competitiveness program must be deposited in the account. Expenditures from the account may be used only for funding activities of the Washington global health technologies and product development competitiveness program created in section 2 of this act. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 4.** RCW 43.79A.040 and 2009 c 87 s 4 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures

account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**NEW SECTION. Sec. 5.** Sections 1 through 3 of this act constitute a new chapter in Title 43 RCW.

Passed by the Senate March 25, 2010.

Passed by the House March 22, 2010.

Approved by the Governor April 5, 2010.

Filed in Office of Secretary of State April 5, 2010.

## CHAPTER 14

[Substitute Senate Bill 6706]

### STATE UNIVERSITIES—COMMERCIALIZATION OF RESEARCH

AN ACT Relating to commercialization of research at state universities; and adding new sections to chapter 28B.10 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) It is the intent of the legislature that state universities engage in the commercialization of research and other economic development and workforce development activities that benefit the intermediate and long-term economic vitality of Washington. State universities are expected to develop and strengthen university-industry relationships through the conduct of research, the support of company formation and job generation, and collaborative training. The state universities, using a collaborative process that may include both in-house resources and independent contractors with necessary technical expertise or innovative processes, must perform one or more of the following functions:

- (a) Provide collaborative research and technology transfer opportunities;
- (b) Publicize their commercialization processes and include an explanation of how to access commercialization resources at the universities;
- (c) Develop mechanisms for pairing researchers, entrepreneurs, and investors. Such mechanisms are to include, but are not limited to, developing guides, web sites, or workshops on funding opportunities, on entrepreneurship and the process of starting a company, and on university-industry relations;
- (d) Host events to connect researchers to entrepreneurs, investors, and individuals from the state's technology-based industries; and
- (e) Provide opportunities for training undergraduate and graduate students through direct involvement in research and industry interactions.

(2) In carrying out the functions in this section, the universities may work with and through the higher education coordinating board.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28B.10 RCW to read as follows:

To support the formation of companies created around the technologies developed at state universities, the state universities are authorized to establish

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and administer bridge-funding programs for start-up companies using funds from the federal government and the private sector.

Passed by the Senate March 25, 2010.

Passed by the House March 22, 2010.

Approved by the Governor April 5, 2010.

Filed in Office of Secretary of State April 5, 2010.

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**CHAPTER 15**

[Substitute Senate Bill 6889]

WASHINGTON STATE CONVENTION AND TRADE CENTER—  
GOVERNANCE AND FINANCING

AN ACT Relating to the governance and financing of the Washington state convention and trade center; amending RCW 36.100.010, 36.100.020, 36.100.030, 36.100.040, 36.100.060, 36.100.100, and 39.94.020; adding new sections to chapter 36.100 RCW; creating new sections; repealing RCW 67.40.010, 67.40.025, 67.40.027, 67.40.030, 67.40.040, 67.40.045, 67.40.050, 67.40.055, 67.40.060, 67.40.070, 67.40.080, 67.40.090, 67.40.100, 67.40.105, 67.40.107, 67.40.110, 67.40.120, 67.40.130, 67.40.140, 67.40.150, 67.40.160, 67.40.170, 67.40.180, 67.40.190, 67.40.900, and 67.40.020; and providing contingent effective dates.

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

**NEW SECTION. Sec. 1.** (1) The legislature finds that conventions and trade shows provide both direct and indirect civic and economic benefits. It is the intent of the legislature to provide for the transfer of the governance and financing of the state convention and trade center to a public facilities district formed by a county with a population of one million five hundred thousand or more to acquire, own, and operate the convention and trade center. The legislature also intends to replace, in connection with such transfer, the authority under chapter 67.40 RCW of the state and city to impose excise taxes on the sale of or charge made for the furnishing of lodging to fund the state convention and trade center with authority for the public facilities district to impose lodging taxes at these rates, without affecting the existing authority of the state, county, cities, and other municipal corporations to impose taxes on the sale or charge made for the furnishing of lodging under existing caps on the aggregate rate that may be charged.

(2) The legislature further finds that the location of the convention and trade center particularly benefits and increases the occupancy of larger hotels and other lodging facilities in the city in which it is located and to a lesser extent in the remainder of the county in which it is located. The legislature finds that imposing excise taxes on the sale of or charge made for the furnishing of lodging at the rates authorized in section 5 of this act is an appropriate method of paying for the cost of acquiring, constructing, owning, remodeling, maintaining, equipping, reequipping, repairing, altering, and operating a convention and trade center.

**Sec. 2.** RCW 36.100.010 and 2002 c 218 s 26 are each amended to read as follows:

(1) ~~((A))~~ One or more public facilities districts may be created in any county and ~~((shall))~~ must be coextensive with the boundaries of the county.

(2) A public facilities district (~~((shall be))~~) is created upon adoption of a resolution providing for the creation of such a district by the county legislative authority in which the proposed district is located.

(3) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(4) Except as provided in RCW 36.100.040 (4) and (5), no taxes authorized under this chapter may be assessed or levied unless a majority of the voters of the public facilities district has approved such tax at a general or special election. A single ballot proposition may both validate the imposition of the sales and use tax under RCW 82.14.048 and the excise tax under RCW 36.100.040(1).

(5)(a) A public facilities district (~~((shall))~~) constitutes a body corporate and (~~((shall))~~) possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, including contracts with public and private parties, to acquire, own, sell, transfer, lease, and otherwise acquire or dispose of property, to grant concessions under terms approved by the public facilities district, and to sue and be sued.

(b) A public facilities district created by a county with a population of one million five hundred thousand or more to acquire, own, and operate a convention and trade center transferred from a public nonprofit corporation may continue to contract with the Seattle-King county convention and visitors' bureau or its successor in interest for marketing the convention and trade center facility and services.

(6) A public facilities district may enter into contracts with a county for the purpose of exercising any powers of a community renewal agency under chapter 35.81 RCW.

(7) The (~~((county))~~) legislative authority (~~((or the city council))~~) of a city or county, the board of directors of a public nonprofit corporation, or the state of Washington may transfer property to (~~((the))~~) a public facilities district created under this chapter, with or without consideration. No property that is encumbered with debt or that is in need of major capital renovation may be transferred to the district without the agreement of the district and revenues adequate to retire the existing indebtedness.

(8) A public facilities district may enter into agreements with the state, any municipal corporation, or any other governmental entity for the design, financing, acquisition, development, construction, reconstruction, lease, remodeling, alteration, maintenance, equipping, reequipping, repair, operation or management of one or more facilities of the parties thereto. Agreements may provide that any party to the contract designs, finances, acquires, develops, constructs, reconstructs, remodels, alters, maintains, equips, reequips, repairs, and operates one or more facilities for the other party or parties to the contract. A public facilities district may enter into an agreement with the state, any municipal corporation, or other public or private entity that will assist a public facilities district in the financing of all or any part of a district facility on such terms as may be determined by agreement between the respective parties, including without limitation by a loan, guaranty, or other financing agreement.

**Sec. 3.** RCW 36.100.020 and 1995 3rd sp.s. c 1 s 302 are each amended to read as follows:

(1)(a) A public facilities district (~~(shall)~~) must be governed by a board of directors consisting of five (~~(or)~~) seven, or nine members as provided in this section.

(b) If the largest city in the county has a population that is at least forty percent of the total county population, the board of directors of the public facilities district (~~(shall)~~) must consist of five members selected as follows:

~~((a))~~ (i) Two members appointed by the county legislative authority to serve for four-year staggered terms;

~~((b))~~ (ii) Two members appointed by the city council of the largest city in the county to serve for four-year staggered terms; and

~~((c))~~ (iii) One person to serve for a four-year term who is selected by the other directors.

(c)(i) Except as provided in (c)(ii) of this subsection (1), if the largest city in the county has a population of less than forty percent of the total county population, the county legislative authority (~~(shall)~~) must establish in the resolution creating the public facilities district whether the board of directors of the public facilities district has either five or seven members, and the county legislative authority (~~(shall)~~) must appoint the members of the board of directors to reflect the interests of cities and towns in the county, as well as the unincorporated area of the county.

(ii) However, if the county has a population of one million five hundred thousand or more, the largest city in the county has a population of less than forty percent of the total county population, and the county operates under a county charter, which provides for an elected county executive, the members of the board of directors must be appointed as follows:

(A) If the public facilities district is created to construct a baseball stadium as defined in RCW 82.14.0485, three members (~~(shall)~~) must be appointed by the governor and the remaining members (~~(shall)~~) must be appointed by the county executive subject to confirmation by the county legislative authority. Of the members appointed by the governor, the speaker of the house of representatives and the majority leader of the senate (~~(shall)~~) must each recommend to the governor a person to be appointed to the board; and

(B) If the public facilities district is created to acquire, own, and operate a convention and trade center, following the expiration of the terms of the initial board of directors, three members must be appointed by the governor, three members must be nominated by the county executive subject to confirmation by the county legislative authority, and three members must be nominated by the mayor of the city in which the convention and trade center is located subject to confirmation by the city legislative authority. Members of the board of directors may not be members of the legislative authority of the county or any city within the county.

(d) The initial board of directors of a public facilities district created in a county of one million five hundred thousand or more to acquire, own, and operate a convention and trade center must be comprised of the nine members of the board of the public nonprofit corporation that transfers the convention and trade center to the public facilities district under section 8 of this act. The governor must designate which of the initial board members must serve two-year

terms and which must serve four-year terms and identify the board positions to which successors to initial directors are to be appointed by the county and the city.

(2) At least one member on the board of directors ~~((shall))~~ must be representative of the lodging industry in the public facilities district before the public facilities district imposes the excise tax under RCW 36.100.040(1). Of the members of the board of directors of a public facilities district created in a county of one million five hundred thousand or more to acquire, own, and operate a convention and trade center, one of the governor's appointments and one of the county's appointments must be representative of the lodging industry in the public facilities district and one of the city's appointments must be representative of organized labor, except that these requirements do not apply to the initial board of such district.

(3) Members of the board of directors ~~((shall))~~ must serve four-year terms of office, except that two of the initial five board members ~~((or))~~, three of the initial seven board members ~~((shall))~~, and four of the initial nine board members must serve two-year terms of office.

(4) A vacancy ~~((shall))~~ must be filled in the same manner as the original appointment was made and the person appointed to fill a vacancy ~~((shall))~~ must serve for the remainder of the unexpired term of the office for the position to which he or she was appointed.

(5) Any director may be removed from office by the person or entity that appointed or confirmed such director for any reason or for no reason as follows: A director appointed by the governor may be removed from office by the governor(-); and any ~~((other))~~ director confirmed by a city or county legislative authority may be removed from office by action of at least two-thirds of the members of the legislative authority ~~((which made the appointment))~~ that confirmed the director.

**Sec. 4.** RCW 36.100.030 and 2003 c 376 s 1 are each amended to read as follows:

(1) A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, and operate (a) sports facilities, entertainment facilities, convention facilities, including without limitation any convention and trade center transferred from a public nonprofit corporation under section 8(1) of this act, or regional centers as defined in RCW 35.57.020, and (b) for districts formed after January 1, 2000, recreational facilities other than ski areas, together with contiguous parking facilities. The taxes that are provided for in this chapter may only be imposed for these purposes, including without limitation implementing any redemption, prepayment, or legal defeasance of outstanding obligations under section 8(3)(a) of this act.

(2) A public facilities district may enter into agreements under chapter 39.34 RCW for the ~~((joint provision and operation))~~ design, financing, acquisition, development, construction, reconstruction, lease, remodeling, alteration, maintenance, equipping, reequipping, repair, operation, or management of such facilities and may enter into contracts under chapter 39.34 RCW where any party to the contract provides and operates such facilities for the other party or parties to the contract. A public facilities district may enter into agreements under chapter 39.34 RCW that will assist a public facilities district in the financing of all or any part of a district facility on such terms as may be determined by

agreement between the respective parties, including without limitation by a loan, guaranty, or other financing agreement.

(3) Notwithstanding the establishment of a career, civil, or merit service system, a public facilities district may contract with a public or private entity for the operation or management of its public facilities.

(4) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any of its public facilities.

(5) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations.

**Sec. 5.** RCW 36.100.040 and 2008 c 137 s 5 are each amended to read as follows:

(1) A public facilities district may impose an excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW, except that no such tax may be levied on any premises having fewer than forty lodging units. ~~((However))~~ Except for any tax imposed under subsection (4) or (5) of this section, if a public facilities district has not imposed such an excise tax prior to December 31, 1995, the public facilities district may only impose the excise tax if a ballot proposition authorizing the imposition of the tax has been approved by a simple majority vote of voters of the public facilities district voting on the proposition.

(2) The rate of the tax ~~((shall))~~ may not exceed two percent and the proceeds of the tax ~~((shall))~~ may only be used for the acquisition, design, construction, remodeling, maintenance, equipping, reequipping, repairing, and operation of its public facilities. This excise tax ~~((shall))~~ may not be imposed until the district has approved the proposal to acquire, design, and construct the public facilities.

~~(3) ((A public facilities district may not impose the tax authorized in this section if, after the tax authorized in this section was imposed, the effective combined rate of state and local excise taxes, including sales and use taxes and excise taxes on lodging, imposed on the sale of or charge made for furnishing of lodging in any jurisdiction in the public facilities district exceeds eleven and one-half percent.~~

~~(4)) Except for a public facilities district created within a county with a population of one million five hundred thousand or more for the purpose of acquiring, owning, and operating a convention and trade center, a public facilities district may not impose the tax authorized in this section if, after the tax authorized in this section was imposed, the effective combined rate of state and local excise taxes, including sales and use taxes and excise taxes on lodging, imposed on the sale of or charge made for furnishing of lodging in any jurisdiction in the public facilities district exceeds eleven and one-half percent.~~

(4) To replace the tax authorized by RCW 67.40.090, a public facilities district created within a county with a population of one million five hundred thousand or more for the purpose of acquiring, owning, and operating a convention and trade center may impose an excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW, except that no such tax may be levied on any premises having fewer than sixty lodging units. The rate of the tax may not exceed seven percent within the portion of the district that corresponds to the boundaries of the largest city within



the public facilities district and may not exceed 2.8 percent in the remainder of the district. The tax imposed under this subsection (4) may not be collected prior to the transfer date defined in section 8 of this act.

(5) To replace the tax authorized by RCW 67.40.130, a public facilities district created within a county with a population of one million five hundred thousand or more for the purpose of acquiring, owning, and operating a convention and trade center may impose an additional excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW, except that no such tax may be levied on any premises having fewer than sixty lodging units. The rate of the additional excise tax may not exceed two percent and may be imposed only within the portion of the district that corresponds to the boundaries of the largest city within the public facilities district and may not be imposed in the remainder of the district. The tax imposed under this subsection (5) may not be collected prior to the transfer date specified in section 8 of this act. The tax imposed under this subsection (5) must be credited against the amount of the tax otherwise due to the state from those same taxpayers under chapter 82.08 RCW. The tax under this subsection (5) may be imposed only for the purpose of paying or securing the payment of the principal of and interest on obligations issued or incurred by the public facilities district and paying annual payment amounts to the state under subsection (6)(a) of this section. The authority to impose the additional excise tax under this subsection (5) expires on the date that is the earlier of (a) July 1, 2029, or (b) the date on which all obligations issued or incurred by the public facilities district to implement any redemption, prepayment, or legal defeasance of outstanding obligations under section 8(3)(a) of this act are no longer outstanding.

(6)(a) Commencing with the first full fiscal year of the state after the transfer date defined in section 8 of this act and for so long as a public facilities district imposes a tax under subsection (5) of this section, the public facilities district must transfer to the state of Washington on June 30th of each state fiscal year an annual payment amount.

(b) For the purposes of this subsection (6), "annual payment amount" means an amount equal to revenues received by the public facilities district in the fiscal year from the additional excise tax imposed under subsection (5) of this section plus an interest charge calculated on one-half the annual payment amount times an interest rate equal to the average annual rate of return for the prior calendar year in the Washington state local government investment pool created in chapter 43.250 RCW.

(c)(i) If the public facilities district in any fiscal year is required to apply additional lodging excise tax revenues to the payment of principal and interest on obligations it issues or incurs, and the public facilities district is unable to pay all or any portion of the annual payment amount to the state, the deficiency is deemed to be a loan from the state to the public facilities district for the purpose of assisting the district in paying such principal and interest and must be repaid by the public facilities district to the state after providing for the payment of the principal of and interest on obligations issued or incurred by the public facilities district, all on terms established by an agreement between the state treasurer and the public facilities district executed prior to the transfer date. Any agreement between the state treasurer and the public facilities district must specify the term for the repayment of the deficiency in the annual payment amount with an

interest rate equal to the twenty bond general obligation bond buyer index plus one percentage point.

(ii) Outstanding obligations to repay any loans deemed to have been made to the public facilities district as provided in any such agreements between the state treasurer and the public facilities district survive the expiration of the additional excise tax under subsection (5) of this section.

(iii) For the purposes of this subsection (6)(c), "additional lodging excise tax revenues" mean the tax revenues received by the public facilities district under subsection (5) of this section.

(7) A public facilities district is authorized to pledge any of its revenues, including without limitation revenues from the taxes authorized in this section, to pay or secure the payment of obligations issued or incurred by the public facilities district, subject to the terms established by the board of directors of the public facilities district. So long as a pledge of the taxes authorized under this section is in effect, the legislature may not withdraw or modify the authority to levy and collect the taxes at the rates permitted under this section and may not increase the annual payment amount to be transferred to the state under subsection (6) of this section.

(8) The department of revenue must perform the collection of such taxes on behalf of the public facilities district at no cost to the district, and the state treasurer must distribute those taxes as available on a monthly basis to the district or, upon the direction of the district, to a fiscal agent, paying agent or trustee for obligations issued or incurred by the district.

(9) Except as expressly provided in this chapter, all of the provisions contained in RCW 82.08.050 and 82.08.060 and chapter 82.32 RCW have full force and application with respect to taxes imposed under the provisions of this section.

(10) The taxes imposed in this section (~~does~~) do not apply to sales of temporary medical housing exempt under RCW 82.08.997.

**Sec. 6.** RCW 36.100.060 and 1999 c 165 s 15 are each amended to read as follows:

(1) To carry out the purpose of this chapter, a public facilities district may issue general obligation bonds, not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to one-half of one percent of the value of taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015. A public facilities district additionally may issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015, when authorized by the voters of the public facilities district pursuant to Article VIII, section 6 of the state Constitution, and to provide for the retirement thereof by excess property tax levies as provided in this chapter.

(2) General obligation bonds may be issued with a maturity of up to thirty years, and must be issued and sold in accordance with the provisions of chapter 39.46 RCW. If the public facilities district is formed by a county with a population of one million five hundred thousand or more to acquire, own, and operate a convention and trade center, general obligation bonds may be issued with a maturity of up to forty years, and (~~shall~~) must be issued and sold in

accordance with the provisions of chapter 39.46 RCW. In addition to the powers vested in it under RCW 39.46.030, a public facilities district created by a county with a population of one million five hundred thousand or more to acquire, own, and operate a convention and trade center may appoint, and may specify the rights and duties of, trustees with respect to its bonds, and such trustees may receive, hold, disburse, invest, and reinvest funds on the district's behalf and for the protection of the district's bond owners.

(3) The general obligation bonds may be payable from the operating revenues of the public facilities district in addition to the tax receipts of the district.

(4) The excise tax imposed pursuant to RCW 36.100.040 ~~((shall))~~ (1) terminates upon final payment of all bonded indebtedness for its public facilities, except that the excise tax may be reauthorized by a public vote, in the same manner as originally authorized, for funding of additional public facilities or a regional center.

**Sec. 7.** RCW 36.100.100 and 1995 c 396 s 7 are each amended to read as follows:

The treasurer of the county in which a public facilities district is located ~~((shall))~~ must be the ex officio treasurer of the district, unless the board of directors of a public facilities district created in a county of one million five hundred thousand or more designates by resolution another person having experience in financial or fiscal matters as the treasurer of the district. Such a treasurer possesses all of the powers, responsibilities, and duties of, and is subject to the same restrictions as provided by law for, a county treasurer with regard to district financial matters. Such treasurer must be bonded for not less than twenty-five thousand dollars.

**NEW SECTION. Sec. 8.** A new section is added to chapter 36.100 RCW to read as follows:

(1) On the transfer date the board of directors of a public nonprofit corporation formed under RCW 67.40.020 that owns and operates a state convention and trade center must transfer all lands, facilities, equipment, assets, other interests in real, personal, and intangible property, and interests under contracts, leases, licenses, and agreements under the control of that board of directors to a public facilities district created as provided in RCW 36.100.010 by the county in which the convention and trade center is located pursuant to an agreement with the public facilities district, subject to the review and approval of the state treasurer.

(2) No real estate excise tax or other excise tax may be imposed with respect to the transfer of assets of the public nonprofit corporation to the public facilities district.

(3) For the purposes of this section, "transfer date" means the date on or prior to June 30, 2011, on which provision has been made for all of the following, pursuant to agreements and other necessary arrangements approved by the state treasurer:

(a) The redemption, prepayment, or legal defeasance on or prior to the transfer date of all outstanding borrowings and other financing obligations of the state of Washington and the public nonprofit corporation with respect to the state

convention and trade center, including state bonds and certificates of participation and related financing contracts;

(b) The transfer to the public facilities district on the transfer date of the balances on deposit in the state convention and trade center operations account, the state convention and trade center account and other accounts relating to the state convention and trade center, including the revenues identified under (g)(ii) of this subsection (3);

(c) The imposition by the public facilities district of excise taxes on the sale of or charge made for the furnishing of lodging under RCW 36.100.040 (4) and (5) at the maximum rates permitted in those subsections;

(d) The transfer of all other assets and liabilities and, to the extent permissible by their terms, the assignment or transfer of all contracts and agreements of the public nonprofit corporation from the public nonprofit corporation to the public facilities district;

(e) The execution of an agreement settling all claims in the case of Tourism Alliance, a Washington nonprofit corporation; Craig Schafer; Claridge LLC, a Washington limited liability company; R.C. Hedreen Corporation, a Washington corporation; and on behalf of taxpayers, Andrew Olsen, Amy L. Dee, Christopher M. Dee, Clipper Navigation, Inc., a Washington corporation v. State of Washington and James L. McIntire, in his official capacity as State Treasurer of the State of Washington;

(f) The payment or provision for payment of all fees, costs, and expenses incurred by the state of Washington and the public nonprofit corporation to effect such transfer;

(g) An agreement of the public facilities district to transfer to the state on June 30, 2011, an amount equal to (i) the revenues from the tax imposed under RCW 36.100.040(5) during the state fiscal year ending June 30, 2011, plus (ii) the revenues from the tax imposed under RCW 67.40.130 during the state fiscal year ending June 30, 2011; and

(h) The agreement between the state treasurer and the public facilities district, referred to in section 5(6)(c)(i).

NEW SECTION. Sec. 9. A new section is added to chapter 36.100 RCW to read as follows:

(1) Except as provided in chapters 35.101, 67.28, and 82.14 RCW, after January 1, 1983, no city, town, or county in which the tax under RCW 36.100.040 (4) and (5) is imposed may impose a license fee or tax on the act or privilege of engaging in business to furnish lodging by a hotel, rooming house, tourist court, motel, trailer camp, or similar facilities in excess of the rate imposed upon other persons engaged in the business of making sales at retail.

(2) For the purposes of this section, "sales at retail" has the same meaning as provided in RCW 82.04.050.

NEW SECTION. Sec. 10. A new section is added to chapter 36.100 RCW to read as follows:

Nothing in this act may be construed to limit the authority of a public nonprofit corporation under chapter 67.40 RCW prior to the effective date of section 14 of this act.

NEW SECTION. Sec. 11. A new section is added to chapter 36.100 RCW to read as follows:

Bonds issued under this chapter are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in obligations of the state may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds and other obligations of the state are now or may hereafter be authorized by law.

**NEW SECTION. Sec. 12.** A new section is added to chapter 36.100 RCW to read as follows:

(1) Any county with a population of one million five hundred thousand or more that creates a public facilities district pursuant to this chapter to acquire, own, and operate a convention and trade center transferred from a public nonprofit corporation is authorized to acquire by condemnation property or property rights as may be necessary to carry out the purposes of such district. If the legislative body of such county chooses to exercise its authority to acquire property by eminent domain on behalf of such public facilities district, it must do so pursuant to the procedures set forth in chapter 8.08 RCW.

(2) The accomplishment of the activities authorized by this chapter is declared to be a strictly public purpose of the municipality or municipal entities authorized to perform the same.

(3) The powers and authority conferred by this section are in addition and supplemental to existing powers or authority. Nothing contained in this section limits any other powers or authority of any agency, political subdivision, or unit of local government of this state.

**Sec. 13.** RCW 39.94.020 and 2010 c ... (SB 6218) 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) "Credit enhancement" includes insurance, letters of credit, lines of credit, or other similar agreements which enhance the security for the payment of the state's or an other agency's obligations under financing contracts.

(2) "Financing contract" means any contract entered into by the state for itself or on behalf of an other agency which provides for the use and purchase of real or personal property by the state and provides for payment by the state over a term of more than one year, and which provides that title to the subject property may secure performance of the state or transfer to the state or an other agency by the end of the term, upon exercise of an option, for a nominal amount or for a price determined without reference to fair market value. Financing contracts include, but are not limited to, conditional sales contracts, financing leases, lease purchase contracts, or refinancing contracts, but do(es) not include operating or true leases. For purposes of this chapter, the term "financing contract" does not include any nonrecourse financing contract or other obligation payable only from money or other property received from

private sources and not payable from any public money or property. The term "financing contract" includes a "master financing contract."

(3) "Master financing contract" means a financing contract which provides for the use and purchase of property by the state, and which may include more than one financing contract and appropriation.

(4) "Other agency" means any commission established under Title 15 RCW, a library or regional library, an educational service district, the superintendent of public instruction, the school directors' association, a health district, a public facilities district, or any county, city, town, school district, or other municipal corporation or quasi-municipal corporation.

(5) "State" means the state, agency, department, or instrumentality of the state, the state board for community and technical colleges, and any state institution of higher education.

(6) "State finance committee" means the state finance committee under chapter 43.33 RCW.

(7) "Trustee" means a bank or trust company, within or without the state, authorized by law to exercise trust powers.

NEW SECTION. Sec. 14. The following acts or parts of acts are each repealed:

(1) RCW 67.40.010 (Legislative finding) and 1983 2nd ex.s. c 1 s 1 & 1982 c 34 s 1;

(2) RCW 67.40.025 (State convention and trade center operations account—Operating revenues—Expenditures) and 2008 c 329 s 916, 1988 ex.s. c 1 s 2, 1987 1st ex.s. c 8 s 3, & 1985 c 233 s 2;

(3) RCW 67.40.027 (Compensation and travel expenses of board members) and 1985 c 233 s 3;

(4) RCW 67.40.030 (General obligation bonds—Authorized—Appropriation required) and 1990 c 181 s 1, 1988 ex.s. c 1 s 3, 1987 1st ex.s. c 3 s 12, 1985 c 233 s 1, 1983 2nd ex.s. c 1 s 3, & 1982 c 34 s 3;

(5) RCW 67.40.040 (Deposit of proceeds in state convention and trade center account and appropriate subaccounts—Credit against future borrowings—Use) and 2008 c 329 s 917, 2008 c 328 s 6011, 2007 c 228 s 106, 2005 c 518 s 936, 2003 1st sp.s. c 25 s 929, 1995 c 386 s 13, 1991 sp.s. c 13 s 11, 1990 c 181 s 2, 1988 ex.s. c 1 s 4, 1987 1st ex.s. c 8 s 4, 1985 c 57 s 66, 1983 2nd ex.s. c 1 s 4, & 1982 c 34 s 4;

(6) RCW 67.40.045 (Authorization to borrow from state treasury for project completion costs—Limits—"Project completion" defined—Legislative intent—Application) and 1995 c 386 s 14, 1993 sp.s. c 12 s 9, 1992 c 4 s 1, 1991 c 2 s 1, 1990 c 181 s 3, 1988 ex.s. c 1 s 9, & 1987 1st ex.s. c 8 s 1;

(7) RCW 67.40.050 (Administration of proceeds) and 1982 c 34 s 5;

(8) RCW 67.40.055 (Transfer of funds to account—Repayment of borrowed funds with interest) and 1988 ex.s. c 1 s 5 & 1987 1st ex.s. c 8 s 11;

(9) RCW 67.40.060 (Retirement of bonds from nondebt-limit proprietary appropriated bond retirement account—Transfer from accounts—Pledge and promise—Remedies of bondholders) and 2005 c 487 s 9, 1997 c 456 s 25, 1987 1st ex.s. c 8 s 5, 1983 2nd ex.s. c 1 s 5, & 1982 c 34 s 6;

(10) RCW 67.40.070 (Legislature may provide additional means for payment of bonds) and 1982 c 34 s 7;

(11) RCW 67.40.080 (Bonds legal investment for public funds) and 1982 c 34 s 8;

(12) RCW 67.40.090 (Lodging tax imposed in King county—Rates—Proceeds) and 2002 c 178 s 4, 1995 c 386 s 15, 1991 c 2 s 3, 1988 ex.s. c 1 s 6, 1987 1st ex.s. c 8 s 6, & 1982 c 34 s 9;

(13) RCW 67.40.100 (Limitation on license fees and taxes on hotels, motels, rooming houses, trailer camps, etc.) and 1997 c 452 s 15, 1990 c 242 s 1, 1988 ex.s. c 1 s 25, & 1982 c 34 s 10;

(14) RCW 67.40.105 (Exemption from tax—Emergency lodging for homeless persons—Conditions) and 1988 c 61 s 3;

(15) RCW 67.40.107 (Exemption from tax—Temporary medical housing) and 2008 c 137 s 4;

(16) RCW 67.40.110 (Use of revenues from convention and trade center facilities excise tax by cities for professional sports franchise facilities limited) and 1997 c 452 s 19 & 1987 1st ex.s. c 8 s 8;

(17) RCW 67.40.120 (Contracts for marketing facility and services) and 2002 c 182 s 1, 1997 c 452 s 20, 1991 c 336 s 2, & 1988 ex.s. c 1 s 8;

(18) RCW 67.40.130 (Convention and trade facilities—Tax on transient lodging authorized—Rates) and 1995 c 386 s 1;

(19) RCW 67.40.140 (Convention and trade facilities—Remittance of tax—Credit) and 1995 c 386 s 2;

(20) RCW 67.40.150 (Convention and trade facilities—Contract of administration and collection to department of revenue—Disposition of tax—Procedure) and 1995 c 386 s 3;

(21) RCW 67.40.160 (Convention and trade facilities—Tax on construction—Disposition) and 1995 c 386 s 4;

(22) RCW 67.40.170 (Convention and trade facilities—Use of collected taxes) and 1995 c 386 s 5;

(23) RCW 67.40.180 (Convention and trade facilities—Use of funds—Acceptance by board of directors of funding commitment) and 1995 c 386 s 6;

(24) RCW 67.40.190 (Convention and trade facilities—Use of funds—Encumbered revenue) and 1995 c 386 s 7; and

(25) RCW 67.40.900 (Severability—1982 c 34) and 1982 c 34 s 13.

**NEW SECTION. Sec. 15.** RCW 67.40.020 (State convention and trade center—Public nonprofit corporation authorized—Board of directors—Powers and duties) and 1995 c 386 s 12, 1993 c 500 s 9, 1988 ex.s. c 1 s 1, 1987 1st ex.s. c 8 s 2, 1984 c 210 s 1, 1983 2nd ex.s. c 1 s 2, & 1982 c 34 s 2 are each repealed.

**NEW SECTION. Sec. 16.** Section 14 of this act is effective contingent upon the transfer date occurring in section 8 of this act. If the transfer date occurs in section 8 of this act, section 14 of this act is effective on the transfer date. For the purposes of this section, "transfer date" has the same meaning as provided in section 8 of this act.

**NEW SECTION. Sec. 17.** Section 15 of this act is effective contingent upon the transfer date occurring in section 8 of this act. If the transfer date occurs in section 8 of this act, section 15 of this act is effective thirty days after the transfer date in section 8 of this act. For the purposes of this section, "transfer date" has the same meaning as provided in section 8 of this act.

NEW SECTION. Sec. 18. The state treasurer must provide written notice of the effective dates in sections 16 and 17 of this act to the department of revenue, the office of the code reviser, and others as deemed appropriate by the state treasurer.

NEW SECTION. Sec. 19. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 20. The provisions of this chapter must be liberally construed to effect the policies and purposes of this chapter.

Passed by the Senate April 1, 2010.

Passed by the House March 22, 2010.

Approved by the Governor April 9, 2010.

Filed in Office of Secretary of State April 9, 2010.

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## CHAPTER 16

[Engrossed Substitute House Bill 3014]

### RURAL COUNTY SALES AND USE TAX DEFERRAL PROGRAM

AN ACT Relating to modifying the sales and use tax deferral program for investment projects in rural counties; amending RCW 82.60.010, 82.60.020, 82.60.030, 82.60.040, 82.60.049, 82.60.060, 82.60.070, and 82.62.010; adding new sections to chapter 82.60 RCW; creating a new section; decodifying RCW 82.60.900 and 82.60.901; repealing RCW 82.60.050 and 82.60.110; providing an effective date; and providing expiration dates.

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

**Sec. 1.** RCW 82.60.010 and 1985 c 232 s 1 are each amended to read as follows:

The legislature finds that there are several areas in the state that are characterized by very high levels of unemployment and poverty. The ~~((legislative [legislature]))~~ legislature further finds that economic stagnation is the primary cause of this high unemployment rate and poverty; that new state policies are necessary in order to promote economic stimulation and new employment opportunities in these distressed areas; and that policies providing incentives for economic growth in these distressed areas are essential. For these reasons, the legislature ~~((hereby))~~ reestablishes a tax deferral program to be effective solely in distressed ~~((areas and under circumstances where the deferred tax payments are for investments or costs that result in the creation of a specified number of jobs))~~ counties. The legislature declares that this limited program serves the vital public purpose of creating employment opportunities and reducing poverty in the distressed ~~((areas))~~ counties of the state.

**Sec. 2.** RCW 82.60.020 and 2010 c ... (SHB 3066) s 138 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax deferral under this chapter.

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

(3) "Eligible area" means ~~((a))~~;



~~(a) Through June 30, 2010, a rural county as defined in RCW 82.14.370; and~~

~~(b) Beginning July 1, 2010, a qualifying county.~~

~~(4)(a) "Eligible investment project" means an investment project that is located, as of the date the application required by RCW 82.60.030 is received by the department, in an eligible area as defined in subsection (3) of this section.~~

~~(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 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.~~

~~(e)) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(4), other than that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part, or investment projects ((which)) that have already received deferrals under this chapter.~~

~~(5) "Initiation of construction" has the same meaning as in RCW 82.63.010.~~

~~(6) "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.~~

~~(7) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:~~

~~(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; (ii) the activities performed by research and development laboratories and commercial testing laboratories(-); and (iii) the conditioning of vegetable seeds; and~~

~~(b) Beginning July 1, 2010: (i) The activities performed by research and development laboratories and commercial testing laboratories; and (ii) the conditioning of vegetable seeds.~~

~~(8) "Person" has the meaning given in RCW 82.04.030.~~

~~(9) "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 manufacturing ((and)) or 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, mill, plant, or laboratory used for manufacturing~~

or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral (~~shall~~) must be determined by apportionment of the costs of construction under rules adopted by the department.

(10) "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.

(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 manufacturing 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) "Qualifying county" means a county that has an unemployment rate, as determined by the employment security department, which is at least twenty percent above the state average for the three calendar years immediately preceding the year in which the list of qualifying counties is established or updated, as the case may be, as provided in section 3 of this act.

(13) "Recipient" means a person receiving a tax deferral under this chapter.

~~((13))~~ (14) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. 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.

NEW SECTION. Sec. 3. A new section is added to chapter 82.60 RCW to read as follows:

The department, with the assistance of the employment security department, must establish a list of qualifying counties effective July 1, 2010. The list of qualifying counties is effective for a twenty-four month period and must be updated by July 1st of the year that is two calendar years after the list was established or last updated, as the case may be.

NEW SECTION. Sec. 4. A new section is added to chapter 82.60 RCW 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 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. 5.** RCW 82.60.030 and 1994 sp.s. c 1 s 2 are each amended to read as follows:

(1) Application for deferral of taxes under this chapter must be made before initiation of the construction of the investment project or acquisition of equipment or machinery. The application ~~((shall))~~ must be made to the department in a form and manner prescribed by the department. The application ~~((shall))~~ must contain information regarding the location of the investment project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department ~~((shall))~~ must rule on the application within sixty days.

(2) This section expires July 1, 2020.

**Sec. 6.** RCW 82.60.040 and 2004 c 25 s 4 are each amended to read as follows:

(1) The department ~~((shall))~~ must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project ~~((that is located in an eligible area as defined in RCW 82.60.020)).~~

(2) The department ~~((shall))~~ must keep a running total of all deferrals granted under this chapter during each fiscal biennium.

(3) This section expires July 1, ((2010)) 2020.

**Sec. 7.** RCW 82.60.049 and 2004 c 25 s 5 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Eligible area" also means a designated community empowerment zone approved under RCW 43.31C.020 ~~((or a county containing a community empowerment zone)).~~

(b) "Eligible investment project" also means an investment project in an eligible area as defined in this section.

(2) In addition to the provisions of RCW 82.60.040, the department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW, on each eligible investment project that is located in an eligible area, if the applicant establishes that at the time the project is operationally complete:

(a) The applicant will hire at least one qualified employment position for each seven hundred fifty thousand dollars of investment for which a deferral is requested; and

(b) The positions will be filled by persons who at the time of hire are residents of the community empowerment zone. As used in this subsection,

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"resident" means the person makes his or her home in the community empowerment zone or the county in which the zone is located. A mailing address alone is insufficient to establish that a person is a resident for the purposes of this section. The persons must be hired after the date the application is filed with the department.

(3) All other provisions and eligibility requirements of this chapter apply to applicants eligible under this section.

(4) The qualified employment position must be filled by the end of the calendar year following the year in which the project is certified as operationally complete. If a person does not meet the requirements for qualified employment positions by the end of the second calendar year following the year in which the project is certified as operationally complete, all deferred taxes are immediately due.

**Sec. 8.** RCW 82.60.060 and 2000 c 106 s 5 are each amended to read as follows:

(1) The recipient (~~shall~~) **must** begin paying the deferred taxes in the third year after the date certified by the department as the date on which the (~~construction~~) investment project has been operationally completed. The first payment will be due on December 31st of the third calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years with amounts of payment scheduled as follows:

Repayment Year	% of Deferred Tax Repaid
1	10%
2	15%
3	20%
4	25%
5	30%

(2) The department may authorize an accelerated repayment schedule upon request of the recipient.

(3) Interest (~~shall~~) **may** not be charged on any taxes deferred under this chapter for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this chapter. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

**Sec. 9.** RCW 82.60.070 and 2010 c ... (SHB 3066) s 139 are each amended to read as follows:

(1)(a) Each recipient of a deferral of taxes granted under this chapter must file a complete annual survey with the department under RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010). If the economic benefits of the deferral are passed to a lessee as provided in (~~RCW 82.60.020(4)~~) section 4 of this act, the lessee must file a complete annual survey, and the applicant is not required to file a complete annual survey.

(b) The department must use the information reported on the annual survey required by this section to study the tax deferral program authorized under this

chapter. The department must report to the legislature by December 1, ~~((2009))~~ 2019. The report must measure the effect of the program on job creation, the number of jobs created for residents of eligible areas, company growth, the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

(2) Except as provided in section 10 of this act, if, on the basis of a survey under ~~((section))~~ RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010) or other information, the department finds that an investment project is not eligible for tax deferral under this chapter, the amount of deferred taxes outstanding for the project ~~((is))~~, according to the repayment schedule in RCW 82.60.060, is immediately due. For purposes of this subsection (2)(a), the repayment schedule in RCW 82.60.060 is tolled during the period of time that a taxpayer is receiving relief from repayment of deferred taxes under section 10 of this act.

(3) A recipient who must repay deferred taxes under subsection (2) of this section because the department has found that an investment project is not eligible for tax deferral under this chapter is no longer required to file annual surveys under RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010) beginning on the date an investment project is used for nonqualifying purposes.

(4) Notwithstanding any other provision of this section or RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010), deferred taxes on the following need not be repaid:

(a) Machinery and equipment, and sales of or charges made for labor and services, which at the time of purchase would have qualified for exemption under RCW 82.08.02565; and

(b) Machinery and equipment which at the time of first use would have qualified for exemption under RCW 82.12.02565.

NEW SECTION. Sec. 10. A new section is added to chapter 82.60 RCW 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 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. 11.** RCW 82.62.010 and 2010 c ... (E2SHB 1597) s 232 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax credit under this chapter.

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

(3) "Eligible area" means ~~((an area))~~ a "rural county" as defined in RCW ~~((82.60.020))~~ 82.14.370.

(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility, provided the applicant's average qualified employment positions at the specific facility will be at least fifteen percent greater in the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled than the applicant's average qualified employment positions at the same facility in the four consecutive full calendar quarters immediately preceding the calendar quarter during which the first qualified employment position is filled.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW

82.16.010(~~(4)~~) or that portion of a business project creating qualified full-time employment positions outside an eligible area.

(5) "First qualified employment position" means the first qualified employment position filled for which a credit under this chapter is sought.

(6) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; and (ii) the activities performed by research and development laboratories and commercial testing laboratories; and

(b) Beginning July 1, 2010, the activities performed by research and development laboratories and commercial testing laboratories.

(7) "Person" has the meaning given in RCW 82.04.030.

(8)(a)(i) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during four consecutive full calendar quarters.

(ii) For seasonal employers, "qualified employment position" also includes the equivalent of a full-time employee in work hours for four consecutive full calendar quarters.

(b) For purposes of this subsection, "full time" means a normal work week of at least thirty-five hours.

(c) Once a permanent, full-time employee has been employed, a position does not cease to be a qualified employment position solely due to periods in which the position goes vacant, as long as:

(i) The cumulative period of any vacancies in that position is not more than one hundred twenty days in the four-quarter period; and

(ii) During a vacancy, the employer is training or actively recruiting a replacement permanent, full-time employee for the position.

(9) "Recipient" means a person receiving tax credits under this chapter.

(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. 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.

(11) "Seasonal employee" means an employee of a seasonal employer who works on a seasonal basis. For the purposes of this subsection and subsection (12) of this section, "seasonal basis" means a continuous employment period of less than twelve consecutive months.

(12) "Seasonal employer" means a person who regularly hires more than fifty percent of its employees to work on a seasonal basis.

NEW SECTION. Sec. 12. RCW 82.60.900 and 82.60.901 are each decodified.

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NEW SECTION. **Sec. 13.** The following acts or parts of acts are each repealed:

(1) RCW 82.60.050 (Expiration of RCW 82.60.030 and 82.60.040) and 2004 c 25 s 6, 1994 sp.s. c 1 s 7, 1993 sp.s. c 25 s 404, 1988 c 41 s 5, & 1985 c 232 s 10; and

(2) RCW 82.60.110 (Competing projects—Impact study) and 1998 c 245 s 169 & 1994 sp.s. c 1 s 8.

NEW SECTION. **Sec. 14.** Except for section 3 of this act, this act takes effect July 1, 2010.

NEW SECTION. **Sec. 15.** The amendments to the definitions of "manufacturing" and "research and development" in sections 2 and 11 of this act apply retroactively as well as prospectively.

Passed by the House April 2, 2010.

Passed by the Senate March 25, 2010.

Approved by the Governor April 13, 2010.

Filed in Office of Secretary of State April 13, 2010.

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**CHAPTER 17**

[Substitute House Bill 3201]

**CHILDREN WITH HERITABLE DISORDERS—FEES AND OUTREACH**

AN ACT Relating to fees for treatment services and outreach for children with heritable disorders; and amending RCW 70.83.023.

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

**Sec. 1.** RCW 70.83.023 and 2007 c 259 s 8 are each amended to read as follows:

The department has the authority to collect a fee of (~~three~~) eight dollars and (~~fifty~~) forty cents from the parents or other responsible party of each infant screened for congenital disorders as defined by the state board of health under RCW 70.83.020 to fund specialty clinics that provide treatment services for those with the defined disorders. The fee may also be used to support organizations conducting community outreach, education, and adult support related to sickle cell disease. The fee may be collected through the facility where a screening specimen is obtained.

Passed by the House April 2, 2010.

Passed by the Senate March 18, 2010.

Approved by the Governor April 13, 2010.

Filed in Office of Secretary of State April 13, 2010.

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**CHAPTER 18**

[Senate Bill 6220]

**STATE INDEBTEDNESS—CONDITIONS OF DEBT ISSUANCES**

AN ACT Relating to determination of the terms and conditions of bonds, notes, and other evidences of indebtedness of the state of Washington; and amending RCW 39.42.030 and 43.33.130.

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



**Sec. 1.** RCW 39.42.030 and 1989 1st ex.s. c 14 s 16 are each amended to read as follows:

(1) The state finance committee shall meet not less than twice per calendar year and shall determine by resolution the amount, date or dates, terms, conditions, covenants, denominations, interest rate or rates (which may be fixed or variable), maturity or maturities, redemption rights, manner of execution and authentication, manner and price of sale and form of all bonds, notes, or other evidences of indebtedness.

~~((Such))~~ (2) The state finance committee may authorize the state treasurer, by resolution to:

(a) Accept offers to purchase the bonds, notes, or other evidences of indebtedness and to sell and deliver the bonds, notes, or other evidences of indebtedness to the purchases thereof.

(b) Determine the date or dates, price or prices, principal amounts per maturity, delivery dates, interest rate or rates (or mechanisms for determining the interest rate or rates): and

(c) Set other terms and conditions as the state finance committee may deem necessary and appropriate. Each delegation is limited to bonds, notes, or other indebtedness that the state finance committee has authorized to be issued. Bonds, notes, or other evidences of indebtedness shall be payable either to the bearer or to the registered owner as provided in RCW 39.46.030. The resolution may provide for the deposit in trust with any qualified public depository of all or any part of the proceeds of the bonds, notes, or other evidences of indebtedness or money set aside for the payment thereof.

(3) The state finance committee shall also determine by resolution whether interest on all or any part of the bonds is to be payable periodically during the term of such bonds or only at the maturity of the bonds. For purposes of the limitations on the amount of bonds authorized to be issued contained in the acts authorizing their issuance, the amount of bonds which pay interest only at maturity ~~((shall))~~ must be equal to the price, exclusive of accrued interest, at which the bonds are initially offered to the public.

(4) The state finance committee may issue, under chapter 39.53 RCW and this chapter, bonds, notes, or other evidences of indebtedness to refund at or prior to maturity any outstanding state bonds, notes, or other evidences of indebtedness.

(5) The state finance committee may obtain or provide for obtaining bond insurance, letters of credit or other credit support instruments for the purpose of guaranteeing the payment or enhancing the marketability, or both, of any state bonds, notes, or other evidences of indebtedness, and may authorize the execution and delivery of agreements, promissory notes, and other related instruments.

**Sec. 2.** RCW 43.33.130 and 1998 c 245 s 63 are each amended to read as follows:

~~The state finance committee ((shall prepare written reports at least annually summarizing the debt management activities of the finance committee, which reports shall be sent to agencies having a direct financial interest in the issuance and sale of bonds by the committee, and to other persons on written request))~~ must publish a summary of debt management activities at least annually and must also publish the results of each debt issuance in a timely manner upon

conclusion of each debt issuance. The state finance committee, in its discretion, may publish these materials exclusively by electronic means on the office of the state treasurer's web site if it is determined that public access to these materials is not substantially diminished.

Passed by the Senate April 1, 2010.

Passed by the House April 2, 2010.

Approved by the Governor April 13, 2010.

Filed in Office of Secretary of State April 13, 2010.

## CHAPTER 19

[Substitute Senate Bill 6846]

### ENHANCED 911 EMERGENCY COMMUNICATIONS SERVICES

AN ACT Relating to enhanced 911 emergency communications services; amending RCW 82.14B.010, 82.14B.040, 82.14B.042, 82.14B.060, 82.14B.061, 82.14B.150, 82.14B.160, 82.14B.200, 38.52.510, 38.52.520, 38.52.530, 38.52.532, 38.52.545, 38.52.550, 38.52.561, and 43.79A.040; reenacting and amending RCW 82.14B.020, 82.14B.030, and 38.52.540; adding new sections to chapter 82.14B RCW; creating a new section; repealing RCW 82.14B.070, 82.14B.090, and 82.14B.100; prescribing penalties; and providing effective dates.

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

**Sec. 1.** RCW 82.14B.010 and 1991 c 54 s 9 are each amended to read as follows:

The legislature finds that the state and counties should be provided with an additional revenue source to fund enhanced 911 emergency communications systems throughout the state on a multicounty(~~(;)~~) or countywide(~~(; or district-wide))~~) basis. The legislature further finds that the most efficient and appropriate method of deriving additional revenue for this purpose is to impose an excise tax on the use of switched access lines, radio access lines, and interconnected voice over internet protocol service lines.

**Sec. 2.** RCW 82.14B.020 and 2007 c 54 s 16 and 2007 c 6 s 1009 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Emergency services communication system" means a multicounty(~~(;)~~) or countywide(~~(; or districtwide radio or landline))~~) communications network, including an enhanced 911 (~~(telephone)~~) emergency communications system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for police, fire, medical, or other emergency services.

(2) "Enhanced 911 (~~(telephone)~~) emergency communications system" means a public (~~(telephone)~~) communications system consisting of a network, database, and on-premises equipment that is accessed by dialing or accessing 911 and that enables reporting police, fire, medical, or other emergency situations to a public safety answering point. The system includes the capability to selectively route incoming 911 (~~(calls)~~) voice or data to the appropriate public safety answering point that operates in a defined 911 service area and the capability to automatically display the name, address, and telephone number of incoming 911 (~~(calls)~~) voice or data at the appropriate public safety answering point. "Enhanced 911 emergency communications system" includes the modernization to next generation 911 systems.

(3) "Interconnected voice over internet protocol service" has the same meaning as provided by the federal communications commission in 47 C.F.R. Sec. 9.3 on January 1, 2009, or a subsequent date determined by the department.

(4) "Interconnected voice over internet protocol service line" means an interconnected voice over internet protocol service that offers an active telephone number or successor dialing protocol assigned by a voice over internet protocol provider to a voice over internet protocol service customer that has inbound and outbound calling capability, which can directly access a public safety answering point when such a voice over internet protocol service customer has a place of primary use in the state.

(5) "Switched access line" means the telephone service line which connects a subscriber's main telephone(s) or equivalent main telephone(s) to the local exchange company's switching office.

~~((4))~~ (6) "Local exchange company" has the meaning ascribed to it in RCW 80.04.010.

~~((5))~~ (7) "Radio access line" means the telephone number assigned to or used by a subscriber for two-way local wireless voice service available to the public for hire from a radio communications service company. Radio access lines include, but are not limited to, radio-telephone communications lines used in cellular telephone service, personal communications services, and network radio access lines, or their functional and competitive equivalent. Radio access lines do not include lines that provide access to one-way signaling service, such as paging service, or to communications channels suitable only for data transmission, or to nonlocal radio access line service, such as wireless roaming service, or to a private telecommunications system.

~~((6))~~ (8) "Radio communications service company" has the meaning ascribed to it in RCW 80.04.010, except that it does not include radio paging providers. It does include those persons or entities that provide commercial mobile radio services, as defined by 47 U.S.C. Sec. 332(d)(1), and both facilities-based and nonfacilities-based resellers.

~~((7))~~ (9) "Private telecommunications system" has the meaning ascribed to it in RCW 80.04.010.

~~((8))~~ (10) "Subscriber" means the retail purchaser of ~~((telephone)) telecommunications service ((as telephone service is defined in RCW 82.16.010)), a competitive telephone service, or interconnected voice over internet protocol service.~~

~~((9))~~ (11) "Place of primary use" ~~((has the meaning ascribed to it in RCW 82.04.065)) means the street address representative of where the subscriber's use of the radio access line or interconnected voice over internet protocol service line occurs, which must be:~~

(a) The residential street address or primary business street address of the subscriber; and

(b) In the case of radio access lines, within the licensed service area of the home service provider.

**Sec. 3.** RCW 82.14B.030 and 2007 c 54 s 17 and 2007 c 6 s 1024 are each reenacted and amended to read as follows:

(1) The legislative authority of a county may impose a county enhanced 911 excise tax on the use of switched access lines in an amount not exceeding ~~((fifty))~~ seventy cents per month for each switched access line. The amount of

tax ~~((shall))~~ must be uniform for each switched access line. Each county ~~((shall))~~ must provide notice of ~~((such))~~ the tax to all local exchange companies serving in the county at least sixty days in advance of the date on which the first payment is due. The tax imposed under this subsection must be remitted to the department by local exchange companies on a tax return provided by the department. The tax must be deposited in the county enhanced 911 excise tax account as provided in section 4 of this act.

(2) The legislative authority of a county may also impose a county enhanced 911 excise tax on the use of radio access lines whose place of primary use is located within the county in an amount not exceeding ~~((fifty))~~ seventy cents per month for each radio access line. The amount of tax ~~((shall))~~ must be uniform for each radio access line. The county ~~((shall))~~ must provide notice of ~~((such))~~ the tax to all radio communications service companies serving in the county at least sixty days in advance of the date on which the first payment is due. ~~((Any county imposing this tax shall include in its ordinance a refund mechanism whereby the amount of any tax ordered to be refunded by the judgment of a court of record, or as a result of the resolution of any appeal therefrom, shall be refunded to the radio communications service company or local exchange company that collected the tax, and those companies shall reimburse the subscribers who paid the tax. The ordinance shall further provide that to the extent the subscribers who paid the tax cannot be identified or located, the tax paid by those subscribers shall be returned to the county.))~~ The tax imposed under this section must be remitted to the department by radio communications service companies, including those companies that resell radio access lines, on a tax return provided by the department. The tax must be deposited in the county enhanced 911 excise tax account as provided in section 4 of this act.

(3)(a) The legislative authority of a county may impose a county enhanced 911 excise tax on the use of interconnected voice over internet protocol service lines in an amount not exceeding seventy cents per month for each interconnected voice over internet protocol service line. The amount of tax must be uniform for each line and must be levied on no more than the number of voice over internet protocol service lines on an account that are capable of simultaneous unrestricted outward calling to the public switched telephone network.

(b) The interconnected voice over internet protocol service company must use the place of primary use of the subscriber to determine which county's enhanced 911 excise tax applies to the service provided to the subscriber.

(c) The tax imposed under this section must be remitted to the department by interconnected voice over internet protocol service companies on a tax return provided by the department.

(d) The tax must be deposited in the county enhanced 911 excise tax account as provided in section 4 of this act.

(e) To the extent that a local exchange carrier and an interconnected voice over internet protocol service company contractually jointly provide a single service line, only one service company is responsible for remitting the enhanced 911 excise taxes, and nothing in this section precludes service companies who jointly provide service from agreeing by contract which of them shall remit the taxes collected.

(4) Counties imposing a county enhanced 911 excise tax must provide an annual update to the enhanced 911 coordinator detailing the proportion of their county enhanced 911 excise tax that is being spent on:

(a) Efforts to modernize their existing enhanced 911 communications system; and

(b) Enhanced 911 operational costs.

(5) A state enhanced 911 excise tax is imposed on all switched access lines in the state. The amount of tax ~~((shall))~~ may not exceed twenty-five cents per month for each switched access line. The tax ~~((shall))~~ must be uniform for each switched access line. The tax imposed under this subsection ~~((shall))~~ must be remitted to the department ~~((of revenue))~~ by local exchange companies on a tax return provided by the department. Tax proceeds ~~((shall))~~ must be deposited by the treasurer in the enhanced 911 account created in RCW 38.52.540.

~~((4))~~ (6) A state enhanced 911 excise tax is imposed on all radio access lines whose place of primary use is located within the state in an amount of twenty-five cents per month for each radio access line. The tax ~~((shall))~~ must be uniform for each radio access line. The tax imposed under this section ~~((shall))~~ must be remitted to the department ~~((of revenue))~~ by radio communications service companies, including those companies that resell radio access lines, on a tax return provided by the department. Tax proceeds ~~((shall))~~ must be deposited by the treasurer in the enhanced 911 account created in RCW 38.52.540. The tax imposed under this section is not subject to the state sales and use tax or any local tax.

(7) A state enhanced 911 excise tax is imposed on all interconnected voice over internet protocol service lines in the state. The amount of tax may not exceed twenty-five cents per month for each interconnected voice over internet protocol service line whose place of primary use is located in the state. The amount of tax must be uniform for each line and must be levied on no more than the number of voice over internet protocol service lines on an account that are capable of simultaneous unrestricted outward calling to the public switched telephone network. The tax imposed under this subsection must be remitted to the department by interconnected voice over internet protocol service companies on a tax return provided by the department. Tax proceeds must be deposited by the treasurer in the enhanced 911 account created in RCW 38.52.540.

~~((5))~~ (8) For calendar year 2011, the taxes imposed by subsections (5) and (7) of this section must be set at their maximum rate. By August 31, 2011, and by August 31st of each year thereafter, the state enhanced 911 coordinator ~~((shall))~~ must recommend the level for the next year of the state enhanced 911 excise tax imposed by subsections ~~((3))~~ (5) and (7) of this section, based on a systematic cost and revenue analysis, to the utilities and transportation commission. The commission ~~((shall))~~ must by the following October 31st determine the level of the state enhanced 911 excise ~~((tax))~~ taxes imposed by subsections (5) and (7) of this section for the following year.

NEW SECTION. Sec. 4. A new section is added to chapter 82.14B RCW to read as follows:

(1) Counties imposing the enhanced 911 excise tax under RCW 82.14B.030 must contract with the department for the administration and collection of the tax. The department may deduct a percentage amount, as provided by contract, of no more than two percent of the enhanced 911 excise taxes collected to cover

administration and collection expenses incurred by the department. If a county imposes an enhanced 911 excise tax with an effective date of January 1, 2011, the county must contract with the department for the administration and collection of the tax by October 15, 2010.

(2) The remainder of any portion of the county enhanced 911 excise tax under RCW 82.14B.030 that is collected by the department must be deposited in the county enhanced 911 excise tax account hereby created in the custody of the state treasurer. Expenditures from the account may be used only for distribution to counties imposing the enhanced 911 excise tax. Only the director of the department or his or her designee may authorize expenditures from the account. The account is not subject to allotment procedures under chapter 43.88 RCW, and an appropriation is not required for expenditures.

NEW SECTION. Sec. 5. A new section is added to chapter 82.14B RCW to read as follows:

(1) All moneys that accrue in the county enhanced 911 excise tax account created in section 4 of this act must be distributed monthly to the counties in the amount of the taxes collected on behalf of each county, minus the administration and collection fee retained by the department as provided in section 4 of this act.

(2) If a county imposes by resolution or ordinance an enhanced 911 excise tax that is in excess of the maximum allowable county enhanced 911 excise tax provided in RCW 82.14B.030, the ordinance or resolution may not be considered void in its entirety, but only with respect to that portion of the enhanced 911 excise tax that is in excess of the maximum allowable tax.

Sec. 6. RCW 82.14B.040 and 2002 c 341 s 9 are each amended to read as follows:

(1) The state enhanced 911 excise tax and the county enhanced 911 excise tax on switched access lines (~~(shall)~~) must be collected from the subscriber by the local exchange company providing the switched access line.

(2) The state enhanced 911 excise tax and the county enhanced 911 excise tax on radio access lines (~~(shall)~~) must be collected from the subscriber by the radio communications service company, including those companies that resell radio access lines, providing the radio access line to the subscriber.

(3) The state and county enhanced 911 excise taxes on interconnected voice over internet protocol service lines must be collected from the subscriber by the interconnected voice over internet protocol service company providing the interconnected voice over internet protocol service line to the subscriber.

(4) The amount of the tax (~~(shall)~~) must be stated separately on the billing statement which is sent to the subscriber.

Sec. 7. RCW 82.14B.042 and 2009 c 563 s 208 are each amended to read as follows:

(1) The state and county enhanced 911 excise taxes imposed by this chapter must be paid by the subscriber to the local exchange company providing the switched access line (~~(or)~~), the radio communications service company providing the radio access line, (~~(and)~~) or the interconnected voice over internet protocol service company providing the interconnected voice over internet protocol service line. Each local exchange company (~~(and)~~), each radio communications service company (~~(shall)~~), and each interconnected voice over internet protocol service company must collect from the subscriber the full

amount of the taxes payable. The state and county enhanced 911 excise taxes required by this chapter to be collected by ~~((the local exchange company or the radio communications service))~~ a company are deemed to be held in trust by the ~~((local exchange company or the radio communications service))~~ company until paid to the department. Any local exchange company ~~((or~~), radio communications service company, or interconnected voice over internet protocol service company that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any local exchange company ~~((or~~), radio communications service company, or interconnected voice over internet protocol service company fails to collect the state or county enhanced 911 excise tax or, after collecting the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the ~~((local exchange company or the radio communications service))~~ company is personally liable to the state for the amount of the tax, unless the ~~((local exchange company or the radio communications service))~~ company has taken from the buyer in good faith documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or is otherwise not liable for the state or county enhanced 911 excise tax.

(3) The amount of tax, until paid by the subscriber to the local exchange company, the radio communications service company, the interconnected voice over internet protocol service company, or to the department, constitutes a debt from the subscriber to the ~~((local exchange company or the radio communications service))~~ company. Any ~~((local exchange company or radio communications service))~~ company that fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber who refuses to pay any tax due under this chapter is guilty of a misdemeanor. The state and county enhanced 911 excise taxes required by this chapter to be collected by the local exchange company ~~((or the~~), radio communications service company, or interconnected voice over internet protocol service company must be stated separately on the billing statement that is sent to the subscriber.

(4) If a subscriber has failed to pay to the local exchange company ~~((or the~~), radio communications service company, or interconnected voice over internet protocol service company the state or county enhanced 911 excise taxes imposed by this chapter and the ~~((local exchange company or the radio communications service))~~ company has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the subscriber to pay the tax to the ~~((local exchange company or the radio communications service))~~ company, regardless of when the tax is collected by the department. Tax under this chapter is due as provided under RCW 82.14B.061.

**Sec. 8.** RCW 82.14B.060 and 1998 c 304 s 5 are each amended to read as follows:

A county legislative authority imposing a tax under this chapter ~~((shall))~~ must establish by ordinance all necessary and appropriate procedures for the

administration ~~((and collection of the tax, which ordinance shall provide for reimbursement to the telephone companies for actual costs of administration and collection of the tax imposed. The ordinance shall also provide that the due date for remittance of the tax collected shall be on or before the last day of the month following the month in which the tax liability accrues))~~ of the county enhanced 911 excise taxes by the department. A county legislative authority imposing a tax under this chapter must provide the department notification of the imposition of the tax or a change in the tax no less than seventy-five days before the effective date of the imposition of the tax or the change in the tax.

**Sec. 9.** RCW 82.14B.061 and 2002 c 341 s 11 are each amended to read as follows:

(1) The department ~~((of revenue shall))~~ must administer and ~~((shall))~~ adopt ~~((such))~~ rules as may be necessary to enforce and administer the state and county enhanced 911 excise taxes imposed or authorized by this chapter. Chapter 82.32 RCW, with the exception of RCW 82.32.045, 82.32.145, and 82.32.380, applies to the administration, collection, and enforcement of the state and county enhanced 911 excise taxes.

(2) The state and county enhanced 911 excise taxes imposed or authorized by this chapter, along with reports and returns on forms prescribed by the department, are due at the same time the taxpayer reports other taxes under RCW 82.32.045. If no other taxes are reported under RCW 82.32.045, the taxpayer ~~((shall))~~ must remit tax on an annual basis in accordance with RCW 82.32.045.

(3) The department ~~((of revenue))~~ may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year.

(4) The state and county enhanced 911 excise taxes imposed or authorized by this chapter are in addition to any taxes imposed upon the same persons under chapters 82.08 ~~((and))~~, 82.12, and 82.14 RCW.

**Sec. 10.** RCW 82.14B.150 and 2004 c 153 s 309 are each amended to read as follows:

(1) A local exchange company ~~((or))~~, radio communications service company ~~((shall))~~, or interconnected voice over internet protocol service company must file tax returns on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the company. A ~~((local exchange company or radio communications service))~~ company filing returns on a cash receipts basis is not required to pay tax on debt subject to credit or refund under subsection (2) of this section.

(2) A local exchange company ~~((or))~~, radio communications service company, or interconnected voice over internet protocol service company is entitled to a credit or refund for state and county enhanced 911 excise taxes previously paid on bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003.

**Sec. 11.** RCW 82.14B.160 and 1998 c 304 s 8 are each amended to read as follows:



The taxes imposed or authorized by this chapter do not apply to any activity that the state or county is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States.

**Sec. 12.** RCW 82.14B.200 and 2009 c 563 s 209 are each amended to read as follows:

(1) Unless a local exchange company (~~(or a)~~), radio communications service company, or interconnected voice over internet protocol service company has taken from the buyer documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or is otherwise not liable for the tax, the burden of proving that a sale of the use of a switched access line (~~(or)~~), radio access line, or interconnected voice over internet protocol service line was not a sale to a subscriber or was not otherwise subject to the tax is upon the person who made the sale.

(2) If a local exchange company (~~(or a)~~), radio communications service company, or interconnected voice over internet protocol service company does not receive documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or is otherwise not liable for the tax at the time of the sale, have such documentation on file at the time of the sale, or obtain such documentation from the buyer within a reasonable time after the sale, the local exchange company (~~(or the)~~), radio communications service company, or interconnected voice over internet protocol service company remains liable for the tax as provided in RCW 82.14B.042, unless the local exchange company (~~(or the)~~), radio communications service company, or interconnected voice over internet protocol service company can demonstrate facts and circumstances according to rules adopted by the department (~~(of revenue)~~) that show the sale was properly made without payment of the state or county enhanced 911 excise tax.

(3) The penalty imposed by RCW 82.32.291 may not be assessed on state or county enhanced 911 excise taxes due but not paid as a result of the improper use of documentation stating that the buyer is not a subscriber or is otherwise not liable for the state or county enhanced 911 excise tax. This subsection does not prohibit or restrict the application of other penalties authorized by law.

**Sec. 13.** RCW 82.32.010 and 1998 c 304 s 12 are each amended to read as follows:

The provisions of this chapter (~~(shall)~~) apply with respect to the taxes imposed under chapters 82.04 through 82.14 RCW, under chapter 82.14B RCW (~~(82.14B.030(3))~~), under chapters 82.16 through 82.29A RCW of this title, under chapter 84.33 RCW, and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter, or section.

**Sec. 14.** RCW 38.52.510 and 1991 c 54 s 3 are each amended to read as follows:

~~((By December 31, 1998,))~~ Each county, singly or in combination with one or more adjacent counties, (~~(shall)~~) must implement (~~(district-wide,)~~) countywide(~~(;)~~) or multicounty-wide enhanced 911 emergency communications systems so that enhanced 911 is available throughout the state. The county (~~(shall)~~) must provide funding for the enhanced 911 communications system in the county (~~(or district)~~) in an amount equal to the amount the maximum tax under RCW 82.14B.030(1) would generate in the county (~~(or district)~~) less any

applicable administrative fee charged by the department of revenue or the amount necessary to provide full funding of the system in the county ((or district, whichever is less)). The state enhanced 911 coordination office established by RCW 38.52.520 (~~shall~~) must assist and facilitate enhanced 911 implementation throughout the state.

**Sec. 15.** RCW 38.52.520 and 1991 c 54 s 4 are each amended to read as follows:

A state enhanced 911 coordination office, headed by the state enhanced 911 coordinator, is established in the emergency management division of the department. Duties of the office (~~shall~~) include:

(1) Coordinating and facilitating the implementation and operation of enhanced 911 emergency communications systems throughout the state;

(2) Seeking advice and assistance from, and providing staff support for, the enhanced 911 advisory committee; (~~and~~)

(3) Recommending to the utilities and transportation commission by August 31st of each year the level of the state enhanced 911 excise tax for the following year;

(4) Considering base needs of individual counties for specific assistance, specify rules defining the purposes for which available state enhanced 911 funding may be expended, with the advice and assistance of the enhanced 911 advisory committee; and

(5) Providing an annual update to the enhanced 911 advisory committee on how much money each county has spent on:

(a) Efforts to modernize their existing enhanced 911 emergency communications system; and

(b) Enhanced 911 operational costs.

**Sec. 16.** RCW 38.52.530 and 2006 c 210 s 1 are each amended to read as follows:

The enhanced 911 advisory committee is created to advise and assist the state enhanced 911 coordinator in coordinating and facilitating the implementation and operation of enhanced 911 throughout the state. The director shall appoint members of the committee who represent diverse geographical areas of the state and include state residents who are members of the national emergency number association, the (~~associated~~) association of public communications officers Washington chapter, the Washington state fire chiefs association, the Washington association of sheriffs and police chiefs, the Washington state council of firefighters, the Washington state council of police officers, the Washington ambulance association, the state fire protection policy board, the Washington fire commissioners association, the Washington state patrol, the association of Washington cities, the Washington state association of counties, the utilities and transportation commission or commission staff, a representative of a voice over internet protocol service company, and an equal number of representatives of large and small local exchange telephone companies and large and small radio communications service companies offering commercial mobile radio service in the state. ((This section expires December 31, 2011.))

**Sec. 17.** RCW 38.52.532 and 2006 c 210 s 2 are each amended to read as follows:

On an annual basis, the enhanced 911 advisory committee (~~shall~~) must provide an update on the status of enhanced 911 service in the state to the appropriate committees in the legislature. The update must include progress by counties towards creating greater efficiencies in enhanced 911 operations including, but not limited to, regionalization of facilities, centralization of equipment, and statewide purchasing.

**Sec. 18.** RCW 38.52.540 and 2002 c 371 s 905 and 2002 c 341 s 4 are each reenacted and amended to read as follows:

(1) The enhanced 911 account is created in the state treasury. All receipts from the state enhanced 911 excise taxes imposed by RCW 82.14B.030 (~~shall~~) must be deposited into the account. Moneys in the account (~~shall~~) must be used only to support the statewide coordination and management of the enhanced 911 system, for the implementation of wireless enhanced 911 statewide, for the modernization of enhanced 911 emergency communications systems statewide, and to help supplement, within available funds, the operational costs of the system, including adequate funding of counties to enable implementation of wireless enhanced 911 service and reimbursement of radio communications service companies for costs incurred in providing wireless enhanced 911 service pursuant to negotiated contracts between the counties or their agents and the radio communications service companies. A county must show just cause, including but not limited to a true and accurate accounting of the funds expended, for any inability to provide reimbursement to radio communications service companies of costs incurred in providing enhanced 911 service.

(2) Funds generated by the enhanced 911 excise tax imposed by RCW 82.14B.030(~~(3) shall~~) (5) may not be distributed to any county that has not imposed the maximum county enhanced 911 excise tax allowed under RCW 82.14B.030(1). Funds generated by the enhanced 911 excise tax imposed by RCW 82.14B.030(~~(4) shall~~) (6) may not be distributed to any county that has not imposed the maximum county enhanced 911 excise tax allowed under RCW 82.14B.030(2).

(3) The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, is authorized to enter into statewide agreements to improve the efficiency of enhanced 911 services for all counties and shall specify by rule the additional purposes for which moneys, if available, may be expended from this account.

~~((4) During the 2001-2003 fiscal biennium, the legislature may transfer from the enhanced 911 account to the state general fund such amounts as reflect the excess fund balance of the account.))~~

**Sec. 19.** RCW 38.52.545 and 2001 c 128 s 3 are each amended to read as follows:

In specifying rules defining the purposes for which available state enhanced 911 moneys may be expended, the state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, (~~shall~~) must consider base needs of individual counties for specific assistance. Priorities for available enhanced 911 funding are as follows:

(1) To assure that 911 dialing is operational statewide;

(2) To assist counties as necessary to assure that they can achieve a basic service level for 911 operations; and

(3) To assist counties as practicable to acquire items of a capital nature appropriate to ~~((increasing))~~ modernize 911 systems and increase 911 effectiveness.

**Sec. 20.** RCW 38.52.550 and 2002 c 341 s 5 are each amended to read as follows:

A telecommunications company, ~~((or))~~ radio communications service company, or interconnected voice over internet protocol service company, providing emergency communications systems or services or a business or individual providing database information to enhanced 911 emergency communications ~~((system))~~ personnel ~~((shall))~~ is not ~~((be))~~ liable for civil damages caused by an act or omission of the company, business, or individual in the:

(1) Good faith release of information not in the public record, including unpublished or unlisted subscriber information to emergency service providers responding to calls placed to ~~((a-911-or))~~ an enhanced 911 emergency communications service; or

(2) Design, development, installation, maintenance, or provision of consolidated ~~((911-or))~~ enhanced 911 emergency communications systems or services other than an act or omission constituting gross negligence or wanton or willful misconduct.

**Sec. 21.** RCW 38.52.561 and 2002 c 341 s 6 are each amended to read as follows:

The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, ~~((shall))~~ must set nondiscriminatory, uniform technical and operational standards consistent with the rules of the federal communications commission for the transmission of 911 calls from radio communications service companies and interconnected voice over internet protocol service companies to enhanced 911 emergency communications systems. These standards must not exceed the requirements set by the federal communications commission. The authority given to the state enhanced 911 coordinator in this section is limited to setting standards as set forth in this section and does not constitute authority to regulate radio communications service companies or interconnected voice over internet protocol service companies.

**Sec. 22.** RCW 43.79A.040 and 2009 c 87 s 4 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund ~~((shall))~~ must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in

all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments (~~shall~~) must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer (~~shall~~) must distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds (~~shall~~) must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds (~~shall~~) must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 23. The following acts or parts of acts are each repealed:

(1) RCW 82.14B.070 (Emergency service communication districts—Authorized—Consolidation—Dissolution) and 1994 c 54 s 1 & 1987 c 17 s 1;

(2) RCW 82.14B.090 (Emergency service communication districts—Emergency service communication system—Financing—Excise tax) and 1991 c 54 s 13 & 1987 c 17 s 3; and

(3) RCW 82.14B.100 (Emergency service communication districts—Application of RCW 82.14B.040 through 82.14B.060) and 1991 c 54 s 14 & 1987 c 17 s 4.

NEW SECTION. Sec. 24. A new section is added to chapter 82.14B RCW to read as follows:

For the time period from July 1, 2007, until the effective date of section 3 of this act, counties and the state are authorized to accept and use funds and any accrued interest voluntarily remitted by interconnected voice over internet protocol service companies.

NEW SECTION. Sec. 25. 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. 26. The office of the code reviser may alphabetize the accounts and funds listed in RCW 43.79A.040(4)(b).

NEW SECTION. Sec. 27. (1) Except as otherwise provided in this section, this act takes effect October 1, 2010.

(2) Sections 1 through 3, 5 through 7, 10 through 21, and 23 of this act take effect January 1, 2011.

Passed by the Senate April 1, 2010.

Passed by the House April 2, 2010.

Approved by the Governor April 13, 2010.

Filed in Office of Secretary of State April 13, 2010.

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## CHAPTER 20

[Substitute Senate Bill 6884]

### COUNSELING—JUVENILE PROBATION COUNSELORS AND COURT EMPLOYEES

AN ACT Relating to the practice of counseling; amending RCW 18.19.020; and declaring an emergency.

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

**Sec. 1.** RCW 18.19.020 and 2008 c 135 s 1 are each amended to read as follows:

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

(1) "Agency" means (a) an agency or facility operated, licensed, or certified by the state of Washington or (b) a county.

(2) "Agency affiliated counselor" means a person registered under this chapter who is engaged in counseling and employed by an agency. "Agency affiliated counselor" includes juvenile probation counselors who are employees of the juvenile court under RCW 13.04.035 and 13.04.040 and juvenile court

employees providing functional family therapy, aggression replacement training, or other evidence-based programs approved by the juvenile rehabilitation administration of the department of social and health services.

(3) "Certified adviser" means a person certified under this chapter who is engaged in private practice counseling to the extent authorized in RCW 18.19.200.

(4) "Certified counselor" means a person certified under this chapter who is engaged in private practice counseling to the extent authorized in RCW 18.19.200.

(5) "Client" means an individual who receives or participates in counseling or group counseling.

(6) "Counseling" means employing any therapeutic techniques, including but not limited to social work, mental health counseling, marriage and family therapy, and hypnotherapy, for a fee that offer, assist or attempt to assist an individual or individuals in the amelioration or adjustment of mental, emotional, or behavioral problems, and includes therapeutic techniques to achieve sensitivity and awareness of self and others and the development of human potential. For the purposes of this chapter, nothing may be construed to imply that the practice of hypnotherapy is necessarily limited to counseling.

(7) "Counselor" means an individual, practitioner, therapist, or analyst who engages in the practice of counseling to the public for a fee, including for the purposes of this chapter, hypnotherapists.

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

(9) "Hypnotherapist" means a person registered under this chapter who is practicing hypnosis as a modality.

(10) "Private practice counseling" means the practice of counseling by a certified counselor or certified adviser as specified in RCW 18.19.200.

(11) "Psychotherapy" means the practice of counseling using diagnosis of mental disorders according to the fourth edition of the diagnostic and statistical manual of mental disorders, published in 1994, and the development of treatment plans for counseling based on diagnosis of mental disorders in accordance with established practice standards.

(12) "Secretary" means the secretary of the department or the secretary's designee.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 20, 2010.

Passed by the House April 2, 2010.

Approved by the Governor April 13, 2010.

Filed in Office of Secretary of State April 13, 2010.

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## CHAPTER 21

[Engrossed House Bill 1690]

### ALTERNATIVE PUBLIC WORKS CONTRACTING PROCEDURES

AN ACT Relating to public works projects; amending RCW 39.10.200, 39.10.230, 35.82.200, and 43.131.408; and creating a new section.

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

**NEW SECTION. Sec. 1.** The establishment of alternative public works contracting procedures authorized for use by public bodies has been a complex, controversial, and challenging undertaking, but it has been successful. The key to the successful adoption and consideration of these procedures has depended, in great part, on the review and oversight mechanisms put in place by the legislature in chapter 39.10 RCW, as well as the countless hours of dedicated work by numerous stakeholders over many years. It is the intent of the legislature to clarify that, unless otherwise specifically provided for in law, public bodies that want to use an alternative public works contracting procedure may use only those procedures specifically authorized in chapter 39.10 RCW.

**Sec. 2.** RCW 39.10.200 and 2007 c 494 s 1 are each amended to read as follows:

The legislature finds that the traditional process of awarding public works contracts in lump sum to the lowest responsible bidder is a fair and objective method of selecting a contractor. However, under certain circumstances, alternative public works contracting procedures may best serve the public interest if such procedures are implemented in an open and fair process based on objective and equitable criteria. The purpose of this chapter is to authorize the use of certain supplemental alternative public works contracting procedures, to prescribe appropriate requirements to ensure that such contracting procedures serve the public interest, and to establish a process for evaluation of such contracting procedures. It is the intent of the legislature to establish that, unless otherwise specifically provided for in law, public bodies may use only those alternative public works contracting procedures specifically authorized in this chapter, subject to the requirements of this chapter.

**Sec. 3.** RCW 39.10.230 and 2009 c 75 s 1 are each amended to read as follows:

The board has the following powers and duties:

(1) Develop and recommend to the legislature policies to further enhance the quality, efficiency, and accountability of capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding expansion, continuation, elimination, or modification of the alternative public works contracting methods;

(2) Evaluate the use of existing contracting procedures and the potential future use of other alternative contracting procedures including competitive negotiation contracts;

(3) ~~((Develop guidelines to be used by the committee for the review and approval of design build demonstration projects that procure operations and maintenance services))~~ Submit recommendations to the appropriate committees of the legislature evaluating alternative contracting procedures that are not authorized under this chapter;

(4) Appoint members of the committee; and

(5) Develop and administer questionnaires designed to provide quantitative and qualitative data on alternative public works contracting procedures on which evaluations are based.

**Sec. 4.** RCW 35.82.200 and 1965 c 7 s 35.82.200 are each amended to read as follows:



(1) In addition to the powers conferred upon an authority by other provisions of this chapter, an authority is empowered to borrow money or accept contributions, grants or other financial assistance from the federal government for or in aid of any housing project within its area of operation, to take over or lease or manage any housing project or undertaking constructed or owned by the federal government, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this chapter to authorize every authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any housing project by such authority.

(2) All housing authorities shall be subject to the provisions of chapter 39.10 RCW except where alternative requirements or procedures of federal law or federal regulation are authorized.

(3) The requirements of chapter 39.12 RCW regarding prevailing wages shall apply to housing authority public works except where specifically preempted by federal law or federal regulation.

**Sec. 5.** RCW 43.131.408 and 2007 c 494 s 507 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2014:

- (1) RCW 39.10.200 and section 2 of this act, 2007 c 494 s 1, & 1994 c 132 s 1;
- (2) RCW 39.10.210 and 2007 c 494 s 101 & 2005 c 469 s 3;
- (3) RCW 39.10.220 and 2007 c 494 s 102 & 2005 c 377 s 1;
- (4) RCW 39.10.230 and section 3 of this act, 2009 c 75 s 1, 2007 c 494 s 103, & 2005 c 377 s 2;
- (5) RCW 39.10.240 and 2007 c 494 s 104;
- (6) RCW 39.10.250 and 2007 c 494 s 105;
- (7) RCW 39.10.260 and 2007 c 494 s 106;
- (8) RCW 39.10.270 and 2007 c 494 s 107;
- (9) RCW 39.10.280 and 2007 c 494 s 108;
- (10) RCW 39.10.290 and 2007 c 494 s 109;
- (11) RCW 39.10.300 and 2007 c 494 s 201, 2003 c 352 s 2, 2003 c 300 s 4, 2002 c 46 s 1, & 2001 c 328 s 2;
- (12) ~~((RCW 39.10.310 and 2007 c 494 s 202 & 1994 c 132 s 8; (13)))~~ RCW 39.10.320 and 2007 c 494 s 203 & 1994 c 132 s 7;
- ~~((14))~~ (13) RCW 39.10.330 and 2007 c 494 s 204;
- ~~((15))~~ (14) RCW 39.10.340 and 2007 c 494 s 301, 2003 c 352 s 3, 2003 c 300 s 5, 2002 c 46 s 2, & 2001 c 328 s 3;
- ~~((16))~~ (15) RCW 39.10.350 and 2007 c 494 s 302;
- ~~((17))~~ (16) RCW 39.10.360 and 2007 c 494 s 303;
- ~~((18))~~ (17) RCW 39.10.370 and 2007 c 494 s 304;
- ~~((19))~~ (18) RCW 39.10.380 and 2007 c 494 s 305;
- ~~((20))~~ (19) RCW 39.10.390 and 2007 c 494 s 306;
- ~~((21))~~ (20) RCW 39.10.400 and 2007 c 494 s 307;
- ~~((22))~~ (21) RCW 39.10.410 and 2007 c 494 s 308;
- ~~((23))~~ (22) RCW 39.10.420 and 2007 c 494 s 401 & 2003 c 301 s 1;
- ~~((24))~~ (23) RCW 39.10.430 and 2007 c 494 s 402;

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~~((25))~~ (24) RCW 39.10.440 and 2007 c 494 s 403;  
~~((26))~~ (25) RCW 39.10.450 and 2007 c 494 s 404;  
~~((27))~~ (26) RCW 39.10.460 and 2007 c 494 s 405;  
~~((28))~~ (27) RCW 39.10.470 and 2005 c 274 s 275 & 1994 c 132 s 10;  
~~((29))~~ (28) RCW 39.10.480 and 1994 c 132 s 9;  
~~((30))~~ (29) RCW 39.10.490 and 2007 c 494 s 501 & 2001 c 328 s 5;  
~~((31))~~ (30) RCW 39.10.500 and 2007 c 494 s 502;  
~~((32))~~ (31) RCW 39.10.510 and 2007 c 494 s 503;  
~~((33))~~ (32) RCW 39.10.900 and 1994 c 132 s 13;  
~~((34))~~ (33) RCW 39.10.901 and 1994 c 132 s 14; and  
~~((35))~~ (34) RCW 39.10.903 and 2007 c 494 s 510.

Passed by the House April 12, 2010.

Passed by the Senate April 12, 2010.

Approved by the Governor April 23, 2010.

Filed in Office of Secretary of State April 23, 2010.

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CHAPTER 22

[Engrossed Substitute House Bill 2493]

TAXATION—CIGARETTES AND TOBACCO PRODUCTS

AN ACT Relating to the taxation of cigarettes and other tobacco products; amending RCW 82.24.020, 82.24.026, 82.26.010, 82.26.020, and 82.26.030; adding a new section to chapter 82.26 RCW; creating new sections; repealing RCW 82.24.027 and 82.24.028; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature to use revenue raised from taxes levied on the sales of cigarettes and other tobacco products to fund basic health care services.

**Sec. 2.** RCW 82.24.020 and 2009 c 479 s 66 are each amended to read as follows:

(1) There is levied and ~~((there shall be))~~ collected as provided in this chapter, a tax upon the sale, use, consumption, handling, possession, or distribution of all cigarettes, in an amount equal to ~~((one and fifteen one-hundredths))~~ 12.125 cents per cigarette.

(2) ~~((An additional tax is imposed upon the sale, use, consumption, handling, possession, or distribution of all cigarettes, in an amount equal to five hundred twenty five one thousandths of a cent per cigarette. All revenues collected during any month from this additional tax shall be deposited in the state general fund by the twenty fifth day of the following month.~~

(3) ~~An additional tax is imposed upon the sale, use, consumption, handling, possession, or distribution of all cigarettes, in an amount equal to two and five one-hundredths cents per cigarette. All revenues collected during any month from this additional tax shall be deposited in the state general fund by the twenty fifth day of the following month.~~

(4)) Wholesalers subject to the payment of this tax may, if they wish, absorb five one-hundredths cents per cigarette of the tax and not pass it on to purchasers without being in violation of this section or any other act relating to the sale or taxation of cigarettes.

~~((5))~~ (3) For purposes of this chapter, "possession" ~~((shall))~~ means both (a) physical possession by the purchaser and, (b) when cigarettes are being transported to or held for the purchaser or his or her designee by a person other than the purchaser, constructive possession by the purchaser or his or her designee, which constructive possession ~~((shall be))~~ is deemed to occur at the location of the cigarettes being so transported or held.

~~((6))~~ (4) In accordance with federal law and rules prescribed by the department, an enrolled member of a federally recognized Indian tribe may purchase cigarettes from an Indian tribal organization under the jurisdiction of the member's tribe for the member's own use exempt from the applicable taxes imposed by this chapter. Except as provided in subsection ~~((7))~~ (5) of this section, any person, who purchases cigarettes from an Indian tribal organization and who is not an enrolled member of the federally recognized Indian tribe within whose jurisdiction the sale takes place, is not exempt from the applicable taxes imposed by this chapter.

~~((7))~~ (5) If the state enters into a cigarette tax contract or agreement with a federally recognized Indian tribe under chapter 43.06 RCW, the terms of the contract or agreement ~~((shall))~~ take precedence over any conflicting provisions of this chapter while the contract or agreement is in effect.

**Sec. 3.** RCW 82.24.026 and 2009 c 479 s 67 are each amended to read as follows:

(1) In addition to the tax imposed upon the sale, use, consumption, handling, possession, or distribution of cigarettes set forth in RCW 82.24.020, there is imposed a tax in an amount equal to three cents per cigarette.

(2) The revenue collected under this section ~~((shall))~~ must be deposited as follows:

(a) ~~((28.5))~~ 14 percent ~~((shall))~~ must be deposited into the general fund.

(b) The remainder ~~((shall))~~ must be deposited into the education legacy trust account.

**Sec. 4.** RCW 82.26.010 and 2005 c 180 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) "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 ~~((shall))~~ does not include cigarettes as defined in RCW 82.24.010.

(2) "Manufacturer" means a person who manufactures and sells tobacco products.

(3) "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.

(4) "Retailer" means any person engaged in the business of selling tobacco products to ultimate consumers.

(5)(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.

(6) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.

(7) "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.

(8) "Retail outlet" means each place of business from which tobacco products are sold to consumers.

(9) "Department" means the department of revenue.

(10) "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.

(11) "Indian country" means the same as defined in chapter 82.24 RCW.

(12) "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.

(13) "Affiliated" means related in any way by virtue of any form or amount of common ownership, control, operation, or management.

(14) "Board" means the liquor control board.

(15) "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.

(16) "Cigarette" has the same meaning as in RCW 82.24.010.

(17) "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.

(18)(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 (5)(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 (10) 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.

(19) "Taxpayer" means a person liable for the tax imposed by this chapter.

(20) "Unaffiliated distributor" means a distributor that is not affiliated with the manufacturer, distributor, or other person from whom the distributor has purchased tobacco products.

(21) "Unaffiliated retailer" means a retailer that is not affiliated with the manufacturer, distributor, or other person from whom the retailer has purchased tobacco products.

(22) "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.

(23) "Little cigar" means a cigar that has a cellulose acetate integrated filter.

**Sec. 5.** RCW 82.26.020 and 2009 c 479 s 70 are each amended to read as follows:

(1) There is levied and ~~((there shall be))~~ collected a tax upon the sale, handling, or distribution of all tobacco products in this state at the following rate:

(a) ~~((Seventy-five))~~ For cigars except little cigars, ninety-five percent of the taxable sales price of cigars, not to exceed ~~((fifty))~~ sixty-five cents per cigar; ~~((or))~~

(b) ~~((Seventy-five))~~ For all tobacco products except those covered under separate provisions of this subsection, ninety-five percent of the taxable sales price ~~((of all tobacco products that are not cigars))~~;

(c) For moist snuff, as established in this subsection (1)(c) and computed on the net weight listed by the manufacturer:

(i) On each single unit consumer-sized can or package whose net weight is one and two-tenths ounces or less, a rate per single unit that is equal to the greater of 2.526 dollars or eighty-three and one-half percent of the cigarette tax under chapter 82.24 RCW multiplied by twenty; or

(ii) On each single unit consumer-sized can or package whose net weight is more than one and two-tenths ounces, a proportionate tax at the rate established in (c)(i) of this subsection (1) on each ounce or fractional part of an ounce; and

(d) For little cigars, an amount per cigar equal to the cigarette tax under chapter 82.24 RCW.

(2) Taxes under this section ~~((shall))~~ must be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, fabricates, or stores tobacco products in this state for sale in this state, (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers, or (d) handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

(3) The moneys collected under this section ~~((shall))~~ must be deposited into the state general fund.

NEW SECTION. Sec. 6. A new section is added to chapter 82.26 RCW to read as follows:

(1)(a) Within one year following the date on which the requirement for a tobacco product code is effective, payment of, or exemption from, the tax imposed in RCW 82.26.020 must be verifiable on each single-unit consumer-sized can or package of moist snuff, as provided in (b) of this subsection.

(b) Within thirty days following the date on which notice of proposed rule making to require a tobacco product code is published in the federal register, the department must commence to develop a method for using a tobacco product code to verify payment of, or exemption from, the tax imposed in RCW 82.26.020; to develop and implement a pilot project to test the method; and to develop a plan for adoption of rules to implement the method. The department must report to the legislature on its progress annually by December 1st through the year following the year in which the method is implemented.

(2) If notice of proposed rule making to require a tobacco product code is not published in the federal register by July 1, 2011, the department must determine and recommend to the legislature by November 1, 2014, a method to verify payment of, or exemption from, the tax imposed in RCW 82.26.020, by means of stamping, use of manufacturers' digitally readable product identifiers, or any other method, and must complete and present to the legislature a study of compliance with the tax imposed in RCW 82.26.020, the effect of noncompliance on state revenue, and the effect of adopting a method to verify payment of, or exemption from, the tax.

(3) For purposes of this section, "tobacco product code" means a code that is required on the label of a tobacco product for purposes of tracking or tracing the product through the distribution system under final regulations adopted by the secretary of the United States department of health and human services.

**Sec. 7.** RCW 82.26.030 and 2005 c 180 s 1 are each amended to read as follows:

It is the intent and purpose of this chapter to levy a tax on all tobacco products sold, used, consumed, handled, or distributed within this state and to collect the tax from the distributor as defined in RCW 82.26.010. It is the further intent and purpose of this chapter to impose the tax once, and only once, on all tobacco products for sale in this state, but nothing in this chapter (~~shall~~) may be construed to exempt any person taxable under any other law or under any other tax imposed under Title 82 RCW. It is the further intent and purpose of this chapter that the distributor who first possesses the tobacco product in this state (~~shall be~~) is the distributor liable for the tax and that (1) for moist snuff the tax will be based on the net weight listed by the manufacturer and (2) in most other instances the tax will be based on the actual price that the distributor paid for the tobacco product, unless the distributor is affiliated with the seller.

NEW SECTION. **Sec. 8.** The following acts or parts of acts are each repealed:

(1) RCW 82.24.027 (Additional tax imposed—Rate—Deposited into the general fund) and 2009 c 479 s 68, 2008 c 86 s 303, 1999 c 309 s 925, & 1986 c 3 s 12; and

(2) RCW 82.24.028 (Additional tax imposed—Rate—Deposited into the general fund) and 2009 c 479 s 69, 2008 c 86 s 304, & 2002 c 2 s 3.

NEW SECTION. **Sec. 9.** Section 2 of this act applies only with respect to tax liability incurred under chapter 82.24 RCW on or after May 1, 2010, for the sale, use, consumption, handling, possession, or distribution of cigarettes.

NEW SECTION. **Sec. 10.** Section 5(1) (a), (b), and (d) of this act applies only with respect to tax liability incurred under chapter 82.26 RCW on or after May 1, 2010, for the sale, handling, or distribution of cigars, little cigars, and other tobacco products.

NEW SECTION. **Sec. 11.** Section 5(1)(c), chapter . . ., Laws of 2010 (this act) applies only with respect to tax liability incurred under chapter 82.26 RCW on or after October 1, 2010, for the sale, handling, or distribution of moist snuff.

NEW SECTION. **Sec. 12.** 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 May 1, 2010.

Passed by the House April 12, 2010.

Passed by the Senate April 12, 2010.

Approved by the Governor April 23, 2010.

Filed in Office of Secretary of State April 23, 2010.

## CHAPTER 23

[Second Engrossed Substitute Senate Bill 6143]

## TAXES

AN ACT Relating to modifying excise tax laws to preserve funding for public schools, colleges, and universities, as well as other public systems essential for the safety, health, and security of all Washingtonians; amending RCW 82.04.220, 82.04.2907, 82.04.2907, 82.04.460, 82.04.080, 82.32.090, 82.12.020, 82.45.033, 82.45.070, 82.45.080, 82.45.100, 82.45.220, 43.07.390, 82.04.4292, 82.04.423, 82.04.4266, 82.04.4266, 82.04.260, 82.04.250, 82.04.250, 82.04.250, 82.04.298, 82.04.334, 82.04.4463, 82.04.4463, 82.08.806, 82.32.550, 82.45.195, 35.102.150, 48.14.080, 82.08.890, 82.12.890, 82.04.360, 82.32.145, 82.08.0293, 82.08.0293, 82.12.0293, 54.28.011, 82.04.4451, 82.32.045, 82.04.394, 82.04.394, 66.24.290, 82.08.037, 82.12.037, 82.08.—, and 82.12.—; reenacting and amending RCW 82.45.010, 82.04.260, 82.04.261, and 82.04.440; adding new sections to chapter 82.04 RCW; adding new sections to chapter 82.32 RCW; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; creating new sections; providing effective dates; providing expiration dates; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** In order to preserve funding for education, public safety, health care, environmental protection, and safety net services for children, elderly, disabled, and vulnerable people, it is the intent of the legislature to close obsolete tax preferences, clarify the legislature's intent regarding existing tax policy, and to ensure balanced tax policy while bolstering emerging industries.

## PART I

## Minimum Nexus Standards

**NEW SECTION. Sec. 101.** (1) The legislature finds that out-of-state businesses that do not have a physical presence in Washington earn significant income from Washington residents from providing services or collecting royalties on the use of intangible property in this state. The legislature further finds that these businesses receive significant benefits and opportunities provided by the state, such as: Laws providing protection of business interests or regulating consumer credit; access to courts and judicial process to enforce business rights, including debt collection and intellectual property rights; an orderly and regulated marketplace; and police and fire protection and a transportation system benefiting in-state agents and other representatives of out-of-state businesses. Therefore, the legislature intends to extend the state's business and occupation tax to these companies to ensure that they pay their fair share of the cost of services that this state renders and the infrastructure it provides.

(2)(a) The legislature also finds that the current cost apportionment method in RCW 82.04.460(1) for apportioning most service income has been difficult for both taxpayers and the department to apply due in large part (i) to the difficulty in assigning certain costs of doing business inside or outside of this state, and (ii) to its dissimilarity with the apportionment methods used in other states for their business activity taxes.

(b) The legislature further finds that there is a trend among states to adopt a single factor apportionment formula based on sales. The legislature recognizes that adoption of a sales factor only apportionment method has the advantages of simplifying apportionment and making Washington a more attractive place for businesses to expand their property and payroll. For these reasons, the



legislature adopts single factor sales apportionment for purposes of apportioning royalty income and certain service income for state business and occupation tax purposes.

(c) Nothing in this act may be construed, however, to authorize apportionment of the gross income or value of products taxable under the following business and occupation tax classifications: Retailing, wholesaling, manufacturing, processing for hire, extracting, extracting for hire, printing, government contracting, public road construction, the classifications in RCW 82.04.280 (2), (4), (6), and (7), and any other activity not specifically included in the definition of apportionable activities in RCW 82.04.460.

(d) Nothing in this part is intended to modify the nexus and apportionment requirements for local gross receipts business and occupation taxes.

**Sec. 102.** RCW 82.04.220 and 1961 c 15 s 82.04.220 are each amended to read as follows:

(1) There is levied and ~~((shall be))~~ collected from every person that has a substantial nexus with this state a tax for the act or privilege of engaging in business activities. ~~((Such))~~ The tax ~~((shall be))~~ is measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be.

(2) A person who has a substantial nexus with this state in any tax year will be deemed to have a substantial nexus with this state for the following tax year.

NEW SECTION. Sec. 103. A new section is added to chapter 82.04 RCW to read as follows:

"Engaging within this state" and "engaging within the state," when used in connection with any apportionable activity as defined in RCW 82.04.460, means that a person generates gross income of the business from sources within this state, such as customers or intangible property located in this state, regardless of whether the person is physically present in this state.

NEW SECTION. Sec. 104. A new section is added to chapter 82.04 RCW to read as follows:

(1) A person engaging in business is deemed to have substantial nexus with this state if the person is:

- (a) An individual and is a resident or domiciliary of this state;
- (b) A business entity and is organized or commercially domiciled in this state; or

(c) A nonresident individual or a business entity that is organized or commercially domiciled outside this state, and in any tax year the person has:

- (i) More than fifty thousand dollars of property in this state;
- (ii) More than fifty thousand dollars of payroll in this state;
- (iii) More than two hundred fifty thousand dollars of receipts from this state;

or

(iv) At least twenty-five percent of the person's total property, total payroll, or total receipts in this state.

(2)(a) Property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section is the average value of the taxpayer's property, including intangible property, owned or rented and used in this state during the tax year.

(b)(i) Property owned by the taxpayer, other than loans and credit card receivables owned by the taxpayer, is valued at its original cost basis. Loans and

credit card receivables owned by the taxpayer are valued at their outstanding principal balance, without regard to any reserve for bad debts. However, if a loan or credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the loan or credit card receivable charged off is deducted from the outstanding principal balance.

(ii) Property rented by the taxpayer is valued at eight times the net annual rental rate. For purposes of this subsection, "net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(c) The average value of property must be determined by averaging the values at the beginning and ending of the tax year; but the department may require the averaging of monthly values during the tax year if reasonably required to properly reflect the average value of the taxpayer's property.

(d)(i) For purposes of this subsection (2), loans and credit card receivables are deemed owned and used in this state as follows:

(A) Loans secured by real property, personal property, or both real and personal property, are deemed owned and used in the state if the real property or personal property securing the loan is located within this state. If the property securing the loan is located both within this state and one or more other states, the loan is deemed owned and used in this state if more than fifty percent of the fair market value of the real or personal property is located within this state. If more than fifty percent of the fair market value of the real or personal property is not located within any one state, then the loan is deemed owned and used in this state if the borrower is located in this state. The determination of whether the real or personal property securing a loan is located within this state must be made, as of the time the original agreement was made, and any and all subsequent substitutions of collateral must be disregarded.

(B) Loans not secured by real or personal property are deemed owned and used in this state if the borrower is located in this state.

(C) Credit card receivables are deemed owned and used in this state if the billing address of the cardholder is in this state.

(ii)(A) Except as otherwise provided in (d)(ii)(B) of this subsection (2), the definitions in the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, apply to this section.

(B) "Credit card" means a card or device existing for the purpose of obtaining money, property, labor, or services on credit.

(e) Notwithstanding anything else to the contrary in this subsection, property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section does not include a person's ownership of, or rights in, computer software as defined in RCW 82.04.215, including computer software used in providing a digital automated service; master copies of software; and digital goods and digital codes residing on servers located in this state.

(3)(a) Payroll counting toward the thresholds in subsection (1)(c)(ii) and (iv) of this section is the total amount paid by the taxpayer for compensation in this state during the tax year plus nonemployee compensation paid to representative third parties in this state. Nonemployee compensation paid to

representative third parties includes the gross amount paid to nonemployees who represent the taxpayer in interactions with the taxpayer's clients and includes sales commissions.

(b) Employee compensation is paid in this state if the compensation is properly reportable to this state for unemployment compensation tax purposes, regardless of whether the compensation was actually reported to this state.

(c) Nonemployee compensation is paid in this state if the service performed by the representative third party occurs entirely or primarily within this state.

(d) For purposes of this subsection, "compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees or nonemployees and defined as gross income under 26 U.S.C. Sec. 61 of the federal internal revenue code of 1986, as existing on the effective date of this section.

(4) Receipts counting toward the thresholds in subsection (1)(c)(iii) and (iv) of this section are those amounts included in the numerator of the receipts factor under section 105 of this act and, for financial institutions, those amounts included in the numerator of the receipts factor under the rule adopted by the department as authorized in RCW 82.04.460(2).

(5)(a) Each December, the department must review the cumulative percentage change in the consumer price index. The department must adjust the thresholds in subsection (1)(c)(i) through (iii) of this section if the consumer price index has changed by five percent or more since the later of the effective date of this section, or the date that the thresholds were last adjusted under this subsection. For purposes of determining the cumulative percentage change in the consumer price index, the department must compare the consumer price index available as of December 1st of the current year with the consumer price index as of the later of the effective date of this section, or the date that the thresholds were last adjusted under this subsection. The thresholds must be adjusted to reflect that cumulative percentage change in the consumer price index. The adjusted thresholds must be rounded to the nearest one thousand dollars. Any adjustment will apply to tax periods that begin after the adjustment is made.

(b) As used in this subsection, "consumer price index" means the consumer price index for all urban consumers (CPI-U) available from the bureau of labor statistics of the United States department of labor.

(6) Subsections (1) through (5) of this section only apply with respect to the taxes imposed under this chapter on apportionable activities as defined in RCW 82.04.460. For purposes of the taxes imposed under this chapter on any activity not included in the definition of apportionable activities in RCW 82.04.460, a person is deemed to have a substantial nexus with this state if the person has a physical presence in this state, which need only be demonstrably more than a slightest presence. For purposes of this subsection, a person is physically present in this state if the person has property or employees in this state. A person is also physically present in this state if the person, either directly or through an agent or other representative, engages in activities in this state that are significantly associated with the person's ability to establish or maintain a market for its products in this state.

NEW SECTION. **Sec. 105.** A new section is added to chapter 82.04 RCW to read as follows:

(1) The apportionable income of a person within the scope of RCW 82.04.460(1) is apportioned to Washington by multiplying its apportionable income by the receipts factor. Persons who are subject to tax under more than one of the tax classifications enumerated in RCW 82.04.460(4)(a) (i) through (x) must calculate a separate receipts factor for each tax classification that the person is taxable under.

(2) For purposes of subsection (1) of this section, the receipts factor is a fraction and is calculated as provided in subsections (3) and (4) of this section and, for financial institutions, as provided in the rule adopted by the department under the authority of RCW 82.04.460(2).

(3)(a) The numerator of the receipts factor is the total gross income of the business of the taxpayer attributable to this state during the tax year from engaging in an apportionable activity. The denominator of the receipts factor is the total gross income of the business of the taxpayer from engaging in an apportionable activity everywhere in the world during the tax year.

(b) Except as otherwise provided in this section, for purposes of computing the receipts factor, gross income of the business generated from each apportionable activity is attributable to the state:

(i) Where the customer received the benefit of the taxpayer's service or, in the case of gross income from royalties, where the customer used the taxpayer's intangible property.

(ii) If the customer received the benefit of the service or used the intangible property in more than one state, gross income of the business must be attributed to the state in which the benefit of the service was primarily received or in which the intangible property was primarily used.

(iii) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i) or (ii) of this subsection (3), gross income of the business must be attributed to the state from which the customer ordered the service or, in the case of royalties, the office of the customer from which the royalty agreement with the taxpayer was negotiated.

(iv) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), or (iii) of this subsection (3), gross income of the business must be attributed to the state to which the billing statements or invoices are sent to the customer by the taxpayer.

(v) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), or (iv) of this subsection (3), gross income of the business must be attributed to the state from which the customer sends payment to the taxpayer.

(vi) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), (iv), or (v) of this subsection (3), gross income of the business must be attributed to the state where the customer is located as indicated by the customer's address: (A) Shown in the taxpayer's business records maintained in the regular course of business; or (B) obtained during consummation of the sale or the negotiation of the contract for services or for the use of the taxpayer's intangible property, including any address of a customer's payment instrument when readily available to the taxpayer and no other address is available.

(vii) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), (iv), (v), or (vi) of this subsection (3), gross

income of the business must be attributed to the commercial domicile of the taxpayer.

(viii) For purposes of this subsection (3)(b), "customer" means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business. "Customer" includes anyone who pays royalties or charges in the nature of royalties for the use of the taxpayer's intangible property.

(c) Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the receipts factor if, in respect to such activity, at least some of the activity is performed in this state, and the gross income is attributable under (b) of this subsection (3) to a state in which the taxpayer is not taxable. For purposes of this subsection (3)(c), "not taxable" means that the taxpayer is not subject to a business activities tax by that state, except that a taxpayer is taxable in a state in which it would be deemed to have a substantial nexus with that state under the standards in section 104(1) of this act regardless of whether that state imposes such a tax. "Business activities tax" means a tax measured by the amount of, or economic results of, business activity conducted in a state. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated a gross receipts tax or a tax imposed on the privilege of doing business.

(d) This subsection (3) does not apply to financial institutions with respect to apportionable income taxable under RCW 82.04.290. Financial institutions must calculate the receipts factor as provided in subsection (4) of this section and the rule adopted by the department under the authority of RCW 82.04.460(2) with respect to apportionable income taxable under RCW 82.04.290. Financial institutions that are subject to tax under any other tax classification enumerated in RCW 82.04.460(4)(a) (i) through (v) and (vii) through (x) must calculate a separate receipts factor, as provided in this section, for each of the other tax classifications that the financial institution is taxable under.

(4) A taxpayer may calculate the receipts factor for the current tax year based on the most recent calendar year for which information is available for the full calendar year. If a taxpayer does not calculate the receipts factor for the current tax year based on previous calendar year information as authorized in this subsection, the business must use current year information to calculate the receipts factor for the current tax year. In either case, a taxpayer must correct the reporting for the current tax year when complete information is available to calculate the receipts factor for that year, but not later than October 31st of the following tax year. Interest will apply to any additional tax due on a corrected tax return. Interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the original return was due, and will accrue until the additional taxes are paid. Penalties as provided in RCW 82.32.090 will apply to any such additional tax due only if the current tax year reporting is not corrected and the additional tax is not paid by October 31st of the following tax year. Interest as provided in RCW 82.32.060 will apply to any tax paid in excess of that properly due on a return as a result of a taxpayer

using previous calendar year data or incomplete current-year data to calculate the receipts factor.

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

(a) "Apportionable activities" and "apportionable income" have the same meaning as in RCW 82.04.460.

(b) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision of a foreign country.

**Sec. 106.** RCW 82.04.2907 and 2009 c 535 s 407 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of receiving income from royalties (~~((or charges in the nature of royalties for the granting of intangible rights, such as copyrights, licenses, patents, or franchise fees))~~), the amount of tax with respect to ~~((such))~~ the business ~~((shall be))~~ is equal to the gross income from royalties ~~((or charges in the nature of royalties from the business))~~ multiplied by the rate of 0.484 percent.

(2) For the purposes of this section, "gross income from royalties" means compensation for the use of intangible property, ~~((such as))~~ including charges in the nature of royalties, regardless of where the intangible property will be used. For purposes of this subsection, "intangible property" includes copyrights, patents, licenses, franchises, trademarks, trade names, and similar items. ~~((H))~~ "Gross income from royalties" does not include compensation for any natural resource, the licensing of prewritten computer software to the end user, or the licensing ~~((or use))~~ of digital goods, digital codes, or digital automated services to the end user as defined in RCW 82.04.190(11).

**Sec. 107.** RCW 82.04.2907 and 2010 c 111 (SHB 2620) s 302 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of receiving income from royalties (~~((or charges in the nature of royalties for the granting of intangible rights, such as copyrights, licenses, patents, or franchise fees))~~), the amount of tax with respect to the business is equal to the gross income from royalties ~~((or charges in the nature of royalties from the business))~~ multiplied by the rate of 0.484 percent.

(2) For the purposes of this section, "gross income from royalties" means compensation for the use of intangible property, ~~((such as))~~ including charges in the nature of royalties, regardless of where the intangible property will be used. For purposes of this subsection, "intangible property" includes copyrights, patents, licenses, franchises, trademarks, trade names, and similar items. ~~((H))~~ "Gross income from royalties" does not include compensation for any natural resource, the licensing of prewritten computer software to the end user, or the licensing of digital goods, digital codes, or digital automated services to the end user as defined in RCW 82.04.190(11).

**Sec. 108.** RCW 82.04.460 and 2004 c 174 s 6 are each amended to read as follows:

(1) Except as otherwise provided in this section, any person ~~((rendering services))~~ earning apportionable income taxable under ~~((RCW 82.04.290 or 82.04.2908))~~ this chapter and ~~((maintaining places of business both within and~~

~~without this state which contribute to the rendition of such services shall)) also taxable in another state, must, for the purpose of computing tax liability under ((RCW 82.04.290 or 82.04.2908)) this chapter, apportion to this state, in accordance with section 105 of this act, that portion of the person's ((gross)) apportionable income ((which is)) derived from ((services rendered)) business activities performed within this state. ~~((Where such apportionment cannot be accurately made by separate accounting methods, the taxpayer shall apportion to this state that proportion of the taxpayer's total income which the cost of doing business within the state bears to the total cost of doing business both within and without the state.))~~~~

(2) ~~((Notwithstanding the provision of subsection (1) of this section, persons doing business both within and without the state who receive gross income from service charges, as defined in RCW 63.14.010 (relating to amounts charged for granting the right or privilege to make deferred or installment payments) or who receive gross income from engaging in business as financial institutions within the scope of chapter 82.14A RCW (relating to city taxes on financial institutions) shall apportion or allocate gross income taxable under RCW 82.04.290 to this state pursuant to rules promulgated by the department consistent with uniform rules for apportionment or allocation developed by the states.))~~ The department must by rule provide a method of apportioning the apportionable income of financial institutions, where such apportionable income is taxable under RCW 82.04.290. The rule adopted by the department must, to the extent feasible, be consistent with the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, except that:

(a) The department's rule must provide for a single factor apportionment method based on the receipts factor; and

(b) The definition of "financial institution" contained in appendix A to the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions is advisory only.

(3) ~~The department ((shall)) may by rule provide a method or methods of apportioning or allocating gross income derived from sales of telecommunications service and competitive telephone service((s)) taxed under this chapter, if the gross proceeds of sales subject to tax under this chapter do not fairly represent the extent of the taxpayer's income attributable to this state. ((The rules shall be, so far as feasible, consistent with the methods of apportionment contained in this section and shall require the consideration of those facts, circumstances, and apportionment factors as will result in an equitable and constitutionally permissible division of the services.))~~ The rule must provide for an equitable and constitutionally permissible division of the tax base.

(4) For purposes of this section, the following definitions apply unless the context clearly requires otherwise:

(a) "Apportionable income" means gross income of the business generated from engaging in apportionable activities, including income received from apportionable activities performed outside this state if the income would be taxable under this chapter if received from activities in this state, less the

exemptions and deductions allowable under this chapter. For purposes of this subsection, "apportionable activities" means only those activities taxed under:

(i) RCW 82.04.255;

(ii) RCW 82.04.260 (3), (4), (5), (6), (7), (8), (9), and (12);

(iii) RCW 82.04.280(5);

(iv) RCW 82.04.285;

(v) RCW 82.04.286;

(vi) RCW 82.04.290;

(vii) RCW 82.04.2907;

(viii) RCW 82.04.2908;

(ix) RCW 82.04.263, but only to the extent of any activity that would be taxable under any of the provisions enumerated under (a)(i) through (viii) of this subsection (4) if the tax classification in RCW 82.04.263 did not exist; and

(x) RCW 82.04.260(13) and 82.04.280(1), but only with respect to advertising.

(b)(i) "Taxable in another state" means that the taxpayer is subject to a business activities tax by another state on its income received from engaging in apportionable activities; or the taxpayer is not subject to a business activities tax by another state on its income received from engaging in apportionable activities, but any other state has jurisdiction to subject the taxpayer to a business activities tax on such income under the substantial nexus standards in section 104(1) of this act.

(ii) For purposes of this subsection (4)(b), "business activities tax" and "state" have the same meaning as in section 105 of this act.

**Sec. 109.** RCW 82.04.080 and 1961 c 15 s 82.04.080 are each amended to read as follows:

(1) "Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

(2) Financial institutions must determine gains realized from trading in stocks, bonds, and other evidences of indebtedness on a net annualized basis. For purposes of this subsection, a financial institution means a person within the scope of the rule adopted by the department under the authority of RCW 82.04.460(2).

**NEW SECTION. Sec. 110.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts received by a financial institution from an affiliated person if the amounts are received from transactions that are required to be at arm's length under sections 23A or 23B of the federal reserve act as existing on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with



the purposes of this section. For purposes of this subsection, "financial institution" has the same meaning as in RCW 82.04.080.

(2) As used in this section, "affiliated" means under common control. "Common control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

NEW SECTION. Sec. 111. A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts received by investment conduits or securitization entities from cash and securities.

(2) For purposes of this section, the following definitions apply:

(a) "Investment conduit" means an entity formed by a financial institution as defined in RCW 82.04.080 for the express purpose of holding or owning cash or securities if the entity formed:

(i) Has no employees;

(ii) Has no direct profit-making motive;

(iii) Owns no tangible assets, other than cash or securities;

(iv) Holds or owns cash or securities solely as a conduit, allocating its income to holders of its ownership interests; and

(v) Has, within twelve months of its organization or initial capitalization date, issued ownership interests to other than affiliated persons, equal to or greater than twenty-five percent of its total issued ownership interests.

(b) "Securities" has the same meaning as in section 2 of the securities act of 1933 and includes eligible assets as defined by Rule 3a-7 of the investment company act, as the law and rule exist on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(c) "Securitization entity" means an entity created by a bank holding company if the entity created:

(i) Has no employees;

(ii) Has no direct profit-making motive;

(iii) Owns no tangible assets, other than cash, fixed or revolving discrete pools of credit or charge card receivables originated by a financial institution, or securities;

(iv) Acts solely as a conduit, allocating its income to holders of its ownership interests; and

(v) Has as its sole business activities the:

(A) Acquisition of such discrete pools of credit or charge card receivables; and

(B) Issuance or causing the issuance of securities primarily to persons not affiliated with the entity.

(d) "Bank holding company" has the same meaning as provided in the bank holding company act of 1956, as existing on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(e) "No direct profit-making motive" means that all of an entity's income, less a reasonable servicing fee, is paid to holders of its ownership interests.

(f) "Ownership interest" means interests categorized as debt or equity for purposes of federal tax or generally accepted accounting principles.

(g) "Affiliated" has the same meaning as in section 110 of this act.

NEW SECTION. Sec. 112. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing tax there may be deducted from the measure of tax interest and fees on loans secured by commercial aircraft primarily used to provide routine air service and owned by:

(a) An air carrier, as defined in RCW 82.42.030, which is primarily engaged in the business of providing passenger air service;

(b) An affiliate of such air carrier; or

(c) A parent entity for which such air carrier is an affiliate.

(2) The deduction authorized under this section is not available to any person who is physically present in this state as determined under section 104(6) of this act.

(3) For purposes of this section, the following definitions apply:

(a) "Affiliate" means a person is "affiliated," as defined in section 110 of this act, with another person; and

(b) "Commercial aircraft" means a commercial airplane as defined in RCW 82.32.550.

## PART II

### Tax Avoidance Transactions

NEW SECTION. Sec. 201. A new section is added to chapter 82.32 RCW to read as follows:

(1) It is the legislature's intent to require all taxpayers to pay their fair share of taxes. To accomplish this purpose, it is the legislature's intent to stop transactions or arrangements that are designed to unfairly avoid taxes.

(2) The department must disregard, for tax purposes, the tax avoidance transactions or arrangements that are described in subsection (3) of this section. The department must deny the tax benefit that would otherwise result from the tax avoidance transaction or arrangement. In determining whether the department must disregard a transaction or arrangement described under subsection (3) of this section, the department may consider:

(a) Whether an arrangement or transaction changes in a meaningful way, apart from its tax effects, the economic positions of the participants in the arrangement when considered as a whole;

(b) Whether substantial nontax reasons exist for entering into an arrangement or transaction;

(c) Whether an arrangement or transaction is a reasonable means of accomplishing a substantial nontax purpose;

(d) An entities' relative contributions to the work that generates income;

(e) The location where work is performed; and

(f) Other relevant factors.

(3) This section applies only to the following transactions or arrangements:

(a) Arrangements that are, in form, a joint venture or similar arrangement between a construction contractor and the owner or developer of a construction project but that are, in substance, substantially guaranteed payments for the

purchase of construction services characterized by a failure of the parties' agreement to provide for the contractor to share substantial profits and bear significant risk of loss in the venture;

(b) Arrangements through which a taxpayer attempts to avoid tax under chapter 82.04 RCW by disguising income received, or otherwise avoiding tax on income, from a person that is not affiliated with the taxpayer from business activities that would be taxable in Washington by moving that income to another entity that would not be taxable in Washington; and

(c) Arrangements through which a taxpayer attempts to avoid tax under chapter 82.08 or 82.12 RCW by engaging in a transaction to disguise its purchase or use of tangible personal property by vesting legal title or other ownership interest in another entity over which the taxpayer exercises control in such a manner as to effectively retain control of the tangible personal property.

(4) In determining whether a transaction or arrangement comes within the scope of subsection (3) of this section, the department is not required to prove a taxpayer's subjective intent in engaging in the transaction or arrangement.

(5) The department must adopt rules to assist in determining whether a transaction or arrangement is within the scope of subsection (3) of this section. The adoption of a rule as required under this subsection is not a condition precedent for the department's exercise of the authority provided in this section. Any rules adopted under this section must include examples of transactions that the department will disregard for tax purposes.

(6) This section does not affect the department's authority to apply any other remedies available under statutory or common law.

(7) For purposes of this section, "affiliated" means under common control. "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

**NEW SECTION. Sec. 202.** A new section is added to chapter 82.32 RCW to read as follows:

(1)(a) The department may not use section 201 of this act to disregard any transaction or arrangement initiated before the effective date of this section, if, in respect to such transaction or arrangement, the taxpayer had reported its tax liability in conformance with either specific written instructions provided by the department to the taxpayer, a determination published under the authority of RCW 82.32.410, or other document made available by the department to the general public.

(b) This section does not apply if the transaction or arrangement engaged in by the taxpayer differs materially from the transaction or arrangement that was addressed in the specific written instructions, published determination, or other document made available by the department to the general public.

(2) Section 201 of this act does not apply to any tax periods ending before May 1, 2010, that were included in a completed field audit conducted by the department.

(3) For purposes of this section, "specific written instructions" means tax reporting instructions provided to a taxpayer and which specifically identify the taxpayer to whom the instructions apply. Specific written instructions may be

provided as part of an audit, tax assessment, determination, closing agreement, or in response to a binding ruling request.

**Sec. 203.** RCW 82.32.090 and 2006 c 256 s 6 are each amended to read as follows:

(1) If payment of any tax due on a return to be filed by a taxpayer is not received by the department of revenue by the due date, there ~~((shall be))~~ is assessed a penalty of five percent of the amount of the tax; and if the tax is not received on or before the last day of the month following the due date, there ~~((shall be))~~ is assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if the tax is not received on or before the last day of the second month following the due date, there ~~((shall be))~~ is assessed a total penalty of twenty-five percent of the amount of the tax under this subsection. No penalty so added shall be less than five dollars.

(2) If the department of revenue determines that any tax has been substantially underpaid, there ~~((shall be))~~ is assessed a penalty of five percent of the amount of the tax determined by the department to be due. If payment of any tax determined by the department to be due is not received by the department by the due date specified in the notice, or any extension thereof, there ~~((shall be))~~ is assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if payment of any tax determined by the department to be due is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, there ~~((shall be))~~ is assessed a total penalty of twenty-five percent of the amount of the tax under this subsection. No penalty so added ~~((shall))~~ may be less than five dollars. As used in this section, "substantially underpaid" means that the taxpayer has paid less than eighty percent of the amount of tax determined by the department to be due for all of the types of taxes included in, and for the entire period of time covered by, the department's examination, and the amount of underpayment is at least one thousand dollars.

(3) If a warrant ~~((be))~~ is issued by the department of revenue for the collection of taxes, increases, and penalties, there ~~((shall be))~~ is added thereto a penalty of ten percent of the amount of the tax, but not less than ten dollars.

(4) If the department finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the department a registration certificate as required by RCW 82.32.030, the department ~~((shall))~~ must impose a penalty of five percent of the amount of tax due from that person for the period that the person was not registered as required by RCW 82.32.030. The department ~~((shall))~~ may not impose the penalty under this subsection (4) if a person who has engaged in business taxable under this title without first having registered as required by RCW 82.32.030, prior to any notification by the department of the need to register, obtains a registration certificate from the department.

(5) If the department finds that all or any part of a deficiency resulted from the disregard of specific written instructions as to reporting or tax liabilities, the department ~~((shall))~~ must add a penalty of ten percent of the amount of the additional tax found due because of the failure to follow the instructions. A taxpayer disregards specific written instructions when the department ~~((of revenue))~~ has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless the

department has not issued final instructions because the matter is under appeal pursuant to this chapter or departmental regulations. The department ~~((shall))~~ may not assess the penalty under this section upon any taxpayer who has made a good faith effort to comply with the specific written instructions provided by the department to that taxpayer. Specific written instructions may be given as a part of a tax assessment, audit, determination, or closing agreement, provided that such specific written instructions ~~((shall))~~ apply only to the taxpayer addressed or referenced on such documents. Any specific written instructions by the department ~~((of revenue shall))~~ must be clearly identified as such and ~~((shall))~~ must inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection.

(6) If the department finds that all or any part of a deficiency resulted from engaging in a disregarded transaction, as described in section 201(3) of this act, the department must assess a penalty of thirty-five percent of the additional tax found to be due as a result of engaging in a transaction disregarded by the department under section 201(2) of this act. The penalty provided in this subsection may be assessed together with any other applicable penalties provided in this section on the same tax found to be due, except for the evasion penalty provided in subsection (7) of this section. The department may not assess the penalty under this subsection if, before the department discovers the taxpayer's use of a transaction described under section 201(3) of this act, the taxpayer discloses its participation in the transaction to the department.

(7) If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable hereunder, a further penalty of fifty percent of the additional tax found to be due ~~((shall))~~ must be added.

~~((7))~~ (8) The penalties imposed under subsections (1) through (4) of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

~~((8))~~ (9) The department ~~((of revenue))~~ may not impose ~~((both))~~ the evasion penalty ~~((and))~~ in combination with the penalty for disregarding specific written instructions or the penalty provided in subsection (6) of this section on the same tax found to be due.

~~((9))~~ (10) 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.

NEW SECTION. Sec. 204. A new section is added to chapter 82.32 RCW to read as follows:

There is hereby created a joint tax avoidance review committee which is a bipartisan committee consisting of three members of the senate, two from the majority caucus and one from the minority caucus, and three members of the house of representatives, two from the majority caucus and one from the minority caucus. The senate members of the committee must be appointed by the majority leader of the senate, and the house members of the committee must be appointed by the speaker of the house. The appointing authorities must also appoint one alternate member from each of the two largest caucuses of each legislative chamber.

(1)(a) Members and alternates must be appointed as soon as possible after the effective date of this section, and their terms continue until such persons no

longer wish to serve on the committee or no longer serve in the legislature, whichever occurs first.

(b) A vacancy must be filled by the appointment of a legislator from the same legislative chamber and caucus as the original appointment. The appropriate appointing authority must make the appointment within thirty days of the vacancy occurring. Former committee members and alternates may be reappointed to the committee.

(2) The committee must choose its chair and vice-chair from among its membership. The committee meets at the call of the chair. The chair of the committee must cause all meeting notices and committee documents to be sent to the committee members and alternates.

(3) Staff support for the committee must be provided by the senate committee services and the house of representatives office of program research.

(4) The committee must:

(a) Generally monitor the department's implementation of Part II of this act, providing timely advice to the department in any rule making undertaken pursuant to the authority granted under section 201 of this act;

(b) Seek input from stakeholders and other legislators as the committee may determine is desirable and useful in the furtherance of its mission herein described;

(c) Review other cases, identified by the department, of tax avoidance transactions not described in section 201 of this act that may represent examples of arrangements that circumvent the policies of this state and thus unfairly avoid taxes;

(d) Consider the need for an explicit statutory construction standard to provide direction to the courts on the interpretation of Part II of this act; and

(e) Provide a report to the fiscal committees of the house of representatives and senate by December 31, 2010, which must include:

(i) Recommended legislation on any matters that the committee deems advisable, including amendments to sections 201, 202, and 203 of this act; and

(ii) Recommendations for future legislative oversight of the department's implementation of sections 201, 202, and 203 of this act.

(5) For the purposes of this section, the disclosure of otherwise confidential tax information to the members of the committee is deemed to fall within the exception provided by RCW 82.32.330(3)(d).

(6) This section expires July 1, 2011.

**NEW SECTION. Sec. 205.** (1) The legislature finds that this state's tax policy with respect to the taxation of transactions between affiliated entities and the income derived from such transactions (intercompany transactions) has motivated some taxpayers to engage in transactions designed solely or primarily to minimize the tax effects of intercompany transactions. The legislature further finds that some intercompany transactions result from taxpayers that are required to establish affiliated entities to comply with regulatory mandates and that transactions between such affiliates effectively increases the tax burden in this state on the affiliated group of entities.

(2) Therefore, as existing resources allow, the department of revenue is directed to conduct a review of the state's tax policy with respect to the taxation of intercompany transactions. The review must include the impacts of such transactions under the state's business and occupation tax and state and local

sales and use taxes. The department may include other taxes in the review as it deems appropriate.

(3) In conducting the review, the department must examine how this state's tax policy compares to the tax policy of other states with respect to the taxation of intercompany transactions. The department's review must include an analysis of potential alternatives to the current policy of taxing intercompany transactions, including their estimated revenue impacts if practicable.

(4) In conducting this review, the department may seek input from members of the business community and others as it deems appropriate.

(5) The department must report its findings to the fiscal committees of the house of representatives and senate by December 1, 2010. However, if the department has not completed its review by December 1, 2010, the department must provide the fiscal committees of the legislature with a brief status report by December 1, 2010, and the final report by December 1, 2011.

**Sec. 206.** RCW 82.12.020 and 2009 c 535 s 305 are each amended to read as follows:

(1) There is ~~((hereby))~~ levied and ~~((there shall be))~~ collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any:

(a) Article of tangible personal property ~~((purchased at retail, or))~~ acquired by ~~((lease, gift, repossession, or bailment, or extracted or produced or manufactured by the person so using the same, or otherwise furnished to a person engaged in any business taxable under RCW 82.04.280 (2) or (7)))~~ the user in any manner, including tangible personal property acquired at a casual or isolated sale, and including by-products used by the manufacturer thereof, except as otherwise provided in this chapter, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state;

(b) Prewritten computer software, regardless of the method of delivery, but excluding prewritten computer software that is either provided free of charge or is provided for temporary use in viewing information, or both;

(c) Services defined as a retail sale in RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b), excluding services defined as a retail sale in RCW 82.04.050(6)(b) that are provided free of charge;

(d) Extended warranty; or

(e)(i) Digital good, digital code, or digital automated service, including the use of any services provided by a seller exclusively in connection with digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(ii) With respect to the use of digital goods, digital automated services, and digital codes acquired by purchase, the tax imposed in this subsection (1)(e) applies in respect to:

(A) Sales in which the seller has granted the purchaser the right of permanent use;

(B) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(C) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(D) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(iii) With respect to digital goods, digital automated services, and digital codes acquired other than by purchase, the tax imposed in this subsection (1)(e) applies regardless of whether or not the consumer has a right of permanent use or is obligated to make continued payment as a condition of use.

(2) The provisions of this chapter do not apply in respect to the use of any article of tangible personal property, extended warranty, digital good, digital code, digital automated service, or service taxable under RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b), if the sale to, or the use by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(3)(a) Except as provided in this section, payment of the tax imposed by this chapter or chapter 82.08 RCW by one purchaser or user of tangible personal property, extended warranty, digital good, digital code, digital automated service, or other service does not have the effect of exempting any other purchaser or user of the same property, extended warranty, digital good, digital code, digital automated service, or other service from the taxes imposed by such chapters.

(b) The tax imposed by this chapter does not apply:

(i) If the sale to, or the use by, the present user or his or her bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by his or her bailor or donor;

(ii) In respect to the use of any article of tangible personal property acquired by bailment and the tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 RCW or this chapter as of the time of first use;

(iii) In respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and the original bailment was prior to June 9, 1961; or

(iv) To the use of digital goods or digital automated services, which were obtained through the use of a digital code, if the sale of the digital code to, or the use of the digital code by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(4)(a) Except as provided in (b) of this subsection (4), the tax is levied and must be collected in an amount equal to the value of the article used, value of the digital good or digital code used, value of the extended warranty used, or value of the service used by the taxpayer, multiplied by the applicable rates in effect for the retail sales tax under RCW 82.08.020.

(b) In the case of a seller required to collect use tax from the purchaser, the tax must be collected in an amount equal to the purchase price multiplied by the applicable rate in effect for the retail sales tax under RCW 82.08.020.



(5) For purposes of the tax imposed in this section, "person" includes anyone within the definition of "buyer," "purchaser," and "consumer" in RCW 82.08.010.

**Sec. 207.** RCW 82.45.010 and 2008 c 116 s 3 and 2008 c 6 s 701 are each reenacted and amended to read as follows:

(1) As used in this chapter, the term "sale" ~~((shall have))~~ has its ordinary meaning and ~~((shall))~~ includes any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person at the purchaser's direction, and title to the property is retained by the vendor as security for the payment of the purchase price. The term also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land.

~~(2)(a)~~ The term "sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration.

(b) For the sole purpose of determining whether, pursuant to the exercise of an option, a controlling interest was transferred or acquired within a twelve-month period, the date that the option agreement was executed is the date on which the transfer or acquisition of the controlling interest is deemed to occur. For all other purposes under this chapter, the date upon which the option is exercised is the date of the transfer or acquisition of the controlling interest.

~~(c)~~ For purposes of this subsection, all acquisitions of persons acting in concert ~~((shall))~~ must be aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place. The department ~~((of revenue shall))~~ must adopt standards by rule to determine when persons are acting in concert. In adopting a rule for this purpose, the department ~~((shall))~~ must consider the following:

~~((a))~~ (i) Persons ~~((shall))~~ must be treated as acting in concert when they have a relationship with each other such that one person influences or controls the actions of another through common ownership; and

~~((b))~~ (ii) When persons are not commonly owned or controlled, they ~~((shall))~~ must be treated as acting in concert only when the unity with which the purchasers have negotiated and will consummate the transfer of ownership interests supports a finding that they are acting as a single entity. If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, then the acquisitions ~~((shall be))~~ are considered separate acquisitions.

(3) The term "sale" ~~((shall))~~ does not include:

(a) A transfer by gift, devise, or inheritance.

(b) A transfer of any leasehold interest other than of the type mentioned above.

(c) A cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, or deed in lieu of foreclosure of a mortgage.

(d) The partition of property by tenants in common by agreement or as the result of a court decree.

(e) The assignment of property or interest in property from one spouse or one domestic partner to the other spouse or other domestic partner in accordance with the terms of a decree of dissolution of marriage or state registered domestic partnership or in fulfillment of a property settlement agreement.

(f) The assignment or other transfer of a vendor's interest in a contract for the sale of real property, even though accompanied by a conveyance of the vendor's interest in the real property involved.

(g) Transfers by appropriation or decree in condemnation proceedings brought by the United States, the state or any political subdivision thereof, or a municipal corporation.

(h) A mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment thereof.

(i) Any transfer or conveyance made pursuant to a deed of trust or an order of sale by the court in any mortgage, deed of trust, or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure to satisfy a mortgage or deed of trust.

(j) A conveyance to the federal housing administration or veterans administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veterans administration.

(k) A transfer in compliance with the terms of any lease or contract upon which the tax as imposed by this chapter has been paid or where the lease or contract was entered into prior to the date this tax was first imposed.

(l) The sale of any grave or lot in an established cemetery.

(m) A sale by the United States, this state or any political subdivision thereof, or a municipal corporation of this state.

(n) A sale to a regional transit authority or public corporation under RCW 81.112.320 under a sale/leaseback agreement under RCW 81.112.300.

(o) A transfer of real property, however effected, if it consists of a mere change in identity or form of ownership of an entity where there is no change in the beneficial ownership. These include transfers to a corporation or partnership which is wholly owned by the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner (~~(-PROVIDED, That)~~). However if thereafter such transferee corporation or partnership voluntarily transfers such real property, or such transferor, spouse or domestic partner, or children of the transferor or the transferor's spouse or domestic partner voluntarily transfer stock in the transferee corporation or interest in the transferee partnership capital, as the case may be, to other than ~~((+))~~ (i) the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner, ~~((2))~~ (ii) a trust having the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner as the only beneficiaries at the time of the transfer to the trust, or ~~((3))~~ (iii) a corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner, within three years of the original transfer to which this exemption applies, and the tax on the subsequent

transfer has not been paid within sixty days of becoming due, excise taxes ~~((shall))~~ become due and payable on the original transfer as otherwise provided by law.

(p)(i) A transfer that for federal income tax purposes does not involve the recognition of gain or loss for entity formation, liquidation or dissolution, and reorganization, including but not limited to nonrecognition of gain or loss because of application of ~~((section))~~ 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal revenue code of 1986, as amended.

(ii) However, the transfer described in (p)(i) of this subsection cannot be preceded or followed within a twelve-month period by another transfer or series of transfers, that, when combined with the otherwise exempt transfer or transfers described in (p)(i) of this subsection, results in the transfer of a controlling interest in the entity for valuable consideration, and in which one or more persons previously holding a controlling interest in the entity receive cash or property in exchange for any interest the person or persons acting in concert hold in the entity. This subsection (3)(p)(ii) does not apply to that part of the transfer involving property received that is the real property interest that the person or persons originally contributed to the entity or when one or more persons who did not contribute real property or belong to the entity at a time when real property was purchased receive cash or personal property in exchange for that person or persons' interest in the entity. The real estate excise tax under this subsection (3)(p)(ii) is imposed upon the person or persons who previously held a controlling interest in the entity.

(q) A qualified sale of a manufactured/mobile home community, as defined in RCW 59.20.030, that takes place on or after June 12, 2008, but before December 31, 2018.

**Sec. 208.** RCW 82.45.033 and 1993 sp.s. c 25 s 505 are each amended to read as follows:

(1) As used in this chapter, the term "controlling interest" has the following meaning:

~~((1))~~ (a) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

~~((2))~~ (b) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity.

(2) The department may, at the department's option, enforce the obligation of the seller under this chapter as provided in this subsection (2):

(a) In the transfer or acquisition of a controlling interest as defined in subsection (1)(a) of this section, either against the corporation in which a controlling interest is transferred or acquired, against the person or persons who acquired the controlling interest in the corporation or, when the corporation is not a publicly traded company, against the person or persons who transferred the controlling interest in the corporation; and

(b) In the transfer or acquisition of a controlling interest as defined in subsection (1)(b) of this section, either against the entity in which a controlling interest is transferred or acquired or against the person or persons who transferred or acquired the controlling interest in the entity.

**Sec. 209.** RCW 82.45.070 and 1969 ex.s. c 223 s 28A.45.070 are each amended to read as follows:

The tax (~~herein~~) provided for in this chapter and any interest or penalties thereon (~~shall be~~) is a specific lien upon each (~~piece~~) parcel of real property located in this state that is either sold or that is owned by an entity in which a controlling interest has been transferred or acquired. The lien attaches from the time of sale until the tax (~~shall have been~~) is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages.

**Sec. 210.** RCW 82.45.080 and 1980 c 154 s 3 are each amended to read as follows:

(1) The tax levied under this chapter (~~shall be~~) is the obligation of the seller and the department (~~of revenue~~) may, at the department's option, enforce the obligation through an action of debt against the seller or the department may proceed in the manner prescribed for the foreclosure of mortgages (~~and resort to~~). The department's use of one course of enforcement (~~shall~~) is not (~~be~~) an election not to pursue the other.

(2) For purposes of this section and notwithstanding any other provisions of law, the seller is the parent corporation of a wholly owned subsidiary, when such subsidiary is the transferor to a third-party transferee and the subsidiary is dissolved before paying the tax imposed under this chapter.

**Sec. 211.** RCW 82.45.100 and 2007 c 111 s 112 are each amended to read as follows:

(1) Payment of the tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within one month thereafter (~~shall~~) will bear interest from the time of sale until the date of payment.

(a) Interest imposed before January 1, 1999, (~~shall be~~) is computed at the rate of one percent per month.

(b) Interest imposed after December 31, 1998, (~~shall be~~) is computed on a monthly basis at the rate as computed under RCW 82.32.050(2). The rate so computed (~~shall~~) must be adjusted on the first day of January of each year for use in computing interest for that calendar year. The department (~~of revenue shall~~) must provide written notification to the county treasurers of the variable rate on or before December 1st of the year preceding the calendar year in which the rate applies.

(2) In addition to the interest described in subsection (1) of this section, if the payment of any tax is not received by the county treasurer or the department of revenue, as the case may be, within one month of the date due, there (~~shall be~~) is assessed a penalty of five percent of the amount of the tax; if the tax is not received within two months of the date due, there (~~shall~~) will be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within three months of the date due, there (~~shall~~) will be assessed a total penalty of twenty percent of the amount of the tax. The payment of the penalty described in this subsection (~~shall be~~) is collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.

(3) If the tax imposed under this chapter is not received by the due date, the transferee (~~shall be~~) is personally liable for the tax, along with any interest as provided in subsection (1) of this section, unless(=

~~(a))~~ an instrument evidencing the sale is recorded in the official real property records of the county in which the property conveyed is located~~((=or~~

~~(b) Either the transferor or transferee notifies the department of revenue in writing of the occurrence of the sale within thirty days following the date of the sale)).~~

(4) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department ~~((shall))~~ must assess against the taxpayer the additional amount found to be due plus interest and penalties as provided in subsections (1) and (2) of this section. The department ~~((shall))~~ must notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount and the same ~~((shall))~~ becomes due and ~~((shall))~~ must be paid within thirty days from the date of the notice, or within such further time as the department may provide.

(5) No assessment or refund may be made by the department more than four years after the date of sale except upon a showing of:

(a) Fraud or misrepresentation of a material fact by the taxpayer;

(b) A failure by the taxpayer to record documentation of a sale or otherwise report the sale to the county treasurer; or

(c) A failure of the transferor or transferee to report the sale under RCW 82.45.090(2).

(6) Penalties collected on taxes due under this chapter under subsection (2) of this section and RCW 82.32.090 (2) through ~~((7))~~ (8) ~~((shall))~~ must be deposited in the housing trust fund as described in chapter 43.185 RCW.

**Sec. 212.** RCW 82.45.220 and 2005 c 326 s 3 are each amended to read as follows:

(1) An organization that fails to report a transfer of the controlling interest in the organization under RCW 43.07.390 to the secretary of state and is later determined to be subject to real estate excise taxes due to the transfer, ~~((shall be))~~ is subject to the provisions of RCW 82.45.100 as well as the evasion penalty in RCW 82.32.090~~((6))~~ (7).

(2) Subsection (1) of this section also applies to the failure to report to the secretary of state the granting of an option to acquire an interest in the organization if the exercise of the option would result in a sale as defined in RCW 82.45.010(2).

**Sec. 213.** RCW 43.07.390 and 2005 c 326 s 2 are each amended to read as follows:

(1)(a) The secretary of state ~~((shall))~~ must adopt rules requiring any entity that is required to file an annual report with the secretary of state, including entities under Titles 23, 23B, 24, and 25 RCW, to disclose: (i) Any transfer ~~((is))~~ of the controlling interest ~~((of))~~ in the entity ~~((and any interest in real property));~~ and (ii) the granting of any option to acquire an interest in the entity if the exercise of the option would result in a sale as defined in RCW 82.45.010(2).

(b) The disclosure requirement in this subsection only applies to entities owning an interest in real property located in this state.

(2) This information ~~((shall))~~ must be made available to the department of revenue upon request for the purposes of tracking the transfer of the controlling interest in entities owning real property and to determine when the real estate excise tax is applicable in such cases.

(3) For the purposes of this section, "controlling interest" has the same meaning as provided in RCW 82.45.033.

### PART III Modifying the First Mortgage Deduction

**Sec. 301.** RCW 82.04.4292 and 1980 c 37 s 12 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax by those engaged in banking, loan, security or other financial businesses, ~~((amounts derived from))~~ interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties.

(2) Interest deductible under this section includes the portion of fees charged to borrowers, including points and loan origination fees, that is recognized over the life of the loan as an adjustment to yield in the taxpayer's books and records according to generally accepted accounting principles.

(3) Subsections (1) and (2) of this section notwithstanding, the following is a nonexclusive list of items that are not deductible under this section:

(a) Fees for specific services such as: Document preparation fees; finder fees; brokerage fees; title examination fees; fees for credit checks; notary fees; loan application fees; interest lock-in fees if the loan is not made; servicing fees; and similar fees or amounts;

(b) Fees received in consideration for an agreement to make funds available for a specific period of time at specified terms, commonly referred to as commitment fees;

(c) Any other fees, or portion of a fee, that is not recognized over the life of the loan as an adjustment to yield in the taxpayer's books and records according to generally accepted accounting principles;

(d) Gains on the sale of valuable rights such as service release premiums, which are amounts received when servicing rights are sold; and

(e) Gains on the sale of loans, except deferred loan origination fees and points deductible under subsection (2) of this section, are not to be considered part of the proceeds of sale of the loan.

(4) Notwithstanding subsection (3) of this section, in computing tax there may be deducted from the measure of tax by those engaged in banking, loan, security, or other financial businesses, amounts received for servicing loans primarily secured by first mortgages or trust deeds on nontransient residential properties, including such loans that secure mortgage-backed or mortgage-related securities, but only if:

(a)(i) The loans were originated by the person claiming a deduction under this subsection (4) and that person either sold the loans on the secondary market or securitized the loans and sold the securities on the secondary market; or

(ii)(A) The person claiming a deduction under this subsection (4) acquired the loans from the person that originated the loans through a merger or acquisition of substantially all of the assets of the person who originated the loans, or the person claiming a deduction under this subsection (4) is affiliated with the person that originated the loans. For purposes of this subsection, "affiliated" means under common control. "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause

the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise; and

(B) Either the person who originated the loans or the person claiming a deduction under this subsection (4) sold the loans on the secondary market or securitized the loans and sold the securities on the secondary market; and

(b) The amounts received for servicing the loans are determined by a percentage of the interest paid by the borrower and are only received if the borrower makes interest payments.

#### PART IV

#### Direct Seller Business and Occupation Tax Exemption

NEW SECTION. Sec. 401. (1) A business and occupation tax exemption is provided in RCW 82.04.423 for certain out-of-state sellers that sell consumer products exclusively to or through a direct seller's representative. The intent of the legislature in enacting this exemption was to provide a narrow exemption for out-of-state businesses engaged in direct sales of consumer products, typically accomplished through in-home parties or door-to-door selling.

(2) In *Dot Foods, Inc. v. Dep't of Revenue*, Docket No. 81022-2 (September 10, 2009), the Washington supreme court held that the exemption in RCW 82.04.423 applied to a taxpayer: (a) That sold nonconsumer products through its representative in addition to consumer products; and (b) whose consumer products were ultimately sold at retail in permanent retail establishments.

(3) The legislature finds that most out-of-state businesses selling consumer products in this state will either be eligible for the exemption under RCW 82.04.423 or could easily restructure their business operations to qualify for the exemption. As a result, the legislature expects that the broadened interpretation of the direct sellers' exemption will lead to large and devastating revenue losses. This comes at a time when the state's existing budget is facing a two billion six hundred million dollar shortfall, which could grow, while at the same time the demand for state and state-funded services is also growing. Moreover, the legislature further finds that RCW 82.04.423 provides preferential tax treatment for out-of-state businesses over their in-state competitors and now creates a strong incentive for in-state businesses to move their operations outside Washington.

(4) Therefore, the legislature finds that it is necessary to reaffirm the legislature's intent in establishing the direct sellers' exemption and prevent the loss of revenues resulting from the expanded interpretation of the exemption by amending RCW 82.04.423 retroactively to conform the exemption to the original intent of the legislature and by prospectively ending the direct sellers' exemption as of the effective date of this section.

**Sec. 402.** RCW 82.04.423 and 1983 1st ex.s. c 66 s 5 are each amended to read as follows:

(1) Prior to the effective date of this section, this chapter ((shall)) does not apply to any person in respect to gross income derived from the business of making sales at wholesale or retail if such person:

(a) Does not own or lease real property within this state; and

(b) Does not regularly maintain a stock of tangible personal property in this state for sale in the ordinary course of business; and

(c) Is not a corporation incorporated under the laws of this state; and  
(d) Makes sales in this state exclusively to or through a direct seller's representative.

(2) For purposes of this section, the term "direct seller's representative" means a person who buys only consumer products on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or otherwise than in a permanent retail establishment, or who sells at retail, or solicits the sale at retail of, only consumer products in the home or otherwise than in a permanent retail establishment; and

(a) Substantially all of the remuneration paid to such person, whether or not paid in cash, for the performance of services described in this subsection is directly related to sales or other output, including the performance of services, rather than the number of hours worked; and

(b) The services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such purposes for federal tax purposes.

(3) Nothing in this section (~~shall~~) may be construed to imply that a person exempt from tax under this section was engaged in a business activity taxable under this chapter prior to (~~the enactment of this section~~) August 23, 1983.

#### PART V

#### **Business and Occupation Tax Preferences for Manufacturers of Products Derived from Certain Agricultural Products**

NEW SECTION. Sec. 501. (1)(a) In 1967, the legislature amended RCW 82.04.260 in chapter 149, Laws of 1967 ex. sess. to authorize a preferential business and occupation tax rate for slaughtering, breaking, and/or processing perishable meat products and/or selling the same at wholesale. The legislature finds that RCW 82.04.260(4) was interpreted by the state supreme court on January 13, 2005, in *AgriLink Foods, Inc. v. Department of Revenue*, 153 Wn.2d 392 (2005). The supreme court held that the preferential business and occupation tax rate on the slaughtering, breaking, and/or processing of perishable meat products applied to the processing of perishable meat products into nonperishable finished products, such as canned food.

(b) The legislature intends to narrow the exemption provided for slaughtering, breaking, and/or processing perishable meat products and/or selling such products at wholesale by requiring that the end product be a perishable meat product; a nonperishable meat product that is comprised primarily of animal carcass by weight or volume, other than a canned meat product; or a meat by-product.

(2)(a) A business and occupation tax exemption is provided for (i) manufacturing by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, and (ii) selling such products at wholesale by the manufacturer to purchasers who transport the goods out of state in the ordinary course of business. This exemption expires July 1, 2012, and is replaced by a preferential business and occupation tax rate.

(b) The legislature finds that the rationale of the *AgriLink* decision, if applied to these tax preferences, could result in preferential tax treatment for any



processed food product that contained any fresh fruit or vegetable as an ingredient, however small the amount.

(c) The legislature intends to narrow the tax preference provided to fruit and vegetable manufacturers by requiring that the end product be comprised either (i) exclusively of fruits and/or vegetables, or (ii) of any combination of fruits, vegetables, and certain other substances that, cumulatively, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

NEW SECTION. Sec. 502. A new section is added to chapter 82.04 RCW to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Perishable meat products, by slaughtering, breaking, or processing, if the finished product is a perishable meat product; as to such persons the tax imposed is equal to the value of the perishable meat products manufactured, or, in the case of a processor for hire, the gross income of the business, multiplied by the rate of 0.138 percent;

(b) Meat products, by dehydration, curing, smoking, or any combination of these activities, if the finished meat products are not canned; as to such persons the tax imposed is equal to the value of the meat products manufactured, or, in the case of a processor for hire, the gross income of the business, multiplied by the rate of 0.138 percent;

(c) Hides, tallow, meat meal, and other similar meat by-products, if such products are derived in part from animals and manufactured in a rendering plant licensed under chapter 16.68 RCW; as to such persons the tax imposed is equal to the value of the products manufactured, or, in the case of a processor for hire, the gross income of the business, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of selling at wholesale:

(a) Perishable meat products; 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;

(b) Meat products that have been manufactured by the seller by dehydration, curing, smoking, or any combination of such activities, if the finished meat products are not canned; 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;

(c) Hides, tallow, meat meal, and other similar meat by-products, if such products are derived in part from animals and manufactured by the seller in a rendering plant; 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.

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

(a) "Animal" means all members of the animal kingdom except humans, fish, and insects.

(b) "Carcass" means all or any parts, including viscera, of a slaughtered animal.

(c) "Fish" means any water-breathing animal, including shellfish.

(d) "Hide" means any unprocessed animal pelt or skin.

(e)(i) "Meat products" means:

(A) Products comprised exclusively of animal carcass; and

(B) Products, such as jerky, sausage, and other cured meat products, that are comprised primarily of animal carcass by weight or volume and may also contain water; nitrates; nitrites; acids; binders and extenders; natural or synthetic casings; colorings; flavorings such as soy sauce, liquid smoke, seasonings, citric acid, sugar, molasses, corn syrup, and vinegar; and similar substances.

(ii) Except as provided in (e)(i) of this subsection (3), "meat products" does not include products containing any cereal grains or cereal-grain products, dairy products, legumes and legume products, fruit or vegetable products as defined in RCW 82.04.260, and similar ingredients, unless the ingredient is used as a flavoring. For purposes of this subsection, "flavoring" means a substance that contains the flavoring constituents derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf, or any other edible substance of plant origin, whose primary function in food is flavoring or seasoning rather than nutritional, and which may legally appear as "natural flavor," "flavor," or "flavorings" in the ingredient statement on the label of the meat product.

(iii) "Meat products" includes only products that are intended for human consumption as food or animal consumption as feed.

(f) "Perishable" means having a high risk of spoilage within thirty days of manufacture without any refrigeration or freezing.

(g) "Rendering plant" means any place of business or location where dead animals or any part or portion thereof, or packing house refuse, are processed for the purpose of obtaining the hide, skin, grease residue, or any other by-product whatsoever.

**Sec. 503.** RCW 82.04.4266 and 2006 c 354 s 3 are each amended to read as follows:

(1) This chapter (~~shall~~) does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing fruit(~~s~~) or vegetable(~~s~~) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) Selling at wholesale fruit(~~s~~) or vegetable(~~s~~) products 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)(a) "Fruit or vegetable products" means:

(i) Products comprised exclusively of fruits, vegetables, or both; and

(ii) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

(b) "Fruit or vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed.

(3) This section expires July 1, 2012.

**Sec. 504.** RCW 82.04.4266 and 2010 c 114 (SHB 3066) s 111 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 fruit((s)) or vegetable((s)) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) Selling at wholesale fruit((s)) or vegetable((s)) products 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)(a) "Fruit or vegetable products" means:

(i) Products comprised exclusively of fruits, vegetables, or both; and

(ii) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

(b) "Fruit or vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed.

(3) A person claiming the exemption provided in this section must file a complete annual survey with the department under RCW 82.32.— (section 102, chapter 114 (SHB 3066), Laws of 2010).

~~((3))~~ (4) This section expires July 1, 2012.

**Sec. 505.** RCW 82.04.260 and 2009 c 479 s 64, 2009 c 461 s 1, and 2009 c 162 s 34 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 ~~((shall be))~~ 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, 2012, 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 ~~((shall be))~~ 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) Beginning July 1, 2012, 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; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed (~~shall be~~) 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;

(d)(i) Beginning July 1, 2012, fruit((s)) or vegetable((s)) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruit((s)) or vegetable((s)) products 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 (~~shall be~~) 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, "fruit or vegetable products" means:

(A) Products comprised exclusively of fruits, vegetables, or both; or

(B) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume;

(iii) "Fruit and vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed;

(e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business (~~shall be~~) is equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business (~~shall be~~) is equal to the value of alcohol fuel or wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(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 (~~shall be~~) 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 (~~shall be~~) 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 shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.~~

~~(5))~~ Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities ~~((shall be))~~ is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((6))~~ (5) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities ~~((shall be))~~ is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((7))~~ (6) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business ~~((shall be))~~ 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 ~~((shall be))~~ 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))~~ (7)(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 ~~((shall be))~~ 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 ~~((shall))~~ must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

~~((9))~~ (8) 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 ~~((shall be))~~ is equal to the gross income of such business multiplied by the rate of 0.484 percent.

~~((10))~~ (9) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities ~~((shall be))~~ 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))~~ (10)(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 ~~((shall))~~, in the case of manufacturers, ~~((be))~~ is 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))~~ is equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through ~~((the later of))~~ June 30, 2007; and

(ii) 0.2904 percent beginning July 1, 2007.

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection ~~((11))~~ (10) 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 ~~((shall))~~, in the case of manufacturers, ~~((be))~~ is 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))~~ is equal to the gross income of the business, multiplied by the rate of 0.2904 percent.

(c) For the purposes of this subsection ~~((11))~~ (10), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection ~~((11))~~ (10) must report as required under RCW 82.32.545.

(e) This subsection ~~((11))~~ (10) does not apply on and after July 1, 2024.

~~((12))~~ (11)(a) Until July 1, 2024, 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 ~~((shall))~~, in the case of extractors, ~~((be))~~ is equal to the value of products, including by-products, extracted, or in the case of extractors for hire, ~~((be))~~ is 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, 2024.

(b) Until July 1, 2024, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber

products or wood products; or (ii) timber products into other timber products or wood products; as to such persons the amount of the tax with respect to the business (~~(shall)~~), in the case of manufacturers, (~~(be)~~) is equal to the value of products, including by-products, manufactured, or in the case of processors for hire, (~~(be)~~) is 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, 2024.

(c) Until July 1, 2024, 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; or (iii) wood products manufactured by that person from timber or timber products; as to such persons the amount of the tax with respect to the business (~~(shall be)~~) is equal to the gross proceeds of sales of the timber, timber products, or wood products 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, 2024.

(d) Until July 1, 2024, 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 (~~(shall be)~~) is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (~~((+2))~~) (11)(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 cellulosic 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 cellulosic products containing primarily, by weight or volume, cellulosic 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 (~~((+2))~~) (11)(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.

~~((13))~~ (12) 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 ~~((shall be))~~ is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

~~((14))~~ (13) 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 0.2904 percent.

**Sec. 506.** RCW 82.04.260 and 2010 c 114 (SHB 3066) s 107 are each 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, 2012, 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) Beginning July 1, 2012, 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; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; 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;

(d)(i) Beginning July 1, 2012, fruit((s)) or vegetable((s)) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruit((s)) or vegetable((s)) products



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, "fruit or vegetable products" means:

(A) Products comprised exclusively of fruits, vegetables, or both; or

(B) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume;

(iii) "Fruit and vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed;

(e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Wood biomass fuel as defined in RCW 82.29A.135; 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.

(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))~~ Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((6))~~ (5) 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))~~ (6) 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))~~ (7)(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))~~ (8) 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))~~ (9) 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))~~ (10)(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.

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection (~~((+H))~~) (10) 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 0.2904 percent.

(c) For the purposes of this subsection (~~((+H))~~) (10), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection (~~((+H))~~) (10) must file a complete annual report with the department under RCW 82.32.— (section 103, chapter 114 (SHB 3066), Laws of 2010).

(e) This subsection (~~((+H))~~) (10) does not apply on and after July 1, 2024.

~~((+2))~~ (11)(a) Until July 1, 2024, 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, 2024.

(b) Until July 1, 2024, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; or (ii) timber products into other timber products or wood products; 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, 2024.

(c) Until July 1, 2024, 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; or (iii) wood products manufactured by that person from timber or timber products; 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, or wood products

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, 2024.

(d) Until July 1, 2024, 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 ~~((42))~~ (11)(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 cellulosic 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 cellulosic products containing primarily, by weight or volume, cellulosic 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 ~~((42))~~ (11)(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 ~~((42))~~ (11) must file a complete annual survey with the department under RCW 82.32.— (section 102, chapter 114 (SHB 3066), Laws of 2010).

~~((13))~~ (12) 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))~~ (13)(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 0.2904 percent.

(b) A person reporting under the tax rate provided in this subsection ~~((14))~~ (13) must file a complete annual report with the department under RCW 82.32.— (section 103, chapter 114 (SHB 3066), Laws of 2010).

**Sec. 507.** RCW 82.04.250 and 2008 c 81 s 5 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of making sales at retail, except persons taxable as retailers under other provisions of this chapter, as to such persons, the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260~~((11))~~ (10) or subsection (3) of this section, as to such persons, the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

(3) Upon every person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and that is engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of .2904 percent.

**Sec. 508.** RCW 82.04.250 and 2010 1st sp.s. c 11 (SSB 6712) s 1 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of making sales at retail, except persons taxable as retailers under other provisions of this chapter, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260~~((11))~~ (10) or subsection (3) of this section, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

(3) Until July 1, 2024, upon every person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and that is engaging within this state in the business of making sales at retail that

are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of .2904 percent.

**Sec. 509.** RCW 82.04.250 and 2007 c 54 s 5 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of making sales at retail, except persons taxable as retailers under other provisions of this chapter, as to such persons, the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260~~((+1+))~~ (10), as to such persons, the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

**Sec. 510.** RCW 82.04.261 and 2007 c 54 s 7 and 2007 c 48 s 4 are each reenacted and amended to read as follows:

(1) In addition to the taxes imposed under RCW 82.04.260~~((+2))~~ (11), a surcharge is imposed on those persons who are subject to any of the taxes imposed under RCW 82.04.260~~((+2))~~ (11). Except as otherwise provided in this section, the surcharge is equal to 0.052 percent. The surcharge is added to the rates provided in RCW 82.04.260~~((+2))~~ (11) (a), (b), (c), and (d). The surcharge and this section expire July 1, 2024.

(2) All receipts from the surcharge imposed under this section ~~((shall))~~ must be deposited into the forest and fish support account created in RCW 76.09.405.

(3)(a) The surcharge imposed under this section ~~((shall be))~~ is suspended if:

(i) Receipts from the surcharge total at least eight million dollars during any fiscal biennium; or

(ii) The office of financial management certifies to the department that the federal government has appropriated at least two million dollars for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington for any federal fiscal year.

(b)(i) The suspension of the surcharge under (a)(i) of this subsection (3) ~~((shall))~~ takes effect on the first day of the calendar month that is at least thirty days after the end of the month during which the department determines that receipts from the surcharge total at least eight million dollars during the fiscal biennium. The surcharge ~~((shall be))~~ is imposed again at the beginning of the following fiscal biennium.

(ii) The suspension of the surcharge under (a)(ii) of this subsection (3) ~~((shall))~~ takes effect on the later of the first day of October of any federal fiscal year for which the federal government appropriates at least two million dollars for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington, or the first day of a calendar month that is at least thirty days following the date that the office of financial management makes a certification

to the department under subsection (5) of this section. The surcharge (~~shall be~~) is imposed again on the first day of the following July.

(4)(a) If, by October 1st of any federal fiscal year, the office of financial management certifies to the department that the federal government has appropriated funds for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington but the amount of the appropriation is less than two million dollars, the department (~~shall~~) must adjust the surcharge in accordance with this subsection.

(b) The department (~~shall~~) must adjust the surcharge by an amount that the department estimates will cause the amount of funds deposited into the forest and fish support account for the state fiscal year that begins July 1st and that includes the beginning of the federal fiscal year for which the federal appropriation is made, to be reduced by twice the amount of the federal appropriation for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington.

(c) Any adjustment in the surcharge (~~shall~~) takes effect at the beginning of a calendar month that is at least thirty days after the date that the office of financial management makes the certification under subsection (5) of this section.

(d) The surcharge (~~shall be~~) is imposed again at the rate provided in subsection (1) of this section on the first day of the following state fiscal year unless the surcharge is suspended under subsection (3) of this section or adjusted for that fiscal year under this subsection.

(e) Adjustments of the amount of the surcharge by the department are final and (~~shall~~) may not be used to challenge the validity of the surcharge imposed under this section.

(f) The department (~~shall~~) must provide timely notice to affected taxpayers of the suspension of the surcharge or an adjustment of the surcharge.

(5) The office of financial management (~~shall~~) must make the certification to the department as to the status of federal appropriations for tribal participation in forest and fish report-related activities.

**Sec. 511.** RCW 82.04.298 and 2008 c 49 s 1 are each amended to read as follows:

(1) The amount of tax with respect to a qualified grocery distribution cooperative's sales of groceries or related goods for resale, excluding items subject to tax under (~~RCW 82.04.260(4)~~) section 502 of this act, to customer-owners of the grocery distribution cooperative is equal to the gross proceeds of sales of the grocery distribution cooperative multiplied by the rate of one and one-half percent.

(2) A qualified grocery distribution cooperative is allowed a deduction from the gross proceeds of sales of groceries or related goods for resale, excluding items subject to tax under (~~RCW 82.04.260(4)~~) section 502 of this act, to customer-owners of the grocery distribution cooperative that is equal to the portion of the gross proceeds of sales for resale that represents the actual cost of the merchandise sold by the grocery distribution cooperative to customer-owners.

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

(a) "Grocery distribution cooperative" means an entity that sells groceries and related items to customer-owners of the grocery distribution cooperative and has customer-owners, in the aggregate, who own a majority of the outstanding ownership interests of the grocery distribution cooperative or of the entity controlling the grocery distribution cooperative. "Grocery distribution cooperative" includes an entity that controls a grocery distribution cooperative.

(b) "Qualified grocery distribution cooperative" means:

(i) A grocery distribution cooperative that has been determined by a court of record of the state of Washington to be not engaged in wholesaling or making sales at wholesale, within the meaning of RCW 82.04.270 or any similar provision of a municipal ordinance that imposes a tax on gross receipts, gross proceeds of sales, or gross income, with respect to purchases made by customer-owners, and subsequently changes its form of doing business to make sales at wholesale of groceries or related items to its customer-owners; or

(ii) A grocery distribution cooperative that has acquired substantially all of the assets of a grocery distribution cooperative described in (b)(i) of this subsection.

(c) "Customer-owner" means a person who has an ownership interest in a grocery distribution cooperative and purchases groceries and related items at wholesale from that grocery distribution cooperative.

(d) "Controlling" means holding fifty percent or more of the voting interests of an entity and having at least equal power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract, or otherwise.

**Sec. 512.** RCW 82.04.334 and 2007 c 48 s 3 are each amended to read as follows:

This chapter does not apply to any sale of standing timber excluded from the definition of "sale" in RCW 82.45.010(3). The definitions in RCW 82.04.260(~~((12))~~) (11) apply to this section.

**Sec. 513.** RCW 82.04.440 and 2006 c 300 s 8 and 2006 c 84 s 6 are each reenacted and amended to read as follows:

(1) Every person engaged in activities that are subject to tax under two or more provisions of RCW 82.04.230 through 82.04.298, inclusive, (~~shall be~~) is taxable under each provision applicable to those activities.

(2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270, 82.04.294(2), or 82.04.260 (1)(~~b~~), (c), (~~((4))~~) or (d), (10), or (11), or ((12)) section 502(2) of this act with respect to selling products in this state, including those persons who are also taxable under RCW 82.04.261, (~~shall be~~) are allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit (~~shall~~) may not exceed the tax liability arising under this chapter with respect to the sale of those products.



(3) Persons taxable as manufacturers under RCW 82.04.240 or 82.04.260 (1)(b) or ~~((12))~~ (11), including those persons who are also taxable under RCW 82.04.261, ~~((shall be))~~ are allowed a credit against those taxes for any extracting taxes paid with respect to extracting the ingredients of the products so manufactured in this state. The amount of the credit ~~((shall))~~ may not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

(4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1), 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), ~~((4,))~~ (10), or (11), or ~~((12))~~ section 502(1) of this act, including those persons who are also taxable under RCW 82.04.261, with respect to extracting or manufacturing products in this state ~~((shall be))~~ are allowed a credit against those taxes for any (i) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, (ii) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or (iii) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount of the credit ~~((shall))~~ may not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(5) For the purpose of this section:

(a) "Gross receipts tax" means a tax:

(i) Which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and

(ii) Which is also not, pursuant to law or custom, separately stated from the sales price.

(b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

(c) "Manufacturing tax" means a gross receipts tax imposed on the act or privilege of engaging in business as a manufacturer, and includes (i) the taxes imposed in RCW 82.04.240, 82.04.2404, 82.04.2909(1), 82.04.260 (1), (2), ~~((4,))~~ (10), and (11), ~~((and (12))~~ section 502(1) of this act, and 82.04.294(1); (ii) the tax imposed under RCW 82.04.261 on persons who are engaged in business as a manufacturer; and (iii) similar gross receipts taxes paid to other states.

(d) "Extracting tax" means a gross receipts tax imposed on the act or privilege of engaging in business as an extractor, and includes (i) the tax imposed on extractors in RCW 82.04.230 and 82.04.260~~((12))~~ (11); (ii) the tax imposed under RCW 82.04.261 on persons who are engaged in business as an extractor; and (iii) similar gross receipts taxes paid to other states.

(e) "Business", "manufacturer", "extractor", and other terms used in this section have the meanings given in RCW 82.04.020 through 82.04.212, notwithstanding the use of those terms in the context of describing taxes imposed by other states.

**Sec. 514.** RCW 82.04.4463 and 2008 c 81 s 8 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for property taxes and leasehold excise taxes paid during the calendar year.

(2) The credit is equal to:

(a)(i)(A) Property taxes paid on buildings, and land upon which the buildings are located, constructed after December 1, 2003, and used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(B) Leasehold excise taxes paid with respect to buildings constructed after January 1, 2006, the land upon which the buildings are located, or both, if the buildings are used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(C) Property taxes or leasehold excise taxes paid on, or with respect to, buildings constructed after June 30, 2008, the land upon which the buildings are located, or both, and used exclusively for aerospace product development or in providing aerospace services, by persons not within the scope of (a)(i)(A) and (B) of this subsection (2) and are: (I) Engaged in manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components; or (II) taxable under RCW 82.04.290(3) or 82.04.250(3); or

(ii) Property taxes attributable to an increase in assessed value due to the renovation or expansion, after: (A) December 1, 2003, of a building used exclusively in manufacturing commercial airplanes or components of such airplanes; and (B) June 30, 2008, of buildings used exclusively for aerospace product development or in providing aerospace services, by persons not within the scope of (a)(ii)(A) of this subsection (2) and are: (I) Engaged in manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components; or (II) taxable under RCW 82.04.290(3) or 82.04.250(3); and

(b) An amount equal to:

(i)(A) Property taxes paid, by persons taxable under RCW 82.04.260(~~((+))~~) ~~(10)~~(a), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

(B) Property taxes paid, by persons taxable under RCW 82.04.260(~~((+))~~) ~~(10)~~(b), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

(C) Property taxes paid, by persons taxable under RCW ~~((82.04.0250(3) {82.04.250(3)})~~ 82.04.250(3) or 82.04.290(3), on computer hardware, computer peripherals, and software exempt under RCW 82.08.975 or 82.12.975 and acquired after June 30, 2008.

(ii) For purposes of determining the amount eligible for credit under (i)(A) and (B) of this subsection (2)(b), the amount of property taxes paid is multiplied by a fraction.

~~((+))~~ (A) The numerator of the fraction is the total taxable amount subject to the tax imposed under RCW 82.04.260(~~((+))~~) ~~(10)~~ (a) or (b) on the applicable business activities of manufacturing commercial airplanes, components of such airplanes, or tooling specifically designed for use in the manufacturing of commercial airplanes or components of such airplanes.

~~((+))~~ (B) The denominator of the fraction is the total taxable amount subject to the tax imposed under all manufacturing classifications in chapter 82.04 RCW.

~~((HH))~~ (C) For purposes of both the numerator and denominator of the fraction, the total taxable amount refers to the total taxable amount required to be reported on the person's returns for the calendar year before the calendar year in which the credit under this section is earned. The department may provide for an alternative method for calculating the numerator in cases where the tax rate provided in RCW 82.04.260~~((HH))~~ (10) for manufacturing was not in effect during the full calendar year before the calendar year in which the credit under this section is earned.

~~((HV))~~ (D) No credit is available under (b)(i)(A) or (B) of this subsection (2) if either the numerator or the denominator of the fraction is zero. If the fraction is greater than or equal to nine-tenths, then the fraction is rounded to one.

~~((V))~~ (E) As used in ~~((HH))~~ (b)(ii)(C) of this subsection (2)~~((b)(ii)(C))~~, "returns" means the tax returns for which the tax imposed under this chapter is reported to the department.

(3) The definitions in this subsection apply throughout this section, unless the context clearly indicates otherwise.

(a) "Aerospace product development" has the same meaning as provided in RCW 82.04.4461.

(b) "Aerospace services" has the same meaning given in RCW 82.08.975.

(c) "Commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(4) A credit earned during one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year, but may not be carried over a second year. No refunds may be granted for credits under this section.

(5) In addition to all other requirements under this title, a person taking the credit under this section must report as required under RCW 82.32.545.

(6) This section expires July 1, 2024.

**Sec. 515.** RCW 82.04.4463 and 2010 c 114 (SHB 3066) s 116 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for property taxes and leasehold excise taxes paid during the calendar year.

(2) The credit is equal to:

(a)(i)(A) Property taxes paid on buildings, and land upon which the buildings are located, constructed after December 1, 2003, and used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(B) Leasehold excise taxes paid with respect to buildings constructed after January 1, 2006, the land upon which the buildings are located, or both, if the buildings are used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(C) Property taxes or leasehold excise taxes paid on, or with respect to, buildings constructed after June 30, 2008, the land upon which the buildings are located, or both, and used exclusively for aerospace product development, manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not within the scope of (a)(i)(A) and (B) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260~~((HH))~~ (10)(b), or 82.04.250(3); or

(ii) Property taxes attributable to an increase in assessed value due to the renovation or expansion, after: (A) December 1, 2003, of a building used exclusively in manufacturing commercial airplanes or components of such airplanes; and (B) June 30, 2008, of buildings used exclusively for aerospace product development, manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not within the scope of (a)(ii)(A) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260(~~((+))~~) (10)(b), or 82.04.250(3); and

(b) An amount equal to:

(i)(A) Property taxes paid, by persons taxable under RCW 82.04.260(~~((+))~~) (10)(a), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

(B) Property taxes paid, by persons taxable under RCW 82.04.260(~~((+))~~) (10)(b), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

(C) Property taxes paid, by persons taxable under RCW 82.04.250(3) or 82.04.290(3), on computer hardware, computer peripherals, and software exempt under RCW 82.08.975 or 82.12.975 and acquired after June 30, 2008.

(ii) For purposes of determining the amount eligible for credit under (i)(A) and (B) of this subsection (2)(b), the amount of property taxes paid is multiplied by a fraction.

(A) The numerator of the fraction is the total taxable amount subject to the tax imposed under RCW 82.04.260(~~((+))~~) (10) (a) or (b) on the applicable business activities of manufacturing commercial airplanes, components of such airplanes, or tooling specifically designed for use in the manufacturing of commercial airplanes or components of such airplanes.

(B) The denominator of the fraction is the total taxable amount subject to the tax imposed under all manufacturing classifications in chapter 82.04 RCW.

(C) For purposes of both the numerator and denominator of the fraction, the total taxable amount refers to the total taxable amount required to be reported on the person's returns for the calendar year before the calendar year in which the credit under this section is earned. The department may provide for an alternative method for calculating the numerator in cases where the tax rate provided in RCW 82.04.260(~~((+))~~) (10) for manufacturing was not in effect during the full calendar year before the calendar year in which the credit under this section is earned.

(D) No credit is available under (b)(i)(A) or (B) of this subsection (2) if either the numerator or the denominator of the fraction is zero. If the fraction is greater than or equal to nine-tenths, then the fraction is rounded to one.

(E) As used in (b)(ii)(C) of this subsection (2)(~~((b)(ii))~~), "returns" means the tax returns for which the tax imposed under this chapter is reported to the department.

(3) The definitions in this subsection apply throughout this section, unless the context clearly indicates otherwise.

(a) "Aerospace product development" has the same meaning as provided in RCW 82.04.4461.

(b) "Aerospace services" has the same meaning given in RCW 82.08.975.

(c) "Commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(4) A credit earned during one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year, but may not be carried over a second year. No refunds may be granted for credits under this section.

(5) In addition to all other requirements under this title, a person claiming the credit under this section must file a complete annual report with the department under RCW 82.32.— (section 103, chapter 114 (SHB 3066), Laws of 2010).

(6) This section expires July 1, 2024.

**Sec. 516.** RCW 82.08.806 and 2009 c 461 s 5 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 ~~((shall))~~ **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~~((+4))~~ (13) or 82.04.280(1).

(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 ~~((shall))~~ **must** be disregarded during the period of simultaneous use for purposes of determining whether the computer equipment is used primarily for administrative purposes.

**Sec. 517.** RCW 82.32.550 and 2008 c 81 s 12 are each amended to read as follows:

(1)~~((a) Chapter 1, Laws of 2003 2nd sp. sess. takes effect on the first day of the month in which the governor and a manufacturer of commercial airplanes~~

~~sign a memorandum of agreement regarding an affirmative final decision to site a significant commercial airplane final assembly facility in Washington state. The department shall provide notice of the effective date of chapter 1, Laws of 2003 2nd sp. sess. to affected taxpayers, the legislature, and others as deemed appropriate by the department.~~

~~(b) Chapter 1, Laws of 2003 2nd sp. sess. is contingent upon the siting of a significant commercial airplane final assembly facility in the state of Washington. If a memorandum of agreement under subsection (1) of this section is not signed by June 30, 2005, chapter 1, Laws of 2003 2nd sp. sess. is null and void.~~

~~(c)(i) The rate in RCW 82.04.260(11)(a)(ii) takes effect July 1, 2007.~~

~~(ii) If on December 31, 2007, final assembly of a superefficient airplane has not begun in Washington state, the department shall provide notice of such to affected taxpayers, the legislature, and others as deemed appropriate by the department.~~

~~(2) The definitions in this subsection apply throughout this section.~~

~~(a)) "Commercial airplane" has its ordinary meaning, which is an airplane certified by the federal aviation administration for transporting persons or property, and any military derivative of such an airplane.~~

~~((b)) (2) "Component" means a part or system certified by the federal aviation administration for installation or assembly into a commercial airplane.~~

~~((c) "Final assembly of a superefficient airplane" means the activity of assembling an airplane from components parts necessary for its mechanical operation such that the finished commercial airplane is ready to deliver to the ultimate consumer.~~

~~(d) "Significant commercial airplane final assembly facility" means a location with the capacity to produce at least thirty six superefficient airplanes a year.~~

~~(e) "Siting" means a final decision by a manufacturer to locate a significant commercial airplane final assembly facility in Washington state.~~

~~(f)) (3) "Superefficient airplane" means a twin aisle airplane that carries between two hundred and three hundred fifty passengers, with a range of more than seven thousand two hundred nautical miles, a cruising speed of approximately mach .85, and that uses fifteen to twenty percent less fuel than other similar airplanes on the market.~~

**Sec. 518.** RCW 82.45.195 and 2007 c 48 s 7 are each amended to read as follows:

A sale of standing timber is exempt from tax under this chapter if the gross income from such sale is taxable under RCW 82.04.260(~~((12))~~) (11)(d).

**Sec. 519.** RCW 35.102.150 and 2009 c 461 s 4 are each amended to read as follows:

Notwithstanding RCW 35.102.130, a city that imposes a business and occupation tax must allocate a person's gross income from the activities of printing, and of publishing newspapers, periodicals, or magazines, to the principal place in this state from which the taxpayer's business is directed or managed. As used in this section, the activities of printing, and of publishing newspapers, periodicals, or magazines are those activities to which the tax rates in RCW 82.04.260(~~((14))~~) (13) and 82.04.280(1) apply.

**Sec. 520.** RCW 48.14.080 and 2009 c 535 s 1102 are each amended to read as follows:

(1) As to insurers, other than title insurers and taxpayers under RCW 48.14.0201, the taxes imposed by this title (~~shall be~~) are in lieu of all other taxes, except as otherwise provided in this section.

(2) Subsection (1) of this section does not apply with respect to:

- (a) Taxes on real and tangible personal property;
- (b) Excise taxes on the sale, purchase, use, or possession of (i) real property; (ii) tangible personal property; (iii) extended warranties; (iv) services, including digital automated services as defined in RCW 82.04.192; and (v) digital goods and digital codes as those terms are defined in RCW 82.04.192; and
- (c) The tax imposed in RCW 82.04.260(~~(4)~~) (9), regarding public and nonprofit hospitals.

(3) For the purposes of this section, the term "taxes" includes taxes imposed by the state or any county, city, town, municipal corporation, quasi-municipal corporation, or other political subdivision.

#### PART VI

#### Suspending the Sales and Use Tax Exemption for Livestock Nutrient Equipment and Facilities

**Sec. 601.** RCW 82.08.890 and 2009 c 469 s 601 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales to eligible persons of:

- (a) Qualifying livestock nutrient management equipment;
- (b) Labor and services rendered in respect to installing, repairing, cleaning, altering, or improving qualifying livestock nutrient management equipment; and
- (c)(i) Labor and services rendered in respect to repairing, cleaning, altering, or improving of qualifying livestock nutrient management facilities, or to tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities in the course of repairing, cleaning, altering, or improving of such facilities.

(ii) The exemption provided in this subsection (1)(c) does not apply to the sale of or charge made for: (A) Labor and services rendered in respect to the constructing of new, or replacing previously existing, qualifying livestock nutrient management facilities; or (B) tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities during the course of constructing new, or replacing previously existing, qualifying livestock nutrient management facilities.

(2) The exemption provided in subsection (1) of this section applies to sales made after the livestock nutrient management plan is: (a) Certified under chapter 90.64 RCW; (b) approved as part of the permit issued under chapter 90.48 RCW; or (c) approved as required under subsection (4)(c)(iii) of this section.

(3)(a) The department of revenue must provide an exemption certificate to an eligible person upon application by that person. The department of agriculture must provide a list of eligible persons, as defined in subsection (4)(c)(i) and (ii) of this section, to the department of revenue. Conservation

districts must maintain lists of eligible persons as defined in subsection (4)(c)(iii) of this section to allow the department of revenue to verify eligibility. The application must be in a form and manner prescribed by the department and must contain information regarding the location of the dairy or animal feeding operation and other information the department may require.

(b) A person claiming an exemption under this section must keep records necessary for the department to verify eligibility under this section. The exemption is available only when the buyer 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.

(4) The definitions in this subsection apply to this section and RCW 82.12.890 unless the context clearly requires otherwise:

(a) "Animal feeding operation" means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:

(i) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period; and

(ii) Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(b) "Conservation district" means a subdivision of state government organized under chapter 89.08 RCW.

(c) "Eligible person" means a person: (i) Licensed to produce milk under chapter 15.36 RCW who has a certified dairy nutrient management plan, as required by chapter 90.64 RCW; (ii) who owns an animal feeding operation and has a permit issued under chapter 90.48 RCW; or (iii) who owns an animal feeding operation and has a nutrient management plan approved by a conservation district as meeting natural resource conservation service field office technical guide standards and who possesses an exemption certificate under RCW 82.08.855.

(d) "Handling and treatment of livestock manure" means the activities of collecting, storing, moving, or transporting livestock manure, separating livestock manure solids from liquids, or applying livestock manure to the agricultural lands of an eligible person other than through the use of pivot or linear type traveling irrigation systems.

(e) "Permit" means either a state waste discharge permit or a national pollutant discharge elimination system permit, or both.

(f) "Qualifying livestock nutrient management equipment" means the following tangible personal property for exclusive use in the handling and treatment of livestock manure, including repair and replacement parts for such equipment: (i) Aerators; (ii) agitators; (iii) augers; (iv) conveyers; (v) gutter cleaners; (vi) hard-hose reel traveler irrigation systems; (vii) lagoon and pond liners and floating covers; (viii) loaders; (ix) manure composting devices; (x) manure spreaders; (xi) manure tank wagons; (xii) manure vacuum tanks; (xiii) poultry house cleaners; (xiv) poultry house flame sterilizers; (xv) poultry house washers; (xvi) poultry litter saver machines; (xvii) pipes; (xviii) pumps; (xix) scrapers; (xx) separators; (xxi) slurry injectors and hoses; and (xxii) wheelbarrows, shovels, and pitchforks.

(g) "Qualifying livestock nutrient management facilities" means the following structures and facilities for exclusive use in the handling and treatment



of livestock manure: (i) Flush systems; (ii) lagoons; (iii) liquid livestock manure storage structures, such as concrete tanks or glass-lined steel tanks; and (iv) structures used solely for the dry storage of manure, including roofed stacking facilities.

(5) The exemption under this section does not apply to sales made from the effective date of this section through June 30, 2013.

**Sec. 602.** RCW 82.12.890 and 2009 c 469 s 602 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use by an eligible person of:

- (a) Qualifying livestock nutrient management equipment;
- (b) Labor and services rendered in respect to installing, repairing, cleaning, altering, or improving qualifying livestock nutrient management equipment; and
- (c)(i) Tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities in the course of repairing, cleaning, altering, or improving of such facilities.

(ii) The exemption provided in this subsection (1)(c) does not apply to the use of tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities during the course of constructing new, or replacing previously existing, qualifying livestock nutrient management facilities.

(2)(a) To be eligible, the equipment and facilities must be used exclusively for activities necessary to maintain a livestock nutrient management plan.

(b) The exemption applies to the use of tangible personal property and labor and services made after the livestock nutrient management plan is: (i) Certified under chapter 90.64 RCW; (ii) approved as part of the permit issued under chapter 90.48 RCW; or (iii) approved as required under RCW 82.08.890(4)(c)(iii).

(3) The exemption certificate and recordkeeping requirements of RCW 82.08.890 apply to this section. The definitions in RCW 82.08.890 apply to this section.

(4) The exemption under this section does not apply to the use of tangible personal property and services if first use of the property or services in this state occurs from the effective date of this section through June 30, 2013.

## PART VII

### Ending the Preferential Business and Occupation Tax Treatment Received by Directors of Corporations

NEW SECTION. **Sec. 701.** (1) In adopting the state's business and occupation tax, the legislature intended to tax virtually all business activities carried on within the state. See *Simpson Inv. Co. v. Dep't of Revenue*, 141 Wn.2d 139, 149 (2000). The legislature recognizes that the business and occupation tax applies to all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly, unless a specific exemption applies.

(2) One of the major business and occupation tax exemptions is provided in RCW 82.04.360 for income earned as an employee or servant as distinguished from income earned as an independent contractor. The legislature's intent in

providing this exemption was to exempt employee wages from the business and occupation tax but not to exempt income earned as an independent contractor.

(3) The legislature finds that corporate directors are not employees or servants of the corporation whose board they serve on and therefore are not entitled to a business and occupation tax exemption under RCW 82.04.360. The legislature further finds that there are no business and occupation tax exemptions for compensation received for serving as a member of a corporation's board of directors.

(4) The legislature also finds that there is a widespread misunderstanding among corporate directors that the business and occupation tax does not apply to the compensation they receive for serving as a director of a corporation. It is the legislature's expectation that the department of revenue will take appropriate measures to ensure that corporate directors understand and comply with their business and occupation tax obligations with respect to their director compensation. However, because of the widespread misunderstanding by corporate directors of their liability for business and occupation tax on director compensation, the legislature finds that it is appropriate in this unique situation to provide limited relief against the retroactive assessment of business and occupation taxes on corporate director compensation.

(5) The legislature also reaffirms its intent that all income of all independent contractors is subject to business and occupation tax unless specifically exempt under the Constitution or laws of this state or the United States.

**Sec. 702.** RCW 82.04.360 and 2010 c 106 (E2SHB 1597) s 207 are each amended to read as follows:

(1) This chapter does not apply to any person in respect to his or her employment in the capacity of an employee or servant as distinguished from that of an independent contractor. For the purposes of this section, the definition of employee (~~shall~~) includes those persons that are defined in section 3121(d)(3)(B) of the federal internal revenue code of 1986, as amended through January 1, 1991.

(2) Until the effective date of this section, this chapter does not apply to amounts received by an individual from a corporation as compensation for serving as a member of that corporation's board of directors. Beginning on the effective date of this section, such amounts are taxable under RCW 82.04.290(2).

(3) A booth renter is an independent contractor for purposes of this chapter. For purposes of this (~~sub~~)section, "booth renter" means any person who:

(a) Performs cosmetology, barbering, esthetics, or manicuring services for which a license is required under chapter 18.16 RCW; and

(b) Pays a fee for the use of salon or shop facilities and receives no compensation or other consideration from the owner of the salon or shop for the services performed.

## PART VIII Tax Debts

**Sec. 801.** RCW 82.32.145 and 1995 c 318 s 2 are each amended to read as follows:

~~(1) ((Upon termination, dissolution, or abandonment of a corporate or limited liability company business, any officer, member, manager, or other person having control or supervision of retail sales tax funds collected and held in trust under RCW 82.08.050, or who is charged with the responsibility for the filing of returns or the payment of retail sales tax funds collected and held in trust under RCW 82.08.050, shall be personally liable for any unpaid taxes and interest and penalties on those taxes, if such officer or other person willfully fails to pay or to cause to be paid any taxes due from the corporation pursuant to chapter 82.08 RCW. For the purposes of this section, any retail sales taxes that have been paid but not collected shall be deductible from the retail sales taxes collected but not paid.~~

~~For purposes of this subsection "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.~~

~~(2) The officer, member or manager, or other person shall be liable only for taxes collected which)) Whenever the department has issued a warrant under RCW 82.32.210 for the collection of unpaid retail sales tax funds collected and held in trust under RCW 82.08.050 from a limited liability business entity and that business entity has been terminated, dissolved, or abandoned, or is insolvent, the department may pursue collection of the entity's unpaid sales taxes, including penalties and interest on those taxes, against any or all of the responsible individuals. For purposes of this subsection, "insolvent" means the condition that results when the sum of the entity's debts exceeds the fair market value of its assets. The department may presume that an entity is insolvent if the entity refuses to disclose to the department the nature of its assets and liabilities.~~

~~(2) Personal liability under this section may be imposed for state and local sales taxes.~~

~~(3)(a) For a responsible individual who is the current or a former chief executive or chief financial officer, liability under this section applies regardless of fault or whether the individual was or should have been aware of the unpaid sales tax liability of the limited liability business entity.~~

~~(b) For any other responsible individual, liability under this section applies only if he or she willfully fails to pay or to cause to be paid to the department the sales taxes due from the limited liability business entity.~~

~~(4)(a) Except as provided in this subsection (4)(a), a responsible individual who is the current or a former chief executive or chief financial officer is liable under this section only for sales tax liability accrued during the period that he or she was the chief executive or chief financial officer. However, if the responsible individual had the responsibility or duty to remit payment of the limited liability business entity's sales taxes to the department during any period of time that the person was not the chief executive or chief financial officer, that individual is also liable for sales tax liability that became due during the period that he or she had the duty to remit payment of the limited liability business entity's taxes to the department but was not the chief executive or chief financial officer.~~

~~(b) All other responsible individuals are liable under this section only for sales tax liability that became due during the period he or she had the ((control, supervision,)) responsibility(,) or duty to ((act for the corporation described in subsection (1) of this section, plus interest and penalties on those taxes.~~

~~(3))~~ remit payment of the limited liability business entity's taxes to the department.

~~(5)~~ Persons (~~liable under~~) described in subsection ~~((4))~~ (3)(b) of this section are exempt from liability under this section in situations where nonpayment of the (~~retail sales tax funds held in trust~~) limited liability business entity's sales taxes is due to reasons beyond their control as determined by the department by rule.

~~((4))~~ (6) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

~~((5))~~ This section applies only in situations where the department has determined that there is no reasonable means of collecting the retail sales tax funds held in trust directly from the corporation.

~~(6))~~ (7) This section does not relieve the (~~corporation or~~) limited liability (~~company~~) business entity of (~~other tax liabilities~~) its sales tax liability or otherwise impair other tax collection remedies afforded by law.

~~((7))~~ (8) Collection authority and procedures prescribed in this chapter apply to collections under this section.

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

(a) "Chief executive" means: The president of a corporation; or for other entities or organizations other than corporations or if the corporation does not have a president as one of its officers, the highest ranking executive manager or administrator in charge of the management of the company or organization.

(b) "Chief financial officer" means: The treasurer of a corporation; or for entities or organizations other than corporations or if a corporation does not have a treasurer as one of its officers, the highest senior manager who is responsible for overseeing the financial activities of the entire company or organization.

(c) "Limited liability business entity" means a type of business entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity, or a business entity that is managed or owned in whole or in part by an entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity. Limited liability business entities include corporations, limited liability companies, limited liability partnerships, trusts, general partnerships and joint ventures in which one or more of the partners or parties are also limited liability business entities, and limited partnerships in which one or more of the general partners are also limited liability business entities.

(d) "Manager" has the same meaning as in RCW 25.15.005.

(e) "Member" has the same meaning as in RCW 25.15.005, except that the term only includes members of member-managed limited liability companies.

(f) "Officer" means any officer or assistant officer of a corporation, including the president, vice-president, secretary, and treasurer.

(g)(i) "Responsible individual" includes any current or former officer, manager, member, partner, or trustee of a limited liability business entity with an unpaid tax warrant issued by the department.

(ii) "Responsible individual" also includes any current or former employee or other individual, but only if the individual had the responsibility or duty to

remit payment of the limited liability business entity's unpaid sales tax liability reflected in a tax warrant issued by the department.

(iii) Whenever any taxpayer has one or more limited liability business entities as a member, manager, or partner, "responsible individual" also includes any current and former officers, members, or managers of the limited liability business entity or entities or of any other limited liability business entity involved directly in the management of the taxpayer. For purposes of this subsection (9)(g)(iii), "taxpayer" means a limited liability business entity with an unpaid tax warrant issued against it by the department.

(h) "Willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

### PART IX Repealing the Sales and Use Tax Exemptions for Bottled Water and Candy

**Sec. 901.** RCW 82.08.0293 and 2009 c 483 s 2 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 (~~shall~~) does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(2) Until July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section (~~shall~~) does not apply to prepared food, soft drinks, bottled water, candy, or dietary supplements. Beginning July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, candy, or dietary supplements.

(a) "Prepared food" means:

(i) Food sold in a heated state or heated by the seller;

(ii) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(iii) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(A) Food that is only cut, repackaged, or pasteurized by the seller; or

(B) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(b) "Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

(i) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system—United States, 2002";

(ii) Food sold in an unheated state by weight or volume as a single item; or

(iii) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

(d) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(e) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation containing flour and does not require refrigeration.

(f) "Bottled water" means water that is placed in a sealed container or package for human consumption. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section (~~shall apply~~) applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) 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" means a facility:

(i) That meets the definition of a qualified low-income housing project under ~~((Title))~~ 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under ~~((Title))~~ 42 U.S.C. Sec. 1485 ~~((of the federal internal revenue code))~~; and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under ~~((Title))~~ 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine, and in this case the selling price for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) This subsection (4) does not apply to hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

**Sec. 902.** RCW 82.08.0293 and 2010 c 106 (E2SHB 1597) s 216 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(2) Until July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, candy, or dietary supplements. Beginning July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, candy, or dietary supplements. For purposes of this subsection, the following definitions apply:

(a) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

- (A) A vitamin;
  - (B) A mineral;
  - (C) An herb or other botanical;
  - (D) An amino acid;
  - (E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
  - (F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;
    - (ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and
    - (iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.
- (b)(i) "Prepared food" means:
- (A) Food sold in a heated state or heated by the seller;
  - (B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or
  - (C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:
    - (I) Food that is only cut, repackaged, or pasteurized by the seller; or
    - (II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.
  - (ii) "Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:
    - (A) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system—United States, 2002";
    - (B) Food sold in an unheated state by weight or volume as a single item; or
    - (C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.
  - (c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.
  - (d) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation containing flour and does not require refrigeration.
  - (e) "Bottled water" means water that is placed in a sealed container or package for human consumption. Bottled water is calorie free and does not



contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) 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" means a facility:

(i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under 42 U.S.C. Sec. 1485 (~~of the federal internal revenue code~~); and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) For soft drinks and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

**Sec. 903.** RCW 82.12.0293 and 2009 c 483 s 4 are each amended to read as follows:

(1) The provisions of this chapter (~~shall~~) **do** not apply in respect to the use of food and food ingredients for human consumption. "Food and food ingredients" has the same meaning as in RCW 82.08.0293.

(2) Until July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section (~~shall~~) **does** not apply to prepared food, soft drinks, bottled water, candy, or dietary supplements. Beginning July

1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, candy, or dietary supplements. "Prepared food," "soft drinks," (~~and~~) "dietary supplements," "candy," and "bottled water" have the same meanings as in RCW 82.08.0293.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section (~~shall~~) apply to food and food ingredients which are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) Which are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) 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.

NEW SECTION. Sec. 904. A new section is added to chapter 82.08 RCW to read as follows:

(1) Subject to the conditions in this section, the tax levied by RCW 82.08.020 does not apply to sales of bottled water for human use dispensed or to be dispensed to patients, pursuant to a prescription for use in the cure, mitigation, treatment, or prevention of disease or other medical condition. For purposes of this section, "prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to prescribe.

(2) Except for sales of bottled water delivered to the buyer in a reusable container that is not sold with the water, sellers must collect tax on sales subject to this exemption. Any buyer that has paid at least twenty-five dollars in state and local sales taxes on purchases of bottled water subject to this exemption may apply for a refund of the taxes directly from the department in a form and manner prescribed by the department. The department must deny any refund application if the amount of the refund requested is less than twenty-five dollars. No refund may be made for taxes paid more than four years after the end of the calendar year in which the tax was paid to the seller.

(3) The provisions of RCW 82.32.060 apply to refunds authorized under this section.

(4) With respect to sales of bottled water delivered to the buyer in a reusable container that is not sold with the water, buyers claiming the exemption provided in this section must provide 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.

NEW SECTION. Sec. 905. A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter do not apply in respect to the use of bottled water for human use dispensed or to be dispensed to patients, pursuant to a

prescription for use in the cure, mitigation, treatment, or prevention of disease or medical condition. "Prescription" has the same meaning as in section 904 of this act.

**NEW SECTION. Sec. 906.** A new section is added to chapter 82.08 RCW to read as follows:

(1) Subject to the conditions in this section, the tax levied by RCW 82.08.020 does not apply to sales of bottled water for human use to persons who do not otherwise have a readily available source of potable water.

(2) Except for sales of bottled water delivered to the buyer in a reusable container that is not sold with the water, sellers must collect tax on sales subject to this exemption. Any buyer that has paid at least twenty-five dollars in state and local sales taxes on purchases of bottled water subject to this exemption may apply for a refund of the taxes directly from the department in a form and manner prescribed by the department. The department must deny any refund application if the amount of the refund requested is less than twenty-five dollars. No refund may be made for taxes paid more than four years after the end of the calendar year in which the tax was paid to the seller.

(3) The provisions of RCW 82.32.060 apply to refunds authorized under this section.

(4)(a) With respect to sales of bottled water delivered to the buyer in a reusable container that is not sold with the water, buyers claiming the exemption provided in this section must provide 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.

(b) The department may waive the requirement for an exemption certificate in the event of disaster or similar circumstance.

**NEW SECTION. Sec. 907.** A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter do not apply in respect to the use of bottled water for human use by persons who do not otherwise have a readily available source of potable water.

**NEW SECTION. Sec. 908.** A new section is added to chapter 82.04 RCW to read as follows:

(1)(a) Subject to the requirements and limits in this section, candy manufacturers are entitled to a credit against the tax due under this chapter. The credit equals one thousand dollars for:

(i) Each full-time employment position that has been maintained in this state on a full-time basis for a continuous period of at least twelve consecutive months; or

(ii) Each full-time equivalent seasonal employee hired by a seasonal employer.

(b) Once a full-time employment position has been filled, the position does not cease to be maintained for a continuous period solely due to periods in which the position goes vacant, as long as:

(i) The cumulative period of any vacancies in that position is not more than one hundred twenty days in the twelve consecutive month period for which the position must be filled to earn a credit under this section; and

(ii) During any vacancy, the employer is training or actively recruiting a replacement permanent, full-time employee for the position.

(c) For full-time employment positions initially filled before July 1, 2010:

(i) The twelve consecutive month period for which the position must be filled to earn a credit under this section begins on the later of August 1, 2009, or the date that the employment position was initially filled; and

(ii) A second credit may be earned if the employment position is maintained on a full-time basis for an additional twelve consecutive month period.

(2)(a) The credit may only be claimed on a tax return filed electronically with the department using the department's online tax filing service, unless the department grants a waiver for good cause shown. For purposes of this subsection, "good cause" has the same meaning as in RCW 82.32.080(8)(a) (i), (ii), (iii), and (vi) and (b).

(b) Credit may be claimed only on tax returns originally due after July 31, 2010.

(c) The department must disallow any credit claimed on tax returns filed with the department after July 31, 2012.

(3)(a) Credits claimed may not exceed the tax otherwise due under this chapter on the manufacturing and retail or wholesale sale of candy manufactured by the taxpayer.

(b) No refunds may be granted for credits under this section.

(c) The credit provided in this section is in addition to any other credit that may be available to the candy manufacturer with respect to the same employment positions.

(4) No application is necessary for the credit. Candy manufacturers claiming the credit must keep records necessary for the department to verify eligibility under this section.

(5) A candy manufacturer claiming credit under this section must report to the department as provided in RCW 82.32.— (section 103, chapter 114 (SHB 3066), Laws of 2010).

(6) The employment security department must provide to the department such information needed by the department to verify eligibility under this section.

(7) Pursuant to chapter 43.136 RCW, the citizen commission for performance measurement of tax preferences must schedule the credit under this section for a tax preference review by the joint legislative audit and review committee in 2011.

(8) For purposes of this section, the following definitions apply:

(a) "Candy" has the same meaning as in RCW 82.08.0293.

(b) "Candy manufacturer" means a person that manufactures candy. For purposes of this subsection "manufactures" has the same meaning as "to manufacture" in RCW 82.04.120.

(c) "Full-time" means a normal work week of at least thirty-five hours.

(d) "Seasonal employee" means an employee of a seasonal employer who works on a seasonal basis. "Seasonal basis" means a continuous employment period of less than twelve consecutive months.

(e) "Seasonal employer" means a person who regularly hires more than ten percent of its employees to work on a seasonal basis.

NEW SECTION. Sec. 909. If any provision of section 908 of this act or its application to any person or circumstance is held unconstitutional: (1) Section 908 of this act is considered invalid in its entirety; and (2) section 908 of this act and the application of any provision of that section to any person or circumstance is considered null and void and of no effect.

NEW SECTION. Sec. 910. A new section is added to chapter 82.32 RCW to read as follows:

(1) The department must compile a list of products meeting the definition of candy in RCW 82.08.0293 and products that are similar to candy but do not meet that definition. The list must identify each item as either subject to sales or use tax or not subject to sales or use tax. The list will be made in a form and manner prescribed by the department and must be made available on the department's internet web site. The list must also provide information about how to request a binding ruling from the department on the taxability of products not on the list.

(2) In compiling the list described in subsection (1) of this section, the department may:

(a) Evaluate the experiences of other member states of the streamlined sales and use tax agreement that impose retail sales tax on candy;

(b) Accept technical assistance from persons that sell, market, or distribute candy; and

(c) Consider any other resource the department finds useful in compiling the list.

(3) The creation of a list under subsection (1) of this section and any modifications to the list are not subject to the rule-making provisions of chapter 34.05 RCW.

(4) For products that are not identified on the list created by the department under subsection (1) of this section, taxpayers may request a binding written ruling from the department on the taxability of the product.

#### **PART X**

##### **PUD Privilege Tax Clarification**

**Sec. 1001.** RCW 54.28.011 and 1957 c 278 s 12 are each amended to read as follows:

"Gross revenue" (~~shall~~) means the amount received from the sale of electric energy, which also includes any regularly recurring charge billed to consumers as a condition of receiving electric energy, and excluding any tax levied by a municipal corporation upon the district pursuant to RCW 54.28.070.

#### **PART XI**

##### **Temporarily Increasing the Business and Occupation Tax on Service Businesses while Increasing the Small Business Credit for the Same Businesses**

NEW SECTION. Sec. 1101. A new section is added to chapter 82.04 RCW to read as follows:

(1) Beginning May 1, 2010, through June 30, 2013, an additional rate of tax of 0.30 percent is added to the rate provided for in RCW 82.04.255, 82.04.285, and 82.04.290(2)(a).

(2)(a) The additional rate in subsection (1) of this section does not apply to persons engaging within this state in business as a hospital. "Hospital" has the meaning provided in chapter 70.41 RCW but also includes any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW.

(b) The additional rate in subsection (1) of this section does not apply to amounts received from performing scientific research and development services including but not limited to research and development in the physical, engineering, and life sciences (such as agriculture, bacteriological, biotechnology, chemical, life sciences, and physical science research and development laboratories or services).

**Sec. 1102.** RCW 82.04.4451 and 1997 c 238 s 2 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed against the amount of tax otherwise due under this chapter, as provided in this section. ~~((The maximum credit for a taxpayer))~~ Except for taxpayers that report at least fifty percent of their taxable amount under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285, the maximum credit for a taxpayer for a reporting period is thirty-five dollars multiplied by the number of months in the reporting period, as determined under RCW 82.32.045. For a taxpayer that reports at least fifty percent of its taxable amount under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285, the maximum credit for a reporting period is seventy dollars multiplied by the number of months in the reporting period, as determined under RCW 82.32.045.

(2) When the amount of tax otherwise due under this chapter is equal to or less than the maximum credit, a credit is allowed equal to the amount of tax otherwise due under this chapter.

(3) When the amount of tax otherwise due under this chapter exceeds the maximum credit, a reduced credit is allowed equal to twice the maximum credit, minus the tax otherwise due under this chapter, but not less than zero.

(4) The department may prepare a tax credit table consisting of tax ranges using increments of no more than five dollars and a corresponding tax credit to be applied to those tax ranges. The table shall be prepared in such a manner that no taxpayer will owe a greater amount of tax by using the table than would be owed by performing the calculation under subsections (1) through (3) of this section. A table prepared by the department under this subsection ~~((shall))~~ must be used by all taxpayers in taking the credit provided in this section.

**Sec. 1103.** RCW 82.32.045 and 2006 c 256 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within twenty-five days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or

before the last day of the month next succeeding the end of the period covered by the return.

(3) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(4) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns if the following conditions are met:

(a) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than:

(i) Twenty-eight thousand dollars per year; or

(ii) Forty-six thousand six hundred and sixty-seven dollars per year for persons generating at least fifty percent of their taxable amount from activities taxable under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twenty-four thousand dollars per year; and

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect.

## PART XII Property Management Salaries

**Sec. 1201.** RCW 82.04.394 and 1998 c 338 s 2 are each amended to read as follows:

(1) This chapter does not apply to:

(a) Amounts received by a nonprofit property management company from the owner of a property for gross wages and benefits paid directly to or on behalf of on-site personnel from property management trust accounts that are required to be maintained under RCW ((48.85.340)) 18.85.285; or

(b) Amounts received by a property management company from a housing authority for gross wages and benefits paid directly to or on behalf of on-site personnel from property management trust accounts that are required to be maintained under RCW 18.85.285.

(2) ~~((As used in))~~ The definitions in this subsection apply to this section((-)).

(a) "On-site personnel" means a person who meets all of the following conditions: ~~((+))~~ (i) The person works primarily at the owner's property; ~~((+))~~ (ii) the person's duties include leasing property units, maintaining the property, collecting rents, or similar activities; and ~~((+))~~ (iii) under a written property management agreement: ~~((+))~~ (A) The person's compensation is the ultimate obligation of the property owner and not the property manager; ~~((+))~~ (B) the property manager is liable for payment only as agent of the owner; and ~~((+))~~ (C) the property manager is the agent of the owner with respect to the on-site personnel and that all actions, including, but not limited to, hiring, firing, compensation, and conditions of employment, taken by the property manager with respect to the on-site personnel are subject to the approval of the property owner.

(b) "Nonprofit property management company" means a property management company that is exempt from tax under 26 U.S.C. Sec. 501(c) of the federal internal revenue code, as it exists on January 1, 2010.

(c) "Housing authority" means a city or county housing authority created pursuant to chapter 35.82 RCW.

**Sec. 1202.** RCW 82.04.394 and 2010 c 106 (E2SHB 1597) s 209 are each amended to read as follows:

(1) This chapter does not apply to:

(a) Amounts received by a nonprofit property management company from the owner of a property for gross wages and benefits paid directly to or on behalf of on-site personnel from property management trust accounts that are required to be maintained under RCW 18.85.285; or

(b) Amounts received by a property management company from a housing authority for gross wages and benefits paid directly to or on behalf of on-site personnel from property management trust accounts that are required to be maintained under RCW 18.85.285.

(2) ~~((As used in))~~ The definitions in this subsection apply to this section((;)).

(a) "On-site personnel" means a person who meets all of the following conditions: ~~((a))~~ (i) The person works primarily at the owner's property; ~~((b))~~ (ii) the person's duties include leasing property units, maintaining the property, collecting rents, or similar activities; and ~~((c))~~ (iii) under a written property management agreement: ~~((A))~~ (A) The person's compensation is the ultimate obligation of the property owner and not the property manager; ~~((B))~~ (B) the property manager is liable for payment only as agent of the owner; and ~~((C))~~ (C) the property manager is the agent of the owner with respect to the on-site personnel and that all actions, including, but not limited to, hiring, firing, compensation, and conditions of employment, taken by the property manager with respect to the on-site personnel are subject to the approval of the property owner.

(b) "Nonprofit property management company" means a property management company that is exempt from tax under 26 U.S.C. Sec. 501(c) of the federal internal revenue code, as it exists on January 1, 2010.

(c) "Housing authority" means a city or county housing authority created pursuant to chapter 35.82 RCW.

### PART XIII Temporarily Increasing Beer Taxes

**Sec. 1301.** RCW 66.24.290 and 2009 c 479 s 43 are each amended to read as follows:

(1) Any microbrewer or domestic brewery or beer distributor licensed under this title may sell and deliver beer and strong beer to holders of authorized licenses direct, but to no other person, other than the board. Any certificate of approval holder authorized to act as a distributor under RCW 66.24.270 shall pay the taxes imposed by this section.

(a) Every such brewery or beer distributor shall report all sales to the board monthly, pursuant to the regulations, and shall pay to the board as an added tax for the privilege of manufacturing and selling the beer and strong beer within the state a tax of one dollar and thirty cents per barrel of thirty-one gallons on sales



to licensees within the state and on sales to licensees within the state of bottled and canned beer, including strong beer, shall pay a tax computed in gallons at the rate of one dollar and thirty cents per barrel of thirty-one gallons.

(b) Any brewery or beer distributor whose applicable tax payment is not postmarked by the twentieth day following the month of sale will be assessed a penalty at the rate of two percent per month or fraction thereof. Beer and strong beer shall be sold by breweries and distributors in sealed barrels or packages.

(c) The moneys collected under this subsection shall be distributed as follows: (i) Three-tenths of a percent shall be distributed to border areas under RCW 66.08.195; and (ii) of the remaining moneys: (A) Twenty percent shall be distributed to counties in the same manner as under RCW 66.08.200; and (B) eighty percent shall be distributed to incorporated cities and towns in the same manner as under RCW 66.08.210.

(d) Any licensed retailer authorized to purchase beer from a certificate of approval holder with a direct shipment endorsement or a brewery or microbrewery shall make monthly reports to the liquor control board on beer purchased during the preceding calendar month in the manner and upon such forms as may be prescribed by the board.

(2) An additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to two dollars per barrel of thirty-one gallons. All revenues collected during any month from this additional tax shall be deposited in the state general fund by the twenty-fifth day of the following month.

(3)(a) An additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to ninety-six cents per barrel of thirty-one gallons through June 30, 1995, two dollars and thirty-nine cents per barrel of thirty-one gallons for the period July 1, 1995, through June 30, 1997, and four dollars and seventy-eight cents per barrel of thirty-one gallons thereafter.

(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of this exemption.

(c) All revenues collected from the additional tax imposed under this subsection (3) shall be deposited in the state general fund.

(4) An additional tax is imposed on all beer and strong beer that is subject to tax under subsection (1) of this section that is in the first sixty thousand barrels of beer and strong beer by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of the exemption under subsection (3)(b) of this section. The additional tax is equal to one dollar and forty-eight and two-tenths cents per barrel of thirty-one gallons. By the twenty-fifth day of the following month, three percent of the revenues collected from this additional tax shall be distributed to border areas under RCW 66.08.195 and the remaining moneys shall be transferred to the state general fund.

(5)(a) From the effective date of this section through June 30, 2013, an additional tax is imposed on all beer and strong beer subject to tax under

subsection (1) of this section. The additional tax is equal to fifteen dollars and fifty cents per barrel of thirty-one gallons.

(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051 of the federal internal revenue code, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of this exemption.

(c) All revenues collected from the additional tax imposed under this subsection shall be deposited in the state general fund.

(6) The board may make refunds for all taxes paid on beer and strong beer exported from the state for use outside the state.

~~((6))~~ (7) The board may require filing with the board of a bond to be approved by it, in such amount as the board may fix, securing the payment of the tax. If any licensee fails to pay the tax when due, the board may forthwith suspend or cancel his or her license until all taxes are paid.

#### PART XIV

#### Temporarily Imposing Taxes on Carbonated Beverages

NEW SECTION. Sec. 1401. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1)(a) "Carbonated beverage" means any packaged nonalcoholic liquid intended for human consumption that contains carbonation by natural or artificial means and any of the following substances: Caffeine, extracts, fruit juice or concentrated fruit juice, herbs, sweeteners, or syrup. "Packaged" includes cans, bottles, and other similar sealed containers. "Syrup" means a concentrated mixture in either liquid or powdered form that contains sugar or a sugar substitute and that is an ingredient used to make carbonated beverages.

(b) "Carbonated beverage" does not include carbonated bottled water. For the purpose of this subsection, "bottled water" has the same meaning as provided in section 901 of this act.

(2) "Ounce" means United States fluid ounce.

(3) "Previously taxed carbonated beverages" means carbonated beverages to which the tax under this chapter has been previously imposed.

(4) Except for terms defined in this section, the definitions in chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

NEW SECTION. Sec. 1402. (1) From the effective date of this section through June 30, 2013, a tax is imposed on every person for the privilege of selling, at wholesale or retail, carbonated beverages in this state. The rate of the tax is equal to two cents per twelve ounces of carbonated beverages sold in this state.

(2)(a) In calculating the amount of tax due under this section, if the total amount of carbonated beverages sold in this state during the reporting period is not a whole number, the taxable quantity must be rounded as provided in (b) of this subsection.

(b) For a fraction of an ounce that is equal to or greater than one-half ounce, the taxable quantity must be rounded up to the nearest ounce. For a fraction of an ounce that is less than one-half ounce, the taxable quantity must be rounded down to the nearest ounce.

(3) Chapter 82.32 RCW applies to the tax imposed in this section. The tax reporting frequency for the tax imposed in this section must coincide with the taxpayer's reporting frequency for the tax imposed in chapter 82.04 RCW.

(4) The department may require taxpayers to report the taxable quantity of carbonated beverages in units of measure other than ounces.

(5) The tax imposed in this section is in addition to all other taxes imposed in this title on the same taxable event.

**NEW SECTION. Sec. 1403.** (1) The tax imposed in this chapter does not apply to any successive sale of previously taxed carbonated beverages.

(2) Any person claiming the exemption provided in this section must maintain documentation establishing that the carbonated beverages were previously taxed under this chapter. The documentation may be in the form of information on the invoice, or certification from the previous seller, stating: (a) That all or a specific stated portion of the carbonated beverages were previously subject to the tax imposed in this chapter; and (b) the amount of tax remitted or to be remitted to the department in respect of the carbonated beverages.

**NEW SECTION. Sec. 1404.** (1) For each calendar year, the tax imposed in this chapter does not apply in respect to the first ten million dollars of carbonated beverages sold in this state by any bottler as measured by the gross proceeds of sales of carbonated beverages at retail and wholesale by the bottler. If a bottler is affiliated with any other bottler or distributor, the ten million dollar threshold for the exemption in this subsection (1) is based on the combined gross proceeds of sales by all affiliated persons from all sales at wholesale and retail of carbonated beverages in this state during the calendar year.

(2) Successive sales by any person of carbonated beverages exempt under subsection (1) of this section are also exempt from the tax imposed in this chapter. Any person claiming the exemption provided in this subsection (2) must maintain documentation establishing that the carbonated beverages were previously sold in this state by a person exempt under subsection (1) of this section. The documentation may be in the form of information on the invoice, or certification from the previous seller, stating that the carbonated beverages were previously exempt under subsection (1) of this section.

(3) For purposes of this section, the following definitions apply:

(a) "Affiliated" has the same meaning as provided in section 110 of this act.

(b) "Bottler" means a person who bottles, cans, or otherwise packages carbonated beverages in beverage containers.

(c) "Distributor" means a person, other than a bottler, that makes sales at wholesale of carbonated beverages.

**NEW SECTION. Sec. 1405.** The tax imposed in this chapter does not apply to any activity or person that the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States.

**NEW SECTION. Sec. 1406.** This part constitutes a new chapter in Title 82 RCW.

**PART XV**  
**Limiting the Bad Debt Deduction**

NEW SECTION. Sec. 1501. The legislature intends with sections 1502 and 1503 of this act to supersede the holding of the supreme court of the state of Washington in *Puget Sound National Bank v. Department of Revenue*, 123 Wn.2d 284 (1994).

**Sec. 1502.** RCW 82.08.037 and 2007 c 6 s 102 are each amended to read as follows:

(1) A seller is entitled to a credit or refund for sales taxes previously paid on bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003.

(2) For purposes of this section, "bad debts" does not include:

(a) Amounts due on property that remains in the possession of the seller until the full purchase price is paid;

(b) Expenses incurred in attempting to collect debt; ~~((and))~~

(c) Debts sold or assigned by the seller to third parties, where the third party is without recourse against the seller; and

(d) Repossessed property.

(3) If a credit or refund of sales tax is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount collected must be paid and reported on the return filed for the period in which the collection is made.

(4) Payments on a previously claimed bad debt are applied first proportionally to the taxable price of the property or service and the sales or use tax thereon, and secondly to interest, service charges, and any other charges.

(5) If the seller uses a certified service provider as defined in RCW 82.32.020 to administer its sales tax responsibilities, the certified service provider may claim, on behalf of the seller, the credit or refund allowed by this section. The certified service provider must credit or refund the full amount received to the seller.

(6) The department ~~((shall))~~ **must** allow an allocation of bad debts among member states to the streamlined sales tax agreement, as defined in RCW 82.58.010(1), if the books and records of the person claiming bad debts support the allocation.

(7) A person's right to claim a credit or refund under this section is not assignable. No person other than the original seller in the transaction that generated the bad debt or, as provided in subsection (5) of this section, a certified service provider, is entitled to claim a credit or refund under this section. If the original seller in the transaction that generated the bad debt has sold or assigned the debt instrument to a third party with recourse, the original seller may claim a credit or refund under this section only after the debt instrument is reassigned by the third party to the original seller.

**Sec. 1503.** RCW 82.12.037 and 2007 c 6 s 103 are each amended to read as follows:

(1) A seller is entitled to a credit or refund for use taxes previously paid on bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003.

(2) For purposes of this section, "bad debts" does not include:

(a) Amounts due on property that remains in the possession of the seller until the full purchase price is paid;

(b) Expenses incurred in attempting to collect debt; ~~((and))~~

(c) Debts sold or assigned by the seller to third parties, where the third party is without recourse against the seller; and

(d) Repossessed property.

(3) If a credit or refund of use tax is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount collected must be paid and reported on the return filed for the period in which the collection is made.

(4) Payments on a previously claimed bad debt are applied first proportionally to the taxable price of the property or service and the sales or use tax thereon, and secondly to interest, service charges, and any other charges.

(5) If the seller uses a certified service provider as defined in RCW 82.32.020 to administer its use tax responsibilities, the certified service provider may claim, on behalf of the seller, the credit or refund allowed by this section. The certified service provider must credit or refund the full amount received to the seller.

(6) The department ~~((shall))~~ must allow an allocation of bad debts among member states to the streamlined sales and use tax agreement, as defined in RCW 82.58.010(1), if the books and records of the person claiming bad debts support the allocation.

(7) A person's right to claim a credit or refund under this section is not assignable. No person other than the original seller in the transaction that generated the bad debt or, as provided in subsection (5) of this section, a certified service provider, is entitled to claim a credit or refund under this section. If the original seller in the transaction that generated the bad debt has sold or assigned the debt instrument to a third party with recourse, the original seller may claim a credit or refund under this section only after the debt instrument is reassigned by the third party to the original seller.

## PART XVI Data Centers

**Sec. 1601.** RCW 82.08.— and 2010 1st sp.s. c 1 (ESSB 6789) s 2 are each amended to read as follows:

(1) An exemption from the tax imposed by RCW 82.08.020 is provided for sales to qualifying businesses of eligible server equipment to be installed, without intervening use, in an eligible computer data center, and to charges made for labor and services rendered in respect to installing eligible server equipment. The exemption also applies to sales to qualifying businesses of eligible power infrastructure, including labor and services rendered in respect to constructing, installing, repairing, altering, or improving eligible power infrastructure.

(2)(a) In order to claim the exemption under this section, a qualifying business must submit an application to the department for an exemption certificate. The application must include the information necessary, as required by the department, to determine that a business qualifies for the exemption under this section. The department must issue exemption certificates to qualifying

businesses. The department may assign a unique identification number to each exemption certificate issued under this section.

(b) A qualifying business claiming the exemption under this section must present 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)(a) ((A qualifying business must establish))~~ Within six years of the ((first day of the calendar quarter in which the business first receives an exemption under this section or section 3 of this act that it has)) date that the department issued an exemption certificate under this section to a qualifying business with respect to an eligible computer data center, the qualifying business must establish that net employment at the eligible computer data center has increased ((employment in a computer data center)) by a minimum of:

((i) Thirty-five family wage ((jobs from the date the eligible computer data center first became operational)) employment positions; or

((ii) Three family wage employment positions for each twenty thousand square feet of space or less that is newly dedicated to housing working servers at the eligible computer data center. For qualifying businesses that lease space at an eligible computer data center, the number of family wage employment positions that must be increased under this subsection (3)(a)(ii) is based only on the space occupied by the lessee in the eligible computer data center.

((b) In calculating the net increase in family wage employment positions:

((i) The owner of an eligible computer data center, in addition to its own net increase in family wage employment positions, may include:

((A) The net increase in family wage employment positions employed by qualifying businesses leasing space within the eligible computer data center from the owner; and

((B) The net increase in family wage employment positions described in (c)(ii)(B) of this subsection (3).

((ii)(A) Lessees of the owner of an eligible computer data center, in addition to their own net increase in family wage employment positions, may include:

((I) A portion of the net increase in family wage employment positions employed by the owner; and

((II) A portion of the net increase in family wage employment positions described in (c)(ii)(B) of this subsection (3).

((B) The portion of the net increase in family wage employment positions to be counted under this subsection (3)(b)(ii) by each lessee must be in proportion to the amount of space in the eligible computer data center occupied by the lessee compared to the total amount of space in the eligible computer data center occupied by all lessees that are qualifying businesses.

((c)(i) For purposes of this subsection, family wage ((jobs)) employment positions are new permanent employment positions requiring forty hours of weekly work, or their equivalent, on a full-time basis at the eligible computer data center and ((paying)) receiving a wage equivalent to or greater than one hundred fifty percent of the per capita personal income of the county in which the qualified project is located. ((The qualifying business must provide)) An employment position may not be counted as a family wage employment position unless the employment position is entitled to health insurance coverage ((for employees)) provided by the employer of the employment position. For

purposes of this subsection (3)(c). "new permanent employment position" means an employment position that did not exist or that had not previously been filled as of the date that the department issued an exemption certificate to the owner or lessee of an eligible computer data center, as the case may be.

(ii)(A) Family wage employment positions include positions filled by employees of the owner of the eligible computer data center and by employees of qualifying businesses leasing space from the owner of the eligible computer data center.

(B) Family wage employment positions also include individuals performing work at an eligible computer data center as an independent contractor hired by the owner of the eligible computer data center or as an employee of an independent contractor hired by the owner of the eligible computer data center, if the work is necessary for the operation of the computer data center, such as security and building maintenance, and provided that all of the requirements in (c)(i) of this subsection (3) are met.

~~((b))~~ (d) All previously exempted sales and use taxes are immediately due and payable for a qualifying business that does not meet the requirements of this subsection.

(4) A qualifying business claiming an exemption under this section or RCW 82.12.— (section 3, chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.) must complete an annual report with the department as required under section 103, chapter 114 (SHB 3066), Laws of 2010.

(5)(a) The exemption provided in this section does not apply to:

(i) Any person who has received the benefit of the deferral program under chapter 82.60 RCW on: (A) The construction, renovation, or expansion of a structure or structures used as a computer data center; or (B) machinery or equipment used in a computer data center; and

(ii) Any person affiliated with a person within the scope of (a)(i) of this subsection (5). For purposes of this subsection, "affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

(b) If a person claims an exemption under this section and subsequently receives the benefit of the deferral program under chapter 82.60 RCW on either the construction, renovation, or expansion of a structure or structures used as a computer data center or machinery or equipment used in a computer data center, the person must repay the amount of taxes exempted under this section. Interest as provided in chapter 82.32 RCW applies to amounts due under this section until paid in full.

(6) For purposes of this section the following definitions apply unless the context clearly requires otherwise:

(a)(i) "Computer data center" means a facility comprised of one or more buildings, which may be comprised of multiple businesses, constructed or refurbished specifically, and used primarily, to house working servers, where the facility has the following characteristics: (A) Uninterruptible power supplies, generator backup power, or both; (B) sophisticated fire suppression and prevention systems; and (C) enhanced physical security, such as: Restricted access to the facility to selected personnel; permanent security guards; video camera surveillance; an electronic system requiring passcodes, keycards, or

biometric scans, such as hand scans and retinal or fingerprint recognition; or similar security features.

(ii) For a computer data center comprised of multiple buildings, each separate building constructed or refurbished specifically, and used primarily, to house working servers is considered a computer data center if it has all of the characteristics listed in (a)(i)(A) through (C) of this subsection (6).

(iii) A facility comprised of one building or more than one building must have a combined square footage of at least one hundred thousand square feet.

(b) "Electronic data storage and data management services" include, but are not limited to: Providing data storage and backup services, providing computer processing power, hosting enterprise software applications, and hosting web sites. The term also includes providing services such as e-mail, web browsing and searching, media applications, and other online services, regardless of whether a charge is made for such services.

(c)(i) "Eligible computer data center" means a computer data center:

(A) Located in a rural county as defined in RCW 82.14.370;

(B) Having at least twenty thousand square feet dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers; and

(C) For which the commencement of construction occurs after March 31, 2010, and before July 1, 2011. For purposes of this section, "commencement of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for construction of the computer data center. The construction of a computer data center includes the expansion, renovation, or other improvements made to existing facilities, including leased or rented space. "Commencement 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 a computer data center.

(ii) With respect to facilities in existence on April 1, 2010 that are expanded, renovated, or otherwise improved after March 31, 2010, an eligible computer data center includes only the portion of the computer data center meeting the requirements in (c)(i)(B) of this subsection (6).

(d) "Eligible power infrastructure" means all fixtures and equipment necessary for the transformation, distribution, or management of electricity that is required to operate eligible server equipment within an eligible computer data center. The term includes electrical substations, generators, wiring, and cogeneration equipment.

(e) "Eligible server equipment" means the original server equipment installed in an eligible computer data center on or after April 1, 2010, and replacement server equipment. For purposes of this subsection (6)(e), "replacement server equipment" means server equipment that: (i) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.— (section 3, chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.); and (ii) is installed and put into regular use before April 1, 2018.

(f) "Qualifying business" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that is the owner (~~or lessee~~) of an eligible computer data center or the lessee of at least twenty



thousand square feet within an eligible computer data center dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state.

(g) "Server" means blade or rack-mount server computers used in a computer data center exclusively to provide electronic data storage and data management services for internal use by the owner or lessee of the computer data center, for clients of the owner or lessee of the computer data center, or both. "Server" does not include personal computers.

(h) "Server equipment" means the server chassis and all computer hardware contained within the server chassis. "Server equipment" also includes computer software necessary to operate the server. "Server equipment" does not include the racks upon which the server chassis is installed, and computer peripherals such as keyboards, monitors, printers, mice, and other devices that work outside of the computer.

(7) This section expires April 1, 2018.

**Sec. 1602.** RCW 82.12.— and 2010 1st sp.s. c 1 (ESSB 6789) s 3 are each amended to read as follows:

(1) An exemption from the tax imposed by RCW 82.12.020 is provided for the use by qualifying businesses of eligible server equipment to be installed, without intervening use, in an eligible computer data center, and to the use of labor and services rendered in respect to installing such server equipment. The exemption also applies to the use of power infrastructure, including labor and services rendered in respect to installing, repairing, altering, or improving such infrastructure.

(2) A qualifying business is not eligible for the exemption under this section unless the department issued an exemption certificate to the qualifying business for the exemption provided in RCW 82.08.—(section 2, chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.).

(3)(a) The exemption provided in this section does not apply to:

(i) Any person who has received the benefit of the deferral program under chapter 82.60 RCW on: (A) The construction, renovation, or expansion of a structure or structures used as a computer data center; or (B) machinery or equipment used in a computer data center; and

(ii) Any person affiliated with a person within the scope of (a)(i) of this subsection (3). For purposes of this subsection, "affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

(b) If a person has received the benefit of the exemption under this section and subsequently receives the benefit of the deferral program under chapter 82.60 RCW on either the construction, renovation, or expansion of a structure or structures used as a computer data center or machinery or equipment used in a computer data center, the person must repay the amount of taxes exempted under this section. Interest as provided in chapter 82.32 RCW applies to amounts due under this subsection (3)(b) until paid in full. A person is not required to repay

taxes under this subsection with respect to property and services for which the person is required to repay taxes under RCW 82.08.—(section 2, chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.).

(4) The definitions and requirements in RCW 82.08.— (section 2, chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.) apply to this section.

(5) This section expires April 1, 2018.

#### **PART XVII Miscellaneous Provisions**

NEW SECTION. Sec. 1701. If a court of competent jurisdiction, in a final judgment not subject to appeal, adjudges any provision of section 104(1)(c) of this act unconstitutional or otherwise invalid, Part I of this act is null and void in its entirety.

NEW SECTION. Sec. 1702. Part I of this act applies with respect to gross income of the business, as defined in RCW 82.04.080, including gross income from royalties as defined in RCW 82.04.2907, generated on and after June 1, 2010. For purposes of calculating the thresholds in section 104(1)(c) of this act for the 2010 tax year, property, payroll, and receipts are based on the entire 2010 tax year.

NEW SECTION. Sec. 1703. Except as provided in section 202 of this act, section 201 of this act applies to tax periods beginning January 1, 2006.

NEW SECTION. Sec. 1704. Sections 402 and 702 of this act apply both retroactively and prospectively.

NEW SECTION. Sec. 1705. In accordance with Article VIII, section 5 of the state Constitution, sections 702 and 1704 of this act do not authorize refunds of business and occupation tax validly collected before July 1, 2010, on amounts received by an individual from a corporation as compensation for serving as a member of that corporation's board of directors.

NEW SECTION. Sec. 1706. Section 402 of this act does not affect any final judgments, not subject to appeal, entered by a court of competent jurisdiction before the effective date of this section.

NEW SECTION. Sec. 1707. Except as provided in section 1701 of this act, 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. 1708. Except as otherwise provided in this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect May 1, 2010.

NEW SECTION. Sec. 1709. Parts III and XIII and sections 101 through 106, 108 through 112, 501 through 503, 505, 507, 510 through 514, 516 through 519, 901, 903 through 911, and 1201 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 1, 2010.

NEW SECTION. Sec. 1710. Sections 106, 901, and 1201 of this act expire July 1, 2010.

NEW SECTION. Sec. 1711. Sections 503, 505, and 514 of this act expire June 10, 2010.

NEW SECTION. Sec. 1712. Sections 504, 506, and 515 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 10, 2010.

NEW SECTION. Sec. 1713. Parts VI, VII, and XIV and sections 107, 702, 902, and 1202 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2010.

NEW SECTION. Sec. 1714. Section 507 of this act expires July 13, 2010.

NEW SECTION. Sec. 1715. Section 508 of this act takes effect July 13, 2010.

NEW SECTION. Sec. 1716. Section 508 of this act expires July 1, 2011.

NEW SECTION. Sec. 1717. Section 509 of this act takes effect July 1, 2011.

NEW SECTION. Sec. 1718. Section 1001 of this act applies prospectively only.

NEW SECTION. Sec. 1719. Sections 1502 and 1503 of this act apply to claims for credit or refund filed with the department of revenue after June 30, 2010.

Passed by the Senate April 12, 2010.

Passed by the House April 10, 2010.

Approved by the Governor April 23, 2010.

Filed in Office of Secretary of State April 23, 2010.

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## CHAPTER 24

[Engrossed Second Substitute House Bill 2630]

### OPPORTUNITY EXPRESS PROGRAM

AN ACT Relating to creating the opportunity express program; amending RCW 28C.04.390 and 28C.18.164; adding new sections to chapter 28B.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. (1) The legislature finds that in times of severe economic recession, the state has a special obligation to help unemployed and low-income citizens access the training and education necessary to help them find and keep living wage jobs. The legislature also finds that during times of recession, when state revenues are at their lowest, demand for education and training are at their highest, making it especially important for the legislature to set clear goals and make the most efficient use of limited state resources.

(2) The legislature therefore intends to expand training and education programs, which have proven to be successful, to help Washington citizens receive the training they need. These programs include the worker retraining program, the opportunity grant program, and the opportunity internship program. The legislature further intends to create more effective intake and

outreach systems to reach the greatest number of citizens and connect them to the resources they need, including college, apprenticeship, and preapprenticeship.

**Sec. 2.** RCW 28C.04.390 and 1999 c 121 s 1 are each amended to read as follows:

(1) The college board worker retraining program funds shall be used for training programs and related support services, including financial aid, counseling, referral to training resources, job referral, and job development that:

- (a) Are consistent with the unified plan for workforce development;
- (b) Provide increased enrollments for dislocated workers;
- (c) Provide customized training opportunities for dislocated workers; and
- (d) Provide increased enrollments and support services, including financial aid for those students not receiving unemployment insurance benefits, that do not replace or supplant any existing enrollments, programs, support services, or funding sources.

(2) The college board shall develop a plan for use of the worker retraining program funds in conjunction with the workforce training customer advisory committee established in subsection (3) of this section. In developing the plan the college board shall:

(a) Provide that applicants for worker retraining program funds shall solicit financial support for training programs and give priority in receipt of funds to those applicants which are most successful in matching public dollars with financial support;

(b) Provide that applicants for worker retraining program funds shall develop training programs in partnership with local businesses, industry associations, labor, and other partners as appropriate and give priority in receipt of funds to those applicants who develop customized training programs in partnership with local businesses, industry associations, and labor organizations;

(c) Give priority in receipt of funds to those applicants serving rural areas;

(d) Ensure that applicants receiving worker retraining program funds gather information from local workforce development councils on employer workforce needs, including the needs of businesses with less than twenty-five employees; ~~((and))~~

(e) Provide for specialized vocational training at a private career school or college at the request of a recipient eligible under subsection (1)(b) of this section. Available tuition for the training is limited to the amount that would otherwise be payable per enrolled quarter to a public institution; and

(f) Give priority in receipt of funds to those applicants working toward careers in the aerospace, health care, advanced manufacturing, construction, forest product, and renewable energy industries; high-demand occupations in strategic industry clusters identified in the state comprehensive plan and the workforce development councils' local comprehensive plans for workforce educational training as identified in RCW 28C.18.080 and 28C.18.150; and occupations and industries identified by community and technical colleges in collaboration with local workforce development councils. For purposes of this section, health care includes long-term care.

(3) The executive director of the college board shall appoint a workforce training customer advisory committee by July 1, 1999, to:

(a) Assist in the development of the plan for the use of the college board worker retraining program funds and recommend guidelines to the college board for the operation of worker retraining programs;

(b) Recommend selection criteria for worker retraining programs and grant applicants for receipt of worker retraining program grants;

(c) Provide advice to the college board on other workforce development activities of the community and technical colleges;

(d) Recommend selection criteria for job skills grants, consistent with criteria established in this chapter and chapter 121, Laws of 1999. Such criteria shall include a prioritization of job skills applicants in rural areas;

(e) Recommend guidelines to the college board for the operation of the job skills program; and

(f) Recommend grant applicants for receipt of job skills program grants.

(4) Members of the workforce training customer advisory committee shall consist of three college system representatives selected by the executive director of the college board, three representatives of business selected from nominations provided by statewide business organizations, and three representatives of labor selected from nominations provided by a statewide labor organization representing a cross-section of workers in the state.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28B.50 RCW to read as follows:

By July 1, 2010, and within existing resources, the college board may create a single web site for the purpose of advertising the availability of opportunity express funding to Washington citizens; explaining that opportunity express helps people who want to pursue college and apprenticeship for certain targeted industries; and explaining that opportunity express includes the following tracks: Worker retraining for unemployed adults; training programs approved by the commissioner of the employment security department, training programs administered by labor and management partnerships, and training programs prioritized by industry, for unemployed adults and incumbent workers; opportunity internships for high school students; and opportunity grants for low-income adults. The web site may also direct interested individuals to the appropriate local intake office. The web site may also include a link to the Washington state department of labor and industries apprenticeship program.

**Sec. 4.** RCW 28C.18.164 and 2009 c 238 s 4 are each amended to read as follows:

(1) Opportunity internship consortia may apply to the board to offer an opportunity internship program.

(a) The board, in consultation with the Washington state apprenticeship and training council, may select those consortia that demonstrate the strongest commitment and readiness to implement a high quality opportunity internship program for low-income high school students. The board shall place a priority on consortia with demonstrated experience working with similar populations of students and demonstrated capacity to assist a large number of students through the progression of internship or preapprenticeship, high school graduation, postsecondary education, and retention in a high-demand occupation. The board shall place a priority on programs that emphasize secondary career and technical

education and nonbaccalaureate postsecondary education; however, programs that target four-year postsecondary degrees are eligible to participate.

(b)(i) Except as provided in (b)(ii) of this subsection (1), the board shall enter into a contract with each consortium selected to participate in the program. No more than ten consortia per year shall be selected to participate in the program, and to the extent possible, the board shall assure a geographic distribution of consortia in regions across the state emphasizing a variety of targeted industries. Each consortium may select no more than one hundred low-income high school students per year to participate in the program.

(ii) For fiscal years 2011 through 2013, the board shall enter into a contract with each consortium selected to participate in the program. No more than twelve consortia per year shall be selected to participate in the program, and to the extent possible, the board shall assure a geographic distribution of consortia in regions across the state emphasizing a variety of targeted industries. No more than five thousand low-income high school students per year may be selected to participate in the program.

(2) Under the terms of an opportunity internship program contract, an opportunity internship consortium shall commit to the following activities which shall be conducted using existing federal, state, local, or private funds available to the consortium:

(a) Identify high-demand occupations in targeted industries for which opportunity internships or preapprenticeships shall be developed and provided;

(b) Develop and implement the components of opportunity internships, including paid or unpaid internships or preapprenticeships of at least ninety hours in length in high-demand occupations with employers in the consortium, mentoring and guidance for students who participate in the program, assistance with applications for postsecondary programs and financial aid, and a guarantee of a job interview with a participating employer for all opportunity internship graduates who successfully complete a postsecondary program of study;

(c) Once the internship or preapprenticeship components have been developed, conduct outreach efforts to inform low-income high school students about high-demand occupations, the opportunity internship program, options for postsecondary programs of study, and the incentives and opportunities provided to students who participate in the program;

(d) Obtain appropriate documentation of the low-income status of students who participate in the program;

(e) Maintain communication with opportunity internship graduates of the consortium who enroll in postsecondary programs of study; and

(f) Submit an annual report to the board on the progress of and participation in the opportunity internship program of the consortium.

(3) Opportunity internship consortia are encouraged to:

(a) Provide paid opportunity internships or preapprenticeships, including during the summer months to encourage students to stay enrolled in high school;

(b) Work with high schools to offer opportunity internships as approved worksite learning experiences where students can earn high school credit;

(c) Designate the local workforce development council as fiscal agent for the opportunity internship program contract;

(d) Work with area high schools to incorporate the opportunity internship program into comprehensive guidance and counseling programs such as the navigation 101 program; and

(e) Coordinate the opportunity internship program with other workforce development and postsecondary education programs, including opportunity grants, the college bound scholarship program, federal workforce investment act initiatives, and college access challenge grants.

(4) The board shall seek federal funds that may be used to support the opportunity internship program, including providing the incentive payments under RCW 28C.18.168.

NEW SECTION. Sec. 5. A new section is added to chapter 28B.50 RCW to read as follows:

A separate and identifiable account, which shall be known as the opportunity express account, is established. Moneys in the account may be spent only after appropriation. Moneys in the account shall be used only for the worker retraining program, training programs approved by the commissioner of the employment security department, training programs administered by labor and management partnerships, industry-prioritized training programs, training programs that facilitate career progression in health care occupations, the opportunity internship program, and the opportunity grant program, and for administrative costs related to these programs. Moneys in the account shall be used to supplement, not supplant, existing funding for the opportunity grant program.

***\*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.***

\*Sec. 6 was vetoed. See message at end of chapter.

Passed by the House April 12, 2010.

Passed by the Senate April 12, 2010.

Approved by the Governor April 23, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 23, 2010.

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

"I am returning herewith, without my approval as to Section 6, Engrossed Second Substitute House Bill 2630 entitled:

"AN ACT Relating to creating the opportunity express program."

Section 6 is an unnecessary emergency clause. The general fund appropriation to the Opportunity Express Account created in the bill is a Fiscal Year 2011 appropriation. Engrossed Second Substitute House Bill 2630 can take effect ninety days after the adjournment of the session at which it was enacted and still allow timely transfer of funding to the new account.

For these reasons, I have vetoed Section 6 of Engrossed Second Substitute House Bill 2630.

With the exception of Section 6 of Engrossed Second Substitute House Bill 2630 is approved."

**CHAPTER 25**

[House Bill 2694]

## UNIVERSITY CENTER—NURSING PROGRAM—BACHELOR OF SCIENCE

AN ACT Relating to a bachelor of science in nursing program at the University Center; adding a new section to chapter 28B.50 RCW; creating a new section; providing an effective date; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 28B.50 RCW to read as follows:

(1) RCW 28B.50.901 assigns responsibility for the north Snohomish, Island, and Skagit counties' higher education consortium to Everett Community College. In April of 2009, Everett Community College opened Gray Wolf Hall, the new home of the University Center of North Puget Sound. The University Center currently offers over twenty bachelor's and master's degrees from six partner universities.

(2) Although Everett Community College offers an associate degree nursing program that graduates approximately seventy to ninety students per year, the University Center does not offer a bachelor of science in nursing. Some graduates of the Everett Community College program are able to articulate to the bachelor of science in nursing program offered by the University of Washington-Bothell at its Bothell campus or in Mt. Vernon but current capacity is not sufficient for all of the graduates who are both interested and qualified.

(3) Despite recent growth in nursing education capacity, shortages still persist for registered nurses. According to a June 2007 study by the Washington, Wyoming, Alaska, Montana, and Idaho center for health workforce studies, the average age of Washington's registered nurses was forty-eight years. More than a third were fifty-five years of age or older. Consequently, the high rate of registered nurses retiring from nursing practice over the next two decades will significantly reduce the supply. This reduction comes at the same time as the state's population grows and ages. The registered nurse education capacity in Washington has a large impact on the supply of registered nurses in the state. If the rate of graduation in registered nursing does not increase, projections show that supply in Washington will begin to decline by 2015. In contrast, if graduation rates increased by four hundred per year, the supply of registered nurses would meet estimated demand by the year 2021.

(4) Subject to specific funding to support up to fifty full-time equivalent students in a bachelor of nursing program, the University Center at Everett Community College, in partnership with the University of Washington-Bothell, shall offer a bachelor of science in nursing program with capacity for up to fifty full-time students.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2010.

**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2010, in the omnibus appropriations act, this act is null and void.

Passed by the House April 12, 2010.

Passed by the Senate April 12, 2010.



Approved by the Governor April 23, 2010.  
Filed in Office of Secretary of State April 23, 2010.

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**CHAPTER 26**

[House Bill 3219]

## RCW—TECHNICAL CORRECTIONS

AN ACT Relating to technical corrections to the Revised Code of Washington; amending RCW 6.17.160, 6.27.140, 24.55.075, 36.16.050, 36.70A.070, 41.45.150, 67.28.180, and 82.45.180; amending 2010 c 204 s 1105 (uncodified); amending 2010 1st sp.s. c 7 s 132 (uncodified); amending 2010 1st sp.s. c 7 s 150 (uncodified); reenacting RCW 28B.67.030; repealing 2010 1st sp.s. c 7 s 151 (uncodified); providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 6.17.160 and 2007 c 37 s 1 are each amended to read as follows:

The sheriff to whom the writ is directed and delivered shall execute the same without delay as follows:

(1) Real property, including a vendee's interests under a real estate contract, shall be levied on by recording a copy of the writ, together with a description of the property attached, with the recording officer of the county in which the real estate is situated.

(2) Personal property, capable of manual delivery, shall be levied on by taking into custody. If the property or any part of it may be concealed in a building or enclosure, the sheriff may publicly demand delivery of the property. If the property is not delivered and if the order of execution so directs, the sheriff may cause the building or enclosure to be broken open and take possession of the property.

(3) Shares of stock and other investment securities shall be levied on in accordance with the requirements of RCW ((~~62A.8-317~~) 62A.8-112).

(4) A fund in court shall be levied on by leaving a copy of the writ with the clerk of the court with notice in writing specifying the fund.

(5) A franchise granted by a public or quasi-public corporation shall be levied on by (a) serving a copy of the writ on, or mailing it to, the judgment debtor as required by RCW 6.17.130 and (b) filing a copy of the writ in the office of the auditor of the county in which the franchise was granted together with a notice in writing that the franchise has been levied on to be sold, specifying the time and place of sale, the name of the owner, the amount of the judgment for which the franchise is to be sold, and the name of the judgment creditor.

(6) A vendor's interest under a real estate contract shall be levied on by (a) recording a copy of the writ, with descriptions of the contract and of the real property covered by the contract, with the recording officer of the county in which the real estate is located and (b) serving a copy of the writ, with a copy of the descriptions, on, or mailing the same to, the judgment debtor and the vendee under the contract in the manner as described in RCW 6.17.130.

(7) Other intangible personal property may be levied on by serving a copy of the writ on, or mailing it to, the judgment debtor in the manner as required by RCW 6.17.130, together with a description of the property. If the property is a claim on which suit has been commenced, a copy of the writ and of the

description shall also be filed with the clerk of the court in which the suit is pending.

**Sec. 2.** RCW 6.27.140 and 2009 c 521 s 15 are each amended to read as follows:

(1) The notice required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

NOTICE OF GARNISHMENT  
AND OF YOUR RIGHTS

A Writ of Garnishment issued in a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

**WAGES.** If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. If the garnishment is for child support, the exempt amount paid to you will be forty percent of wages due you, but if you are supporting a spouse, state registered domestic partner, or dependent child, you are entitled to claim an additional ten percent as exempt.

**BANK ACCOUNTS.** If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or a United States pension, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a stepparent are exempt from a garnishment on the child support obligation of the parent.

**OTHER EXEMPTIONS.** If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts (~~up to five hundred dollars of~~) certain property of your choice (including (~~up to one hundred dollars in~~) specified cash or money in a bank account)

and certain other property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2) The claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

[Caption to be filled in by judgment creditor or plaintiff before mailing.]

.....  
Name of Court

.....  
Plaintiff,

No .....

vs.

.....  
Defendant,

EXEMPTION CLAIM

.....  
Garnishee Defendant

INSTRUCTIONS:

- 1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.

- 2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

The account contains payments from:

- Temporary assistance for needy families, SSI, or other public assistance. I receive \$ . . . . . monthly.
- Social Security. I receive \$ . . . . . monthly.
- Veterans' Benefits. I receive \$ . . . . . monthly.
- U.S. Government Pension. I receive \$ . . . . . monthly.
- Unemployment Compensation. I receive \$ . . . . . monthly.
- Child support. I receive \$ . . . . . monthly.
- Other. Explain . . . . .

IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:

- No money other than from above payments are in the account.
- Moneys in addition to the above payments have been deposited in the account. Explain . . . . .

IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT:

- I claim maximum exemption.
- I am supporting another child or other children.
- I am supporting a husband, wife, or state registered domestic partner.

IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

Name and address of employer who is paying the benefits: . . . . .

OTHER PROPERTY:

[ ] Describe property .....

(If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

..... Print: Your name	..... If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner
..... Your signature	..... Signature of husband, wife, or state registered domestic partner
..... Address	..... Address (if different from yours)
..... Telephone number	..... Telephone number (if different from yours)

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

Sec. 3. RCW 24.55.075 and 2009 c 436 s 9 are each amended to read as follows:

This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act (15 U.S.C. Sec. 7001 et seq.), but does not modify, limit, or supersede 15 U.S.C. Sec. 7001(~~(a)~~) (c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

Sec. 4. RCW 28B.67.030 and 2009 c 296 s 2 and 2009 c 564 s 1804 are each reenacted to read as follows:

(1) All payments received from a participant in the Washington customized employment training program created in RCW 28B.67.020 shall be deposited into the employment training finance account, which is hereby created in the custody of the state treasurer. Only the state board for community and technical

colleges may authorize expenditures from the account and no appropriation is required for expenditures. The money in the account must be used solely for training allowances under the Washington customized employment training program created in RCW 28B.67.020 and for providing up to seventy-five thousand dollars per year for training, marketing, and facilitation services to increase the use of the program. The deposit of payments under this section from a participant shall cease when the board specifies that the participant has met the monetary obligations of the program. During the 2007-2009 fiscal biennium, the legislature may transfer from the employment training finance account to the state general fund such amounts as reflect the excess fund balance in the account.

(2) All revenue solicited and received under the provisions of RCW 28B.67.020(4) shall be deposited into the employment training finance account to provide training allowances.

(3) The definitions in RCW 28B.67.010 apply to this section.

(4) This section expires July 1, 2012.

**Sec. 5.** RCW 36.16.050 and 1991 c 363 s 49 are each amended to read as follows:

Every county official before he or she enters upon the duties of his or her office shall furnish a bond conditioned that he or she will faithfully perform the duties of his or her office and account for and pay over all money which may come into his or her hands by virtue of his or her office, and that he or she, or his or her executors or administrators, will deliver to his or her successor safe and undefaced all books, records, papers, seals, equipment, and furniture belonging to his or her office. Bonds of elective county officers shall be as follows:

(1) Assessor: Amount to be fixed and sureties to be approved by proper county legislative authority;

(2) Auditor: Amount to be fixed at not less than ten thousand dollars and sureties to be approved by the proper county legislative authority;

(3) Clerk: Amount to be fixed in a penal sum not less than double the amount of money liable to come into his or her hands and sureties to be approved by the judge or a majority of the judges presiding over the court of which he or she is clerk: PROVIDED, That the maximum bond fixed for the clerk shall not exceed in amount that required for the treasurer in ((a)) the same county ((of that class));

(4) Coroner: Amount to be fixed at not less than five thousand dollars with sureties to be approved by the proper county legislative authority;

(5) Members of the proper county legislative authority: Sureties to be approved by the county clerk and the amounts to be:

(a) In each county with a population of one hundred twenty-five thousand or more, twenty-five thousand dollars;

(b) In each county with a population of from seventy thousand to less than one hundred twenty-five thousand, twenty-two thousand five hundred dollars;

(c) In each county with a population of from forty ~~((thousand))~~ thousand to less than seventy thousand, twenty thousand dollars;

(d) In each county with a population of from eighteen thousand to less than forty thousand, fifteen thousand dollars;

(e) In each county with a population of from twelve thousand to less than eighteen thousand, ten thousand dollars;

(f) In each county with a population of from eight thousand to less than twelve thousand, seven thousand five hundred dollars;

(g) In all other counties, five thousand dollars;

(6) Prosecuting attorney: In the amount of five thousand dollars with sureties to be approved by the proper county legislative authority;

(7) Sheriff: Amount to be fixed and bond approved by the proper county legislative authority at not less than five thousand nor more than fifty thousand dollars; surety to be a surety company authorized to do business in this state;

(8) Treasurer: Sureties to be approved by the proper county legislative authority and the amounts to be fixed by the proper county legislative authority at double the amount liable to come into the treasurer's hands during his or her term, the maximum amount of the bond, however, not to exceed:

(a) In each county with a population of two hundred ten thousand or more, two hundred fifty thousand dollars;

(b) In each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand, two hundred thousand dollars;

(c) In each county with a population of from eighteen thousand to less than one hundred twenty-five thousand, one hundred fifty thousand dollars;

(d) In all other counties, one hundred thousand dollars.

The treasurer's bond shall be conditioned that all moneys received by him or her for the use of the county shall be paid as the proper county legislative authority shall from time to time direct, except where special provision is made by law for the payment of such moneys, by order of any court, or otherwise, and for the faithful discharge of his or her duties.

Bonds for other than elective officials, if deemed necessary by the proper county legislative authority, shall be in such amount and form as such legislative authority shall determine.

In the approval of official bonds, the chair may act for the county legislative authority if it is not in session.

**Sec. 6.** RCW 36.70A.070 and 2005 c 360 s 2 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where

applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

(i) Containing or otherwise controlling rural development;



(ii) Assuring visual compatibility of rural development with the surrounding rural area;

(iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;

(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources; and

(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(~~((14))~~) (15). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(~~((14))~~) (15). Public services and public facilities shall be limited to those necessary to serve

the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the ~~((department of transportation's six-year))~~ office of financial management's ten-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

(E) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(F) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ~~((six-year improvement))~~ ten-year investment program developed by the ~~((department of transportation))~~ office of financial management as required by RCW 47.05.030;

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) Pedestrian and bicycle component to include collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation

facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6), "concurrent with the development" (~~shall~~) means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

(c) The transportation element described in this subsection (6), (~~and~~) the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, and the ten-year investment program required by RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. The element shall include: (a) A summary of the local economy such as population, employment, payroll, sectors, businesses, sales, and other information as appropriate; (b) a summary of the strengths and weaknesses of the local economy defined as the commercial and industrial sectors and supporting factors such as land use, transportation, utilities, education, workforce, housing, and natural/cultural resources; and (c) an identification of policies, programs, and projects to foster economic growth and development and to address future needs. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; and (c) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

**Sec. 7.** RCW 41.45.150 and 2009 c 561 s 5 are each amended to read as follows:

(1) Beginning July 1, 2009, and ending June 30, 2015, maximum annual contribution rates are established for the portion of the employer contribution rate for the public employees' retirement system and the public safety employees' retirement system that is used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the public employees' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. The maximum rates are:

Fiscal Year ending:

2010	2011	2012	2013	2014	2015
1.25%	1.25%	3.75%	4.50%	5.25%	6.00%

(2) Beginning September 1, 2009, and ending August 31, 2015, maximum annual contribution rates are established for the portion of the employer contribution rate for the school employees' retirement system that is used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the public employees' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. The maximum rates are:

Fiscal Year ending:

2010	2011	2012	2013	2014	2015
1.25%	1.25%	3.75%	4.50%	5.25%	6.00%

(3) Beginning September 1, 2009, and ending August 31, 2015, maximum annual contribution rates are established for the portion of the employer contribution rate for the teachers' retirement system that is used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the teachers' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. The maximum rates are:

Fiscal Year ending:

2010	2011	2012	2013	2014	2015
2.04%	2.04%	6.50%	7.50%	8.50%	9.50%

(4) Beginning July 1, 2015, a minimum 5.25 percent contribution is established as part of the basic employer contribution rate for the public employees' retirement system and the public safety employees' retirement system, to be used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the public employees' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the public employees' retirement system equals one hundred (~~twenty five~~) percent of the actuarial accrued liability.

(5) Beginning September 1, 2015, a minimum 5.25 percent contribution is established as part of the basic employer contribution rate for the school employees' retirement system, to be used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the public employees' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the public employees' retirement system equals one hundred percent of the actuarial accrued liability.

(6) Beginning September 1, 2015, a minimum 8.00 percent contribution is established as part of the basic employer contribution rate for the teachers'

retirement system, to be used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the teachers' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the teachers' retirement system equals one hundred percent of the actuarial accrued liability.

(7) Upon completion of each biennial actuarial valuation, the state actuary shall review the appropriateness of the minimum contribution rates and recommend to the council any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods, or experience. Any changes adopted by the council shall be subject to revision by the legislature.

**Sec. 8.** RCW 67.28.180 and 2007 c 189 s 1 are each amended to read as follows:

(1) Subject to the conditions set forth in subsections (2) and (3) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW.

(2) Any levy authorized by this section shall be subject to the following:

(a) Any county ordinance or resolution adopted pursuant to this section shall contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this section upon the same taxable event.

(b) In the event that any county has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such county shall be exempt from the provisions of (a) of this subsection, to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160: PROVIDED, That so much of such pledged tax revenues, together with any investment earnings thereon, not immediately necessary for actual payment of principal and interest on such bonds may be used: (i) In any county with a population of one million or more, for repayment either of limited tax levy general obligation bonds or of any county fund or account from which a loan was made, the proceeds from the bonds or loan being used to pay for constructing, installing, improving, and equipping stadium capital improvement projects, and to pay for any engineering, planning, financial, legal and professional services incident to the development of such stadium capital improvement projects, regardless of the date the debt for such capital improvement projects was or may be incurred; (ii) in any county with a population of one million or more, for repayment or refinancing of bonded indebtedness incurred prior to January 1, 1997, for any purpose authorized by this section or relating to stadium repairs or rehabilitation, including but not limited to the cost of settling legal claims, reimbursing operating funds, interest payments on short-term loans, and any other purpose for which such debt has been incurred if the county has created a public stadium authority to develop a stadium and exhibition center under RCW 36.102.030; or

(iii) in other counties, for county-owned facilities for agricultural promotion until January 1, 2009, and thereafter for any purpose authorized in this chapter.

A county is exempt under this subsection with respect to city revenue or general obligation bonds issued after April 1, 1991, only if such bonds mature before January 1, 2013. If any county located east of the crest of the Cascade mountains has levied the tax authorized by this section and has, prior to June 26, 1975, pledged the tax revenue for payment of principal and interest on city revenue or general obligation bonds, the county is exempt under this subsection with respect to revenue or general obligation bonds issued after January 1, 2007, only if the bonds mature before January 1, 2021. Such a county may only use funds under this subsection (2)(b) for constructing or improving facilities authorized under this chapter, including county-owned facilities for agricultural promotion, and must perform an annual financial audit of organizations receiving funding on the use of the funds.

As used in this subsection (2)(b), "capital improvement projects" may include, but not be limited to a stadium restaurant facility, restroom facilities, artificial turf system, seating facilities, parking facilities and scoreboard and information system adjacent to or within a county owned stadium, together with equipment, utilities, accessories and appurtenances necessary thereto. The stadium restaurant authorized by this subsection (2)(b) shall be operated by a private concessionaire under a contract with the county.

(c)(i) No city within a county exempt under subsection (2)(b) of this section may levy the tax authorized by this section so long as said county is so exempt.

(ii) If bonds have been issued under RCW 43.99N.020 and any necessary property transfers have been made under RCW 36.102.100, no city within a county with a population of one million or more may levy the tax authorized by this section before January 1, 2021.

(iii) However, in the event that any city in a county described in (i) or (ii) of this subsection (2)(c) has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such city may levy the tax so long as the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160.

(3) Any levy authorized by this section by a county that has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160 shall be subject to the following:

(a) Taxes collected under this section in any calendar year before 2013 in excess of five million three hundred thousand dollars shall only be used as follows:

(i) Seventy-five percent from January 1, 1992, through December 31, 2000, and seventy percent from January 1, 2001, through December 31, 2012, for art museums, cultural museums, heritage museums, the arts, and the performing arts. Moneys spent under this subsection (3)(a)(i) shall be used for the purposes of this subsection (3)(a)(i) in all parts of the county.

(ii) Twenty-five percent from January 1, 1992, through December 31, 2000, and thirty percent from January 1, 2001, through December 31, 2012, for the following purposes and in a manner reflecting the following order of priority: Stadium purposes as authorized under subsection (2)(b) of this section; acquisition of open space lands; youth sports activities; and tourism promotion. If all or part of the debt on the stadium is refinanced, all revenues under this subsection (3)(a)(ii) shall be used to retire the debt.

(b) From January 1, 2013, through December 31, 2015, in a county with a population of one million or more, all revenues under this section shall be used to retire the debt on the stadium, or deposited in the stadium and exhibition center account under RCW 43.99N.060 after the debt on the stadium is retired.

(c) From January 1, 2016, through December 31, 2020, in a county with a population of one million or more, all revenues under this section shall be deposited in the stadium and exhibition center account under RCW 43.99N.060.

(d) At least seventy percent of moneys spent under (a)(i) of this subsection for the period January 1, 1992, through December 31, 2000, shall be used only for the purchase, design, construction, and remodeling of performing arts, visual arts, heritage, and cultural facilities, and for the purchase of fixed assets that will benefit art, heritage, and cultural organizations. For purposes of this subsection, fixed assets are tangible objects such as machinery and other equipment intended to be held or used for ten years or more. Moneys received under this subsection (3)(d) may be used for payment of principal and interest on bonds issued for capital projects. Qualifying organizations receiving moneys under this subsection (3)(d) must be financially stable and have at least the following:

- (i) A legally constituted and working board of directors;
- (ii) A record of artistic, heritage, or cultural accomplishments;
- (iii) Been in existence and operating for at least two years;
- (iv) Demonstrated ability to maintain net current liabilities at less than thirty percent of general operating expenses;
- (v) Demonstrated ability to sustain operational capacity subsequent to completion of projects or purchase of machinery and equipment; and
- (vi) Evidence that there has been independent financial review of the organization.

(e) At least forty percent of the revenues distributed pursuant to (a)(i) of this subsection for the period January 1, 2001, through December 31, 2012, shall be deposited in an account and shall be used to establish an endowment. Principal in the account shall remain permanent and irreducible. The earnings from investments of balances in the account may only be used for the purposes of (a)(i) of this subsection.

(f) School districts and schools shall not receive revenues distributed pursuant to (a)(i) of this subsection.

(g) Moneys distributed to art museums, cultural museums, heritage museums, the arts, and the performing arts, and moneys distributed for tourism promotion shall be in addition to and may not be used to replace or supplant any other funding by the legislative body of the county.

(h) As used in this section, "tourism promotion" includes activities intended to attract visitors for overnight stays, arts, heritage, and cultural events, and recreational, professional, and amateur sports events. Moneys allocated to tourism promotion in a (~~class AA~~) county with a population of one million or



more shall be allocated to nonprofit organizations formed for the express purpose of tourism promotion in the county. Such organizations shall use moneys from the taxes to promote events in all parts of the (~~class AA~~) county.

(i) No taxes collected under this section may be used for the operation or maintenance of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged. Expenditures for operation or maintenance include all expenditures other than expenditures that directly result in new fixed assets or that directly increase the capacity, life span, or operating economy of existing fixed assets.

(j) No ad valorem property taxes may be used for debt service on bonds issued for a public stadium that is financed by bonds to which the tax is pledged, unless the taxes collected under this section are or are projected to be insufficient to meet debt service requirements on such bonds.

(k) If a substantial part of the operation and management of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged is performed by a nonpublic entity or if a public stadium is sold that is financed directly or indirectly by bonds to which the tax is pledged, any bonds to which the tax is pledged shall be retired. This subsection (3)(k) does not apply in respect to a public stadium under chapter 36.102 RCW transferred to, owned by, or constructed by a public facilities district under chapter 36.100 RCW or a stadium and exhibition center.

(l) The county shall not lease a public stadium that is financed directly or indirectly by bonds to which the tax is pledged to, or authorize the use of the public stadium by, a professional major league sports franchise unless the sports franchise gives the right of first refusal to purchase the sports franchise, upon its sale, to local government. This subsection (3)(l) does not apply to contracts in existence on April 1, 1986.

If a court of competent jurisdiction declares any provision of this subsection (3) invalid, then that invalid provision shall be null and void and the remainder of this section is not affected.

**Sec. 9.** RCW 82.45.180 and 2009 c 308 s 5 are each amended to read as follows:

(1)(a) For taxes collected by the county under this chapter, the county treasurer shall collect a five-dollar fee on all transactions required by this chapter where the transaction does not require the payment of tax. A total of five dollars shall be collected in the form of a tax and fee, where the calculated tax payment is less than five dollars. Through June 30, 2006, the county treasurer shall place one percent of the taxes collected by the county under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection. After June 30, 2006, the county treasurer shall place one and three-tenths percent of the taxes collected by the county under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection. For taxes collected by the county under this chapter before July 1, 2006, the county treasurer shall pay over to the state treasurer and account to the department of revenue for the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. For taxes collected by the county under this chapter after June 30, 2006, on a monthly basis the county treasurer shall pay over to the state treasurer the month's transmittal. The month's transmittal must be received by the state treasurer by 12:00 p.m. on the last working day of each month. The

county treasurer shall account to the department for the month's transmittal by the twentieth day of the month following the month in which the month's transmittal was paid over to the state treasurer. The state treasurer shall deposit the proceeds in the general fund.

(b) For purposes of this subsection, the definitions in this subsection apply.

(i) "Close of business" means the time when the county treasurer makes his or her daily deposit of proceeds.

(ii) "Month's transmittal" means all proceeds deposited by the county through the close of business of the day that is two working days before the last working day of the month. This definition of "month's transmittal" shall not be construed as requiring any change in a county's practices regarding the timing of its daily deposits of proceeds.

(iii) "Proceeds" means moneys collected and receipted by the county from the taxes imposed by this chapter, less the county's share of the proceeds used to defray the county's costs of collection allowable in (a) of this subsection.

(iv) "Working day" means a calendar day, except Saturdays, Sundays, and all legal holidays as provided in RCW 1.16.050.

(2) For taxes collected by the department of revenue under this chapter, the department shall remit the tax to the state treasurer who shall deposit the proceeds of any state tax in the general fund. The state treasurer shall deposit the proceeds of any local taxes imposed under chapter 82.46 RCW in the local real estate excise tax account hereby created in the state treasury. Moneys in the local real estate excise tax account may be spent only for distribution to counties, cities, and towns imposing a tax under chapter 82.46 RCW. Except as provided in RCW 43.08.190, all earnings of investments of balances in the local real estate excise tax account shall be credited to the local real estate excise tax account and distributed to the counties, cities, and towns monthly. Monthly the state treasurer shall make distribution from the local real estate excise tax account to the counties, cities, and towns the amount of tax collected on behalf of each taxing authority. The state treasurer shall make the distribution under this subsection without appropriation.

(3)(a) The real estate excise tax electronic technology account is created in the custody of the state treasurer. An appropriation is not required for expenditures and the account is not subject to allotment procedures under chapter 43.88 RCW.

(b) Through June 30, 2010, the county treasurer shall collect an additional five-dollar fee on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. The county treasurer shall remit this fee to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer shall place money from this fee in the real estate excise tax electronic technology account. By the twentieth day of the subsequent month, the state treasurer shall distribute to each county treasurer according to the following formula: Three-quarters of the funds available shall be equally distributed among the thirty-nine counties; and the balance shall be ratably distributed among the counties in direct proportion to their population as it relates to the total state's population based on most recent statistics by the office of financial management.

(c) When received by the county treasurer, the funds shall be placed in a special real estate excise tax electronic technology fund held by the county

treasurer to be used exclusively for the development, implementation, and maintenance of an electronic processing and reporting system for real estate excise tax affidavits. Funds may be expended to make the system compatible with the automated real estate excise tax system developed by the department and compatible with the processes used in the offices of the county assessor and county auditor. Any funds held in the account that are not expended by the earlier of: July 1, 2015, or at such time that the county treasurer is utilizing an electronic processing and reporting system for real estate excise tax affidavits compatible with the department and compatible with the processes used in the offices of the county assessor and county (~~assessor-auditor~~) auditor, revert to the special real estate and property tax administration assistance account in accordance with subsection (5)(c) of this section.

(4) Beginning July 1, 2010, through December 31, 2013, the county treasurer shall continue to collect the additional five-dollar fee in subsection (3) of this section on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. During this period, the county treasurer shall remit this fee to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer shall place money from this fee in the annual property revaluation grant account created in RCW 84.41.170.

(5)(a) The real estate and property tax administration assistance account is created in the custody of the state treasurer. An appropriation is not required for expenditures and the account is not subject to allotment procedures under chapter 43.88 RCW.

(b) Beginning January 1, 2014, the county treasurer must continue to collect the additional five-dollar fee in subsection (3) of this section on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. The county treasurer shall deposit one-half of this fee in the special real estate and property tax administration assistance account in accordance with (c) of this subsection and remit the balance to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer must place money from this fee in the real estate and property tax administration assistance account. By the twentieth day of the subsequent month, the state treasurer must distribute the funds to each county treasurer according to the following formula: One-half of the funds available must be equally distributed among the thirty-nine counties; and the balance must be ratably distributed among the counties in direct proportion to their population as it relates to the total state's population based on most recent statistics by the office of financial management.

(c) When received by the county treasurer, the funds must be placed in a special real estate and property tax administration assistance account held by the county treasurer to be used for:

(i) Maintenance and operation of an annual revaluation system for property tax valuation; and

(ii) Maintenance and operation of an electronic processing and reporting system for real estate excise tax affidavits.

**Sec. 10.** 2010 c 204 s 1105 (uncodified) is amended to read as follows:

Sections 101 through 504, 506 through 601, ~~((and))~~ 603 through 702, and 801 through 1103 of ~~((this act))~~ chapter 204, Laws of 2010 take effect January 1, 2012.

*\*Sec. 11. 2010 1st sp.s. c 7 s 132 (uncodified) is amended to read as follows:*

*The following acts or parts of acts are each repealed:*

*(1) RCW 17.21.230 (Pesticide advisory board) and 1994 c 283 s 26, 1989 c 380 s 54, 1988 c 36 s 8, 1974 ex.s. c 20 s 1, 1971 ex.s. c 191 s 8, 1967 c 177 s 14, & 1961 c 249 s 23;*

*(2) RCW 17.21.240 (Pesticide advisory board—Vacancies) and 1994 c 283 s 27, 1989 c 380 s 55, & 1961 c 249 s 24;*

*(3) RCW 17.21.250 (Pesticide advisory board—Duties) and 1989 c 380 s 56 & 1961 c 249 s 25;*

*(4) RCW 17.21.260 (Pesticide advisory board—Officers, meetings) and 1994 c 283 s 28, 1989 c 380 s 57, & 1961 c 249 s 26; and*

*(5) RCW 17.21.270 (Pesticide advisory board—Travel expenses) and 1989 c 380 s 58, 1975-'76 2nd ex.s. c 34 s 24, & 1961 c 249 s 27(~~and~~*

*~~(6) RCW 70.104.080 (Pesticide panel—Generally) and 1994 c 264 s 41, 1991 c 3 s 363, & 1989 c 380 s 68).~~*

\*Sec. 11 was vetoed. See message at end of chapter.

**Sec. 12.** 2010 1st sp.s. c 7 s 150 (uncodified) is amended to read as follows:

Sections 1 through 118, ~~((+25))~~ 120 through 122, and 124 through ((+35, and 141 through 146)) 150 of ~~((this act))~~ chapter 7, Laws of 2010 1st sp. sess. are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 30, 2010.

NEW SECTION. Sec. 13. 2010 1st sp.s. c 7 s 151 (uncodified) is hereby repealed.

NEW SECTION. Sec. 14. Sections 11 through 13 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 30, 2010.

Passed by the House April 12, 2010.

Passed by the Senate April 12, 2010.

Approved by the Governor April 23, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 23, 2010.

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

"I am returning herewith, without my approval as to Section 11, House Bill 3219 entitled:

"AN ACT Relating technical corrections to the Revised Code of Washington."

This bill implements several changes recommended by the Statute Law Committee which were not enacted during the regular session. It also updates effective dates for the elimination of boards and commissions and for a campaign law provision.

Section 11 is not a technical change, but reinstates the Pesticide Incident Reporting and Tracking (PIRT) Review Panel which was eliminated in Engrossed Second Substitute House Bill 2617 which I signed on March 29, 2010. Section 11 requires the Department of Health to support the PIRT Review Panel activities, but the operating budget passed by the Legislature does not provide funding for such support. The Department of Health would have to decrease support for pesticide investigation and exposure response activities to fund this panel. In a time of difficult choices, I am vetoing this section so that the Department of Health can focus its limited funding on front line services instead of support to operate the PIRT Review Panel.

For these reasons, I have vetoed Section 11 of House Bill 3219.

With the exception of Section 11, House Bill 3219 is approved."

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## CHAPTER 27

[Engrossed Second Substitute Senate Bill 6409]

### WASHINGTON OPPORTUNITY PATHWAYS ACCOUNT

AN ACT Relating to creating the Washington opportunity pathways account; reenacting and amending RCW 67.70.240, 67.70.340, and 43.135.045; adding a new section to chapter 28B.76 RCW; and creating new sections.

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

**NEW SECTION. Sec. 1.** The legislature finds that institutions of higher education are key to the future employment opportunities of Washington citizens and to the economic well-being of the state. The legislature finds that the recruitment of entrepreneurial researchers at institutions of higher education and the formation of research innovation teams will further enhance faculty recruitment and economic development. The legislature further finds that current financial aid and early childhood education programs are underfunded and subject to the unpredictability of the state budget. It is the intent of the legislature to direct lottery account moneys toward the Washington opportunity pathways account and that those funds stabilize and increase existing resources for the recruitment of entrepreneurial researchers, innovation partnership zones and research teams, early childhood education, opportunity grants, educational opportunity grants, get ready for math and science scholarships, passport to college promise scholarships, college bound scholarships, the state work study program, the state need grant, Washington scholars awards, the Washington award for vocational excellence, and Washington promise scholarships. It is also the intent of the legislature to continue funding the education construction fund by redirecting a portion of general state revenues to that fund.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28B.76 RCW to read as follows:

The Washington opportunity pathways account is created in the state treasury. Expenditures from the account may be used only for programs in chapter 28B.12 RCW (state work-study), chapter 28B.50 RCW (opportunity grant), RCW 28B.76.660 (Washington scholars award), RCW 28B.76.670 (Washington award for vocational excellence), chapter 28B.92 RCW (state need grant program), chapter 28B.101 RCW (educational opportunity grant), chapter 28B.105 RCW (GET ready for math and science scholarship), chapter 28B.117 RCW (passport to college promise), chapter 28B.118 RCW (college bound scholarship), chapter 28B.119 RCW (Washington promise scholarship), chapter 43.215 RCW (early childhood education and assistance program), and RCW

43.330.280 (recruitment of entrepreneurial researchers, innovation partnership zones and research teams).

**Sec. 3.** RCW 67.70.240 and 2009 c 500 s 11 and 2009 c 479 s 44 are each reenacted and amended to read as follows:

The moneys in the state lottery account shall be used only:

(1) For the payment of prizes to the holders of winning lottery tickets or shares;

(2) For purposes of making deposits into the reserve account created by RCW 67.70.250 and into the lottery administrative account created by RCW 67.70.260;

(3) For purposes of making deposits into the education construction fund created in RCW 43.135.045 and the Washington opportunity pathways account created in section 2 of this act. On and after July 1, ~~((2004))~~ 2010, all deposits not otherwise obligated under this section shall be placed in the ~~((education construction fund))~~ Washington opportunity pathways account. Moneys in the state lottery account deposited in the ~~((education construction fund))~~ Washington opportunity pathways account are included in "general state revenues" under RCW 39.42.070;

(4) For distribution to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs. Three million dollars shall be distributed under this subsection during calendar year 1996. During subsequent years, such distributions shall equal the prior year's distributions increased by four percent. Distributions under this subsection shall cease when the bonds issued for the construction of the baseball stadium are retired, but not more than twenty years after the tax under RCW 82.14.0485 is first imposed;

(5) For distribution to the stadium and exhibition center account, created in RCW 43.99N.060. Subject to the conditions of RCW 43.99N.070, six million dollars shall be distributed under this subsection during the calendar year 1998. During subsequent years, such distribution shall equal the prior year's distributions increased by four percent. No distribution may be made under this subsection after December 31, 1999, unless the conditions for issuance of the bonds under RCW 43.99N.020(2) are met. Distributions under this subsection shall cease when the bonds are retired, but not later than December 31, 2020;

(6) For the purchase and promotion of lottery games and game-related services; and

(7) For the payment of agent compensation.

The office of financial management shall require the allotment of all expenses paid from the account and shall report to the ways and means committees of the senate and house of representatives any changes in the allotments.

**Sec. 4.** RCW 67.70.340 and 2009 c 576 s 2 and 2009 c 479 s 45 are each reenacted and amended to read as follows:

(1) The legislature recognizes that creating a shared game lottery could result in less revenue being raised by the existing state lottery ticket sales. The legislature further recognizes that the fund most impacted by this potential event is the ~~((education construction))~~ Washington opportunity pathways account.

Therefore, it is the intent of the legislature to use some of the proceeds from the shared game lottery to make up the difference that the potential state lottery revenue loss would have on the ~~((education construction))~~ Washington opportunity pathways account. The legislature further intends to use some of the proceeds from the shared game lottery to fund programs and services related to problem and pathological gambling.

(2) The ~~((education construction))~~ Washington opportunity pathways account is expected to receive one hundred two million dollars annually from state lottery games other than the shared game lottery. For fiscal year ~~((2003))~~ 2011 and thereafter, if the amount of lottery revenues earmarked for the ~~((education construction))~~ Washington opportunity pathways account is less than one hundred two million dollars, the commission, after making the transfer required under subsection (3) of this section, must transfer sufficient moneys from revenues derived from the shared game lottery into the ~~((education construction))~~ Washington opportunity pathways account to bring the total revenue up to one hundred two million dollars.

(3)(a) The commission shall transfer, from revenue derived from the shared game lottery, to the problem gambling account created in RCW 43.20A.892, an amount equal to the percentage specified in (b) of this subsection of net receipts. For purposes of this subsection, "net receipts" means the difference between (i) revenue received from the sale of lottery tickets or shares and revenue received from the sale of shared game lottery tickets or shares; and (ii) the sum of payments made to winners.

(b) In fiscal year 2006, the percentage to be transferred to the problem gambling account is one-tenth of one percent. In fiscal year 2007 and subsequent fiscal years, the percentage to be transferred to the problem gambling account is thirteen one-hundredths of one percent.

(4) The commission shall transfer the remaining net revenues, if any, derived from the shared game lottery "Powerball" authorized in RCW 67.70.044(1) after the transfers pursuant to this section into the state general fund for the student achievement program under RCW 28A.505.220.

(5) The remaining net revenues, if any, in the shared game lottery account after the transfers pursuant to this section shall be deposited into the ~~((general fund))~~ Washington opportunity pathways account.

**Sec. 5.** RCW 43.135.045 and 2009 c 564 s 939 and 2009 c 479 s 37 are each reenacted and amended to read as follows:

The education construction fund is hereby created in the state treasury.

(1) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction. During the 2007-2009 fiscal biennium, funds may also be used for higher education facilities preservation and maintenance. During the 2009-2011 fiscal biennium, the legislature may transfer from the education construction fund to the state general fund such amounts as reflect the excess fund balance of the fund.

(2) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection shall result in an adjustment to the state expenditure limit

only for the fiscal period for which the appropriation is made and shall not affect any subsequent fiscal period.

(3) Funds for the student achievement program in RCW 28A.505.210 and 28A.505.220 shall be appropriated to the superintendent of public instruction strictly for distribution to school districts to meet the provisions set out in the student achievement act. Allocations shall be made on an equal per full-time equivalent student basis to each school district.

(4) After July 1, 2010, the state treasurer shall transfer one hundred two million dollars from the general fund to the education construction fund by June 30th of each year.

NEW SECTION. Sec. 6. In consultation with independent experts and in collaboration with the higher education coordinating board, the state lottery commission shall upon the effective date of this section develop and begin implementation of a strategy and plan for actively marketing the state lottery as an essential contributor to Washington's opportunity pathways. The commission shall report to the economic development, higher education, and commerce committees of the legislature on the key messages, components, performance objectives, and anticipated revenue impacts of the strategy by September 1, 2010, and by December 1, 2010.

*\*NEW SECTION. Sec. 7. The joint legislative audit and review committee shall conduct a review of marketing and vendor expenditures and incentive payment programs at the state lottery commission to identify cost savings and efficiencies to maximize contributions to beneficiaries under this act. This review shall include examination of the following:*

*(1) The expenditures at the state lottery commission related to marketing and vendors compared with ticket sales. This review shall include an analysis of: Marketing expenses for fiscal years 2005 to 2010 and the impact on ticket sales; the impact to sales of tickets from the change in lottery beneficiaries provided in this act from the education construction fund to the Washington opportunity pathways account; and the competitive bidding process for vendors in Washington. In its final report on this subject, due to the legislature by November 2010, the joint legislative audit and review committee shall provide: A description of the competitive contracting processes for marketing services and vendors, and any marketing programs or expenditures funded through the lottery administrative account; an all-state survey of marketing and vendor contractors for other state lotteries; identification of whether there are duplicative or unproductive marketing activities; identification of whether savings may occur from changing vendors; and an analysis of marketing expenses and ticket sales for fiscal year 2000 through the months of fiscal year 2011 for which data are available.*

*(2) The incentive payment program for employees at the state lottery commission. This review shall include an analysis of the state's laws, policies, procedures, and practices as they relate to incentive payments. In its final report on this subject, due to the legislature by November 2010, the joint legislative audit and review committee shall provide: A description of how the incentive payment program at the state lottery commission operates, and comparison to best practices for outcome-based performance payments.*

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



Passed by the Senate March 16, 2010.

Passed by the House April 12, 2010.

Approved by the Governor April 23, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 23, 2010.

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

"I am returning herewith, without my approval as to Section 7, Engrossed Second Substitute Senate Bill 6409 entitled:

"AN ACT Relating to creating the Washington opportunity pathways account."

This bill creates the Washington Opportunity Pathways Account and directs that beginning in Fiscal Year 2011 net revenues from in-state lottery games that are not otherwise dedicated will be placed in this new account.

Section 7 of this bill requires costly consultation and studies of areas of lottery operations that already receive significant oversight. The section directs the Joint Legislative Audit and Review Committee (JLARC) to study the marketing and vendor expenditures and incentive payment programs of the Commission by November 1, 2010. The estimated costs of the studies are not funded in the budget. In addition, the Executive Committee of JLARC has requested this section be vetoed and that the study take place next biennium. I agree with the need for the study and request the committee to include it in their future planning.

For these reasons I have vetoed Section 7 of Engrossed Second Substitute Senate Bill 6409.

With the exception of Section 7 of Engrossed Second Substitute Senate Bill 6409 is approved."

## CHAPTER 28

[Engrossed Senate Bill 6870]

### SEXUALLY VIOLENT PREDATORS—SERVICES—COSTS

AN ACT Relating to containing costs for services to sexually violent predators; and amending RCW 71.09.050, 71.09.090, and 71.09.110.

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

**Sec. 1.** RCW 71.09.050 and 2009 c 409 s 5 are each amended to read as follows:

(1) Within forty-five days after the completion of any hearing held pursuant to RCW 71.09.040, the court shall conduct a trial to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. The department is responsible for the cost of one expert or professional person to conduct an evaluation on the prosecuting agency's behalf. At all stages of the proceedings under this chapter, any person subject to this chapter shall be entitled to the assistance of counsel, and if the person is indigent, the court shall appoint counsel to assist him or her. The person shall be confined in a secure facility for the duration of the trial.

(2) Whenever any person is subjected to an ~~((examination))~~ evaluation under this chapter, ~~((he or she may retain))~~ the department is responsible for the cost of one expert((s) or professional person((s to perform an examination)) to conduct an evaluation on ((their)) the person's behalf. When the person wishes to be ~~((examined))~~ evaluated by a qualified expert or professional person of his or her own choice, ~~((such examiner shall))~~ the expert or professional person

must be permitted to have reasonable access to the person for the purpose of such ~~((examination))~~ evaluation, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an ~~((examination))~~ evaluation or participate in the trial on the person's behalf. Nothing in this chapter precludes the person from paying for additional expert services at his or her own expense.

(3) The person, the prosecuting agency, or the judge shall have the right to demand that the trial be before a twelve-person jury. If no demand is made, the trial shall be before the court.

**Sec. 2.** RCW 71.09.090 and 2009 c 409 s 8 are each amended to read as follows:

(1) If the secretary determines that the person's condition has so changed that either: (a) The person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community, the secretary shall authorize the person to petition the court for conditional release to a less restrictive alternative or unconditional discharge. The petition shall be filed with the court and served upon the prosecuting agency responsible for the initial commitment. The court, upon receipt of the petition for conditional release to a less restrictive alternative or unconditional discharge, shall within forty-five days order a hearing.

(2)(a) Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for conditional release to a less restrictive alternative or unconditional discharge without the secretary's approval. The secretary shall provide the committed person with an annual written notice of the person's right to petition the court for conditional release to a less restrictive alternative or unconditional discharge over the secretary's objection. The notice shall contain a waiver of rights. The secretary shall file the notice and waiver form and the annual report with the court. If the person does not affirmatively waive the right to petition, the court shall set a show cause hearing to determine whether probable cause exists to warrant a hearing on whether the person's condition has so changed that: (i) He or she no longer meets the definition of a sexually violent predator; or (ii) conditional release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community.

(b) The committed person shall have a right to have an attorney represent him or her at the show cause hearing, which may be conducted solely on the basis of affidavits or declarations, but the person is not entitled to be present at the show cause hearing. At the show cause hearing, the prosecuting attorney or attorney general shall present prima facie evidence establishing that the committed person continues to meet the definition of a sexually violent predator and that a less restrictive alternative is not in the best interest of the person and conditions cannot be imposed that adequately protect the community. In making this showing, the state may rely exclusively upon the annual report prepared pursuant to RCW 71.09.070. The committed person may present responsive affidavits or declarations to which the state may reply.

(c) If the court at the show cause hearing determines that either: (i) The state has failed to present prima facie evidence that the committed person

continues to meet the definition of a sexually violent predator and that no proposed less restrictive alternative is in the best interest of the person and conditions cannot be imposed that would adequately protect the community; or (ii) probable cause exists to believe that the person's condition has so changed that: (A) The person no longer meets the definition of a sexually violent predator; or (B) release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community, then the court shall set a hearing on either or both issues.

(d) If the court has not previously considered the issue of release to a less restrictive alternative, either through a trial on the merits or through the procedures set forth in RCW 71.09.094(1), the court shall consider whether release to a less restrictive alternative would be in the best interests of the person and conditions can be imposed that would adequately protect the community, without considering whether the person's condition has changed. The court may not find probable cause for a trial addressing less restrictive alternatives unless a proposed less restrictive alternative placement meeting the conditions of RCW 71.09.092 is presented to the court at the show cause hearing.

(3)(a) At the hearing resulting from subsection (1) or (2) of this section, the committed person shall be entitled to be present and to the benefit of all constitutional protections that were afforded to the person at the initial commitment proceeding. The prosecuting agency shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The department is responsible for the cost of one expert or professional person to conduct an evaluation on the prosecuting agency's behalf. The committed person shall also have the right to a jury trial and the right to have experts evaluate him or her on his or her behalf and the court shall appoint an expert if the person is indigent and requests an appointment.

(b) Whenever any person is subjected to an evaluation under (a) of this subsection, the department is responsible for the cost of one expert or professional person conducting an evaluation on the person's behalf. When the person wishes to be evaluated by a qualified expert or professional person of his or her own choice, such expert or professional person must be permitted to have reasonable access to the person for the purpose of such evaluation, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an evaluation or participate in the hearing on the person's behalf. Nothing in this chapter precludes the person from paying for additional expert services at his or her own expense.

(c) If the issue at the hearing is whether the person should be unconditionally discharged, the burden of proof shall be upon the state to prove beyond a reasonable doubt that the committed person's condition remains such that the person continues to meet the definition of a sexually violent predator. Evidence of the prior commitment trial and disposition is admissible. The recommitment proceeding shall otherwise proceed as set forth in RCW 71.09.050 and 71.09.060.

~~((c))~~ (d) If the issue at the hearing is whether the person should be conditionally released to a less restrictive alternative, the burden of proof at the

hearing shall be upon the state to prove beyond a reasonable doubt that conditional release to any proposed less restrictive alternative either: (i) Is not in the best interest of the committed person; or (ii) does not include conditions that would adequately protect the community. Evidence of the prior commitment trial and disposition is admissible.

(4)(a) Probable cause exists to believe that a person's condition has "so changed," under subsection (2) of this section, only when evidence exists, since the person's last commitment trial, or less restrictive alternative revocation proceeding, of a substantial change in the person's physical or mental condition such that the person either no longer meets the definition of a sexually violent predator or that a conditional release to a less restrictive alternative is in the person's best interest and conditions can be imposed to adequately protect the community.

(b) A new trial proceeding under subsection (3) of this section may be ordered, or a trial proceeding may be held, only when there is current evidence from a licensed professional of one of the following and the evidence presents a change in condition since the person's last commitment trial proceeding:

(i) An identified physiological change to the person, such as paralysis, stroke, or dementia, that renders the committed person unable to commit a sexually violent act and this change is permanent; or

(ii) A change in the person's mental condition brought about through positive response to continuing participation in treatment which indicates that the person meets the standard for conditional release to a less restrictive alternative or that the person would be safe to be at large if unconditionally released from commitment.

(c) For purposes of this section, a change in a single demographic factor, without more, does not establish probable cause for a new trial proceeding under subsection (3) of this section. As used in this section, a single demographic factor includes, but is not limited to, a change in the chronological age, marital status, or gender of the committed person.

(5) The jurisdiction of the court over a person civilly committed pursuant to this chapter continues until such time as the person is unconditionally discharged.

**Sec. 3.** RCW 71.09.110 and 1995 c 216 s 14 are each amended to read as follows:

The department of social and health services shall be responsible for all costs relating to the evaluation and treatment of persons committed to their custody whether in a secure facility or under a less restrictive alternative under any provision of this chapter. The secretary shall adopt rules to contain costs relating to reimbursement for evaluation services. Reimbursement may be obtained by the department for the cost of care and treatment of persons committed to its custody whether in a secure facility or under a less restrictive alternative pursuant to RCW 43.20B.330 through 43.20B.370.

Passed by the Senate April 12, 2010.

Passed by the House April 12, 2010.

Approved by the Governor April 23, 2010.

Filed in Office of Secretary of State April 23, 2010.

## CHAPTER 29

[Second Substitute House Bill 2576]

## SECRETARY OF STATE—FEES—RESTRUCTURING

AN ACT Relating to restructuring and affirming certain fees established by the office of the secretary of state; amending RCW 23B.01.530, 24.03.405, 24.06.450, 25.05.500, 43.07.120, 43.07.130, 25.15.105, 19.77.030, 23.86.070, 19.09.075, 19.09.079, 19.09.097, 19.09.355, and 19.09.530; adding a new section to chapter 19.09 RCW; creating a new section; and repealing RCW 19.09.520.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to restructure certain fees for the division of corporations of the office of the secretary of state in a manner that has minimal revenue impact but moves the division of corporations towards a more self-sustaining budget.

Sec. 2. RCW 23B.01.530 and 1993 c 269 s 3 are each amended to read as follows:

For the privilege of doing business, every corporation organized under the laws of this state, except the corporations for which existing law provides a different fee schedule, ~~((shall))~~ must make and file a statement in the form prescribed by the secretary of state and ~~((shall))~~ must pay an annual license fee each year following incorporation, on or before the expiration date of its corporate license, to the secretary of state. The secretary of state ~~((shall))~~ must collect an annual license fee of ~~((ten dollars for each inactive corporation and fifty dollars for other))~~ sixty dollars for corporations that are not inactive corporations, of which ten dollars is designated to be deposited into the secretary's revolving fund per RCW 43.07.130. The secretary of state must collect an annual license fee for inactive corporations as established by the secretary of state in rule. As used in this section, "inactive corporation" means a corporation that certifies at the time of filing under this section that it did not engage in any business activities during the year ending on the expiration date of its corporate license.

Sec. 3. RCW 24.03.405 and 1993 c 269 s 5 are each amended to read as follows:

- (1) ~~((The secretary of state shall charge and collect for:~~
- ~~(a) Filing articles of incorporation, thirty dollars.~~
  - ~~(b) Filing an annual report of a domestic or foreign corporation, ten dollars.~~
  - ~~(c) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state, thirty dollars.~~
- ~~(2))~~ The secretary of state ((shall)) must establish by rule, fees for the following:
- (a) Filing articles of incorporation.
  - (b) Filing an annual report of a domestic or foreign corporation.
  - (c) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state.
  - (d) An application for reinstatement under RCW 24.03.386.
  - ~~((b))~~ (e) Filing articles of amendment or restatement or an amendment or supplement to an application for reinstatement.
  - ~~((c))~~ (f) Filing articles of merger or consolidation.

~~((d))~~ (g) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, or any combination of these. ~~((A separate fee for filing such statement shall not be charged if the statement appears in an amendment to articles of incorporation or in conjunction with the filing of the annual report.~~

~~(e))~~ (h) Filing articles of dissolution ~~((, no fee)).~~

~~((f))~~ (i) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state.

~~((g))~~ (j) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal ~~((, no fee)).~~

~~((h))~~ (k) Filing a certificate by a foreign corporation of the appointment of a registered agent. ~~((A separate fee for filing such certificate shall not be charged if the statement appears in conjunction with the filing of the annual report.~~

~~(i))~~ (l) Filing a certificate of election adopting the provisions of chapter 24.03 RCW.

~~((j))~~ (m) Filing an application to reserve a corporate name.

~~((k))~~ (n) Filing a notice of transfer of a reserved corporate name.

~~((l))~~ (o) Filing a name registration.

~~((m))~~ (p) Filing any other statement or report authorized for filing under this chapter.

~~((z))~~ (2) Fees ~~((shall be))~~ are adjusted by rule only in an amount that does not exceed the average biennial increase in the cost of providing service. This ~~((shall))~~ must be determined in a ~~((biannual [biennial]))~~ biennial cost study performed by the secretary.

**Sec. 4.** RCW 24.06.450 and 1993 c 269 s 7 are each amended to read as follows:

(1) ~~((The secretary of state shall charge and collect for:~~

~~(a) Filing articles of incorporation, thirty dollars.~~

~~(b) Filing an annual report, ten dollars.~~

~~(c) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state, thirty dollars.~~

~~(2))~~ The secretary of state ~~((shall))~~ must establish by rule, fees for the following:

(a) Filing articles of incorporation.

(b) Filing an annual report.

(c) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state.

(d) Filing articles of amendment or restatement.

~~((b))~~ (e) Filing articles of merger or consolidation.

~~((c))~~ (f) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, or any combination of these. ~~((A separate fee for filing such statement shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.~~

~~(d))~~ (g) Filing articles of dissolution, no fee.

~~((e))~~ (h) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state.

~~((f))~~ (i) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state.

~~((g))~~ (j) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state.

~~((h))~~ (k) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal(~~(, no fee)~~).

~~((i))~~ (l) Filing a certificate by a foreign corporation of the appointment of a registered agent. ~~((A separate fee for filing such certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.~~

~~((j))~~ (m) Filing a certificate by a foreign corporation of the revocation of the appointment of a registered agent. ~~((A separate fee for filing such certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.~~

~~((k))~~ (n) Filing an application to reserve a corporate name.

~~((l))~~ (o) Filing a notice of transfer of a reserved corporate name.

~~((m))~~ (p) Filing any other statement or report of a domestic or foreign corporation.

~~((n))~~ (2) Fees ~~((shall be))~~ are adjusted by rule in an amount that does not exceed the average biennial increase in the cost of providing service. This ~~((shall))~~ must be determined in a biennial cost study performed by the secretary.

**Sec. 5.** RCW 25.05.500 and 2009 c 437 s 4 are each amended to read as follows:

(1) A partnership which is not a limited liability partnership on June 11, 1998, may become a limited liability partnership upon the approval of the terms and conditions upon which it becomes a limited liability partnership by the vote necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, the vote necessary to amend those provisions, and by filing the applications required by subsection (2) of this section. A partnership which is a limited liability partnership on June 11, 1998, continues as a limited liability partnership under this chapter.

(2)(a) To become and to continue as a limited liability partnership, a partnership ~~((shall))~~ must file with the secretary of state an application stating the name of the partnership; the location of a registered office, which need not be a place of its activity in this state; the address of its principal office; if the partnership's principal office is not located in this state, the address of a registered office and the name and address of a registered agent for service of process in this state which the partnership will be required to continuously maintain; the number of partners; a brief statement of the business in which the partnership engages; any other matters that the partnership determines to include; and that the partnership thereby applies for status as a limited liability partnership.

(b) A registered agent for service of process under (a) of this subsection must be an individual who is a resident of this state or other person authorized to do business in this state.

(3) The application ~~((shall))~~ must be accompanied by a fee ~~((of one hundred seventy-five dollars))~~ for each partnership as established by the secretary of state in rule.

(4) The secretary of state ~~((shall))~~ must register as a limited liability partnership any partnership that submits a completed application with the required fee.

(5) A partnership registered under this section ~~((shall))~~ must pay an annual fee, in each year following the year in which its application is filed, on a date and in an amount specified by the secretary of state. The fee must be accompanied by a notice, on a form provided by the secretary of state, of the number of partners currently in the partnership and of any material changes in the information contained in the partnership's application for registration.

(6) Registration is effective immediately after the date an application is filed, and remains effective until:

(a) It is voluntarily withdrawn by filing with the secretary of state a written withdrawal notice executed by a majority of the partners or by one or more partners or other persons authorized to execute a withdrawal notice; or

(b) Thirty days after receipt by the partnership of a notice from the secretary of state, which notice ~~((shall))~~ must be sent by first-class mail, postage prepaid, that the partnership has failed to make timely payment of the annual fee specified in subsection (5) of this section, unless the fee is paid within such a thirty-day period.

(7) The status of a partnership as a limited liability partnership, and the liability of the partners thereof, ~~((shall))~~ is not ~~((be))~~ affected by: (a) Errors in the information stated in an application under subsection (2) of this section or a notice under subsection (6) of this section; or (b) changes after the filing of such an application or notice in the information stated in the application or notice.

(8) The secretary of state may provide forms for the application under subsection (2) of this section or a notice under subsection (6) of this section.

**Sec. 6.** RCW 43.07.120 and 1998 c 103 s 1309 are each amended to read as follows:

(1) The secretary of state ~~((shall))~~ must establish by rule and collect the fees in this subsection:

(a) For a copy of any law, resolution, record, or other document or paper on file in the secretary's office;

(b) For any certificate under seal;

(c) For filing and recording trademark;

(d) For each deed or patent of land issued by the governor;

(e) For recording miscellaneous records, papers, or other documents.

(2) The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under Title 23B RCW, chapter 18.100, 19.09, 19.34, 19.77, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, 25.04, 25.15, 25.10, ~~((or))~~ 25.05, or 26.60 RCW:

(a) Any service rendered in-person at the secretary of state's office;

(b) Any expedited service;

(c) The electronic or facsimile transmittal of information from corporation records or copies of documents;

(d) The providing of information by micrographic or other reduced-format compilation;



(e) The handling of checks, drafts, or credit or debit cards upon adoption of rules authorizing their use for which sufficient funds are not on deposit; and

(f) Special search charges.

(3) To facilitate the collection of fees, the secretary of state may establish accounts for deposits by persons who may frequently be assessed such fees to pay the fees as they are assessed. The secretary of state may make whatever arrangements with those persons as may be necessary to carry out this section.

(4) The secretary of state may adopt rules for the use of credit or debit cards for payment of fees.

(5) No member of the legislature, state officer, justice of the supreme court, judge of the court of appeals, or judge of the superior court ~~((shall))~~ may be charged for any search relative to matters pertaining to the duties of his or her office; nor may such official be charged for a certified copy of any law or resolution passed by the legislature relative to his or her official duties, if such law has not been published as a state law.

**Sec. 7.** RCW 43.07.130 and 2005 c 518 s 924 are each amended to read as follows:

There is created within the state treasury a revolving fund, to be known as the "secretary of state's revolving fund," which ~~((shall))~~ must be used by the office of the secretary of state to defray the costs of ~~((printing, reprinting, or distributing printed matter))~~ providing registration and information services authorized by law ~~((to be issued))~~ by the office of the secretary of state, and any other cost of carrying out the functions of the secretary of state under Title 11, 18, 19, 23, 23B, 24, 25, 26, 30, 42, 43, or 64 RCW ~~((or chapters 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, 25.15, or 25.10 RCW))~~.

The secretary of state is ~~((hereby))~~ authorized to charge a fee for ~~((such))~~ publications in an amount which will compensate for the costs of printing, reprinting, and distributing such printed matter. Fees recovered by the secretary of state under RCW 43.07.120(2), 19.09.305, 19.09.315, 19.09.440, 23B.01.220(1)(e), (6) and (7), 23B.18.050, 24.03.410, 24.06.455, 25.10.600(6), 25.10.916(1)(e), or 46.64.040, and such other moneys as are expressly designated for deposit in the secretary of state's revolving fund ~~((shall))~~ must be placed in the secretary of state's revolving fund.

During the 2005-2007 fiscal biennium, the legislature may transfer from the secretary of state's revolving fund to the state general fund such amounts as reflect the excess fund balance of the fund.

**Sec. 8.** RCW 25.15.105 and 2001 c 307 s 2 are each amended to read as follows:

(1) Each domestic limited liability company, and each foreign limited liability company authorized to transact business in this state, ~~((shall))~~ must deliver to the secretary of state for filing, both initial and annual reports that set forth:

(a) The name of the company and the state or country under whose law it is organized;

(b) The street address of its registered office and the name of its registered agent at that office in this state;

(c) In the case of a foreign company, the address of its principal office in the state or country under the laws of which it is organized;

(d) The address of the principal place of business of the company in this state;

(e) The names and addresses of the company's members, or if the management of the company is vested in a manager or managers, then the name and address of its manager or managers; and

(f) A brief description of the nature of its business.

(2) Information in an initial report or an annual report must be current as of the date the report is executed on behalf of the company.

(3) A company's initial report must be delivered to the secretary of state within one hundred twenty days of the date on which a domestic company's certificate of formation was filed, or on which a foreign company's application for registration was submitted. Subsequent annual reports must be delivered to the secretary of state on a date determined by the secretary of state, and at such additional times as the company elects.

(4)(a) The secretary of state may allow a company to file an initial or annual report through electronic means. If allowed, the secretary of state ~~((shall))~~ must adopt rules detailing the circumstances under which the electronic filing of ~~((such))~~ the reports ~~((shall be))~~ is permitted and how ~~((such))~~ the reports may be filed.

(b) For purposes of this section only, a person executing an electronically filed annual report may deliver the report to the office of the secretary of state without a signature and without an exact or conformed copy, but the person's name must appear in the electronic filing as the person executing the filing, and the filing must state the capacity in which the person is executing the filing.

**Sec. 9.** RCW 19.77.030 and 1998 c 39 s 1 are each amended to read as follows:

(1) Subject to the limitations set forth in this chapter, any person who has adopted and is using a trademark in this state may file in the office of the secretary of state, on a form to be furnished by the secretary of state, an application for registration of that trademark setting forth, but not limited to, the following information:

(a) The name and business address of the applicant, and, if the applicant is a corporation, its state of incorporation;

(b) The particular goods or services in connection with which the trademark is used and the class in which such goods or services fall;

(c) The manner in which the trademark is placed on or affixed to the goods or containers, or displayed in connection with such goods, or used in connection with the sale or advertising of the services;

(d) The date when the trademark was first used with such goods or services anywhere and the date when it was first used with such goods or services in this state by the applicant or his predecessor in business;

(e) A statement that the trademark is presently in use in this state by the applicant;

(f) A statement that the applicant believes himself to be the owner of the trademark and believes that no other person has the right to use such trademark in connection with the same or similar goods or services in this state either in the identical form or in such near resemblance thereto as to be likely, when used on or in connection with the goods or services of such other person, to cause confusion or mistake or to deceive; and

(g) Such additional information or documents as the secretary of state may reasonably require.

(2) A single application for registration of a trademark may specify all goods or services in a single class or in multiple classes for which the trademark is actually being used.

(3) The application (~~shall~~) must be signed by the applicant individual, or by a member of the applicant firm, or by an officer of the applicant corporation, association, union or other organization.

(4) The application (~~shall~~) must be accompanied by three specimens or facsimiles of the trademark for each of the goods or services for which its registration is requested, and a filing fee, as set by rule by the secretary of state, payable to the secretary of state. The fee established by the secretary may vary based upon the number of categories listed in the application.

(5) An applicant may correct an application previously filed by the secretary of state, within ninety days of the original filing, if the application contains an incorrect statement or the application was defectively executed, signed, or acknowledged. An application is corrected by filing a form provided by the secretary of state, and accompanied by a filing fee established by the secretary by rule. The correction may not change the mark itself. A corrected application is effective on the effective date of the document it corrects, except that it is effective on the date the correction is filed as to persons relying on the uncorrected document and adversely affected by the correction.

(6) An applicant may amend an application previously filed by the secretary of state if the applicant changes the categories in which it does business. An application is amended by filing a form provided by the secretary of state, accompanied by three specimens or facsimiles of the trademark for any new or additional goods or services for which the amendment is requested, and a filing fee established by the secretary by rule. The amendment or correction may not change the mark itself. An amended application is effective on the date it is filed.

(7) If the secretary of state determines within ninety days of issuance, that a certificate of registration was issued in error, then the secretary may cancel the certificate of registration. The secretary shall promptly notify the registrant of the cancellation in writing. The registrant may petition the superior court of Thurston county for review of the cancellation within sixty days.

**Sec. 10.** RCW 23.86.070 and 1993 c 269 s 1 are each amended to read as follows:

For filing articles of incorporation of an association organized under this chapter or filing application for a certificate of authority by a foreign corporation, there (~~shall~~) must be paid to the secretary of state (~~the sum of twenty-five dollars~~) a fee as established by the secretary by rule. Fees for filing an amendment to articles of incorporation (~~shall~~) must be established by the secretary of state by rule. For filing other documents with the secretary of state and issuing certificates, fees (~~shall be~~) are as prescribed in RCW 23B.01.220. Associations subject to this chapter (~~shall be~~) are not (~~be~~) subject to any corporation license fees excepting the fees hereinabove enumerated.

**NEW SECTION. Sec. 11.** A new section is added to chapter 19.09 RCW to read as follows:

The secretary of state shall collect the following fees in accordance with this chapter:

(1) For an application for registration as a charitable organization, a fee of sixty dollars. Twenty dollars of this fee must be deposited in the state general fund and the remaining forty dollars must be deposited in the charitable organization education account under RCW 19.09.530;

(2) For an annual renewal of registration as a charitable organization, a fee of forty dollars. Ten dollars of this fee must be deposited in the state general fund and the remaining thirty dollars must be deposited in the charitable organization education account under RCW 19.09.530;

(3) For an application for registration as a commercial fundraiser, a fee of three hundred dollars. Two hundred fifty dollars of this fee must be deposited in the state general fund and the remaining fifty dollars must be deposited in the charitable organization education account under RCW 19.09.530;

(4) For an annual renewal of registration as a commercial fundraiser, a fee of two hundred twenty-five dollars. One hundred seventy-five dollars of this fee must be deposited in the state general fund and the remaining fifty dollars must be deposited in the charitable organization education account under RCW 19.09.530;

(5) For a registration of a commercial fundraiser service contract, a fee of twenty dollars. Ten dollars of this fee must be deposited in the state general fund and the remaining ten dollars must be deposited in the charitable organization education account under RCW 19.09.530.

**Sec. 12.** RCW 19.09.075 and 2007 c 471 s 3 are each amended to read as follows:

An application for registration as a charitable organization shall be submitted in the form prescribed by rule by the secretary, containing, but not limited to, the following:

(1) The name, address, and telephone number of the charitable organization;

(2) The name(s) under which the organization will solicit contributions;

(3) The name, address, and telephone number of the officers of or persons accepting responsibility for the organization;

(4) The names of the three officers or employees receiving the greatest amount of compensation from the organization;

(5) The purpose of the organization;

(6)(a) Whether the organization is exempt from federal income tax; and if so the organization shall attach to its application a copy of the letter by which the internal revenue service granted such status; and

(b) The name and address of the entity that prepares, reviews, or audits the financial statement of the organization;

(7) A solicitation report of the organization for the preceding accounting year including:

(a) The types of solicitations conducted;

(b) The total dollar value of contributions received from solicitations and from all other sources received on behalf of the charitable purpose of the charitable organization;

(c) The total amount of money applied to charitable purposes, fund raising costs, and other expenses; and

(d) The name, address, and telephone number of any commercial fund raiser used by the organization;

(8) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305; and

(9) The total revenue of the preceding fiscal year.

The solicitation report required to be submitted under subsection (7) of this section shall be in the form prescribed by rule by the secretary, or as agreed to by the secretary and a charitable organization. The president, treasurer, or comparable officer of the organization must sign and date the application. The application shall be submitted with a nonrefundable filing fee (~~which shall be in an amount to be established by the secretary by rule. In determining the amount of this application fee, the secretary may consider factors such as the entity's annual budget and its federal income tax status~~) established in section 11 of this act. If the secretary determines that the application is complete, the application shall be filed and the applicant deemed registered.

**Sec. 13.** RCW 19.09.079 and 2007 c 471 s 5 are each amended to read as follows:

An application for registration as a commercial fund raiser shall be submitted in the form prescribed by the secretary, containing, but not limited to, the following:

(1) The name, address, and telephone number of the commercial fund-raising entity;

(2) The name(s), address(es), and telephone number(s) of the owner(s) and principal officer(s) of the commercial fund-raising entity;

(3) The name, address, and telephone number of the individual responsible for the activities of the commercial fund-raising entity in Washington;

(4) The names of the three officers or employees receiving the greatest amount of compensation from the commercial fund-raising entity;

(5) The name and address of the entity that prepares, reviews, or audits the financial statement of the organization;

(6) A solicitation report of the commercial fund-raising entity for the preceding accounting year, including:

(a) The types of fund raising services conducted;

(b) The names of charitable organizations required to register under RCW 19.09.065 for whom fund raising services have been performed;

(c) The total value of contributions received on behalf of charitable organizations required to register under RCW 19.09.065 by the commercial fund raiser, affiliate of the commercial fund raiser, or any entity retained by the commercial fund raiser; and

(d) The amount of money disbursed to charitable organizations for charitable purposes, net of fund raising costs paid by the charitable organization as stipulated in any agreement between charitable organizations and the commercial fund raiser;

(7) The name, address, and telephone number of any commercial fund raiser that was retained in the conduct of providing fund raising services; and

(8) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305.

The application shall be signed by an officer or owner of the commercial fund raiser and shall be submitted with a nonrefundable fee (~~in an amount to be~~

~~established by rule of the secretary))~~ established in section 11 of this act. If the secretary determines that the application is complete, the application shall be filed and the applicant deemed registered.

**Sec. 14.** RCW 19.09.097 and 2007 c 471 s 7 are each amended to read as follows:

(1) No charitable organization may contract with a commercial fund raiser for any fund raising service or activity unless its contract requires that both parties comply with the law and permits officers of the charity reasonable access to: (a) The fund raisers' financial records relating to that charitable organization; (b) the fund raisers' operations including without limitation the right to be present during any telephone solicitation; and (c) the names of all of the fund raisers' employees or staff who are conducting fund raising or charitable solicitations on behalf of the charitable organization. In addition, the contract shall specify the amount of raised funds that the charitable organization will receive or the method of computing that amount, the amount of compensation of the commercial fund raiser or the method of computing that amount, and whether the compensation is fixed or contingent.

(2) Before a charitable organization may contract with a commercial fund raiser for any fund raising service or activity, the charitable organization and commercial fund raiser shall complete and file a registration form with the secretary. The registration shall be filed by the charitable organization in the form prescribed by the secretary. The registration shall contain, but not be limited to, the following information:

- (a) The name and registration number of the commercial fund raiser;
- (b) The name of the surety or sureties issuing the bond required by RCW 19.09.190, the aggregate amount of such bond or bonds, the bond number(s), original effective date(s), and termination date(s);
- (c) The name and registration number of the charitable organization;
- (d) The name of the representative of the commercial fund raiser who will be responsible for the conduct of the fund raising;
- (e) The type(s) of service(s) to be provided by the commercial fund raiser;
- (f) The dates such service(s) will begin and end;
- (g) The terms of the agreement between the charitable organization and commercial fund raiser relating to:
  - (i) Amount or percentages of amounts to inure to the charitable organization;
  - (ii) Limitations placed on the maximum amount to be raised by the fund raiser, if the amount to inure to the charitable organization is not stated as a percentage of the amount raised;
  - (iii) Costs of fund raising that will be the responsibility of the charitable organization, regardless of whether paid as a direct expense, deducted from the amounts disbursed, or otherwise; and
  - (iv) The manner in which contributions received directly by the charitable organization, not the result of services provided by the commercial fund raiser, will be identified and used in computing the fee owed to the commercial fund raiser; and
- (h) The names of any entity to which more than ten percent of the total anticipated fund raising cost is to be paid, and whether any principal officer or

owner of the commercial fund raiser or relative by blood or marriage thereof is an owner or officer of any such entity.

(3) A correct copy of the contract shall be filed with the secretary before the commencement of any campaign.

(4) The registration form shall be submitted with a nonrefundable filing fee ~~((in an amount to be established by rule of the secretary))~~ established in section 11 of this act and shall be signed by an owner or principal officer of the commercial fund raiser and the president, treasurer, or comparable officer of the charitable organization.

**Sec. 15.** RCW 19.09.355 and 1983 c 265 s 18 are each amended to read as follows:

Except as otherwise provided in this chapter, all fees and other moneys received by the secretary of state under this chapter shall be transmitted to the state treasurer for deposit in the state general fund.

**Sec. 16.** RCW 19.09.530 and 2007 c 471 s 14 are each amended to read as follows:

The charitable organization education account is created in ~~((the))~~ the state treasury. All receipts from the portion of fees ~~((authorized in RCW 19.09.520(1)))~~ designated in section 11 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the charitable organization education program authorized in RCW 19.09.510.

**NEW SECTION. Sec. 17.** RCW 19.09.520 (Charitable organization education program—Fees) and 2007 c 471 s 13 are each repealed.

Passed by the House March 17, 2010.

Passed by the Senate April 12, 2010.

Approved by the Governor April 27, 2010.

Filed in Office of Secretary of State April 28, 2010.

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## CHAPTER 30

[Engrossed Second Substitute House Bill 2956]

HOSPITALS—SAFETY NET ASSESSMENT

AN ACT Relating to a hospital safety net assessment for increased hospital payments to improve health care access for the citizens of Washington; amending 2009 c 564 s 209 (uncodified); reenacting and amending RCW 43.84.092; adding a new section to chapter 70.47 RCW; adding a new chapter to Title 74 RCW; creating a new section; providing an expiration date; and declaring an emergency.

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

**NEW SECTION. Sec. 1. PURPOSE, FINDINGS, AND INTENT.** (1) The purpose of this chapter is to provide for a safety net assessment on certain Washington hospitals, which will be used solely to augment funding from all other sources and thereby obtain additional funds to restore recent reductions and to support additional payments to hospitals for medicaid services.

(2) The legislature finds that:

(a) Washington hospitals, working with the department of social and health services, have proposed a hospital safety net assessment to generate additional state and federal funding for the medicaid program, which will be used to

partially restore recent inpatient and outpatient reductions in hospital reimbursement rates and provide for an increase in hospital payments; and

(b) The hospital safety net assessment and hospital safety net assessment fund created in this chapter allows the state to generate additional federal financial participation for the medicaid program and provides for increased reimbursement to hospitals.

(3) In adopting this chapter, it is the intent of the legislature:

(a) To impose a hospital safety net assessment to be used solely for the purposes specified in this chapter;

(b) That funds generated by the assessment shall be used solely to augment all other funding sources and not as a substitute for any other funds;

(c) That the total amount assessed not exceed the amount needed, in combination with all other available funds, to support the reimbursement rates and other payments authorized by this chapter; and

(d) To condition the assessment on receiving federal approval for receipt of additional federal financial participation and on continuation of other funding sufficient to maintain hospital inpatient and outpatient reimbursement rates and small rural disproportionate share payments at least at the levels in effect on July 1, 2009.

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

(1) "Certified public expenditure hospital" means a hospital participating in the department's certified public expenditure payment program as described in WAC 388-550-4650 or successor rule.

(2) "Critical access hospital" means a hospital as described in RCW 74.09.5225.

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

(4) "Fund" means the hospital safety net assessment fund established under section 3 of this act.

(5) "Hospital" means a facility licensed under chapter 70.41 RCW.

(6) "Long-term acute care hospital" means a hospital which has an average inpatient length of stay of greater than twenty-five days as determined by the department of health.

(7) "Managed care organization" means an organization having a certificate of authority or certificate of registration from the office of the insurance commissioner that contracts with the department under a comprehensive risk contract to provide prepaid health care services to eligible clients under the department's medicaid managed care programs, including the healthy options program.

(8) "Medicaid" means the medical assistance program as established in Title XIX of the social security act and as administered in the state of Washington by the department of social and health services.

(9) "Medicare cost report" means the medicare cost report, form 2552-96, or successor document.

(10) "Nonmedicare hospital inpatient day" means total hospital inpatient days less medicare inpatient days, including medicare days reported for medicare managed care plans, as reported on the medicare cost report, form 2552-96, or successor forms, excluding all skilled and nonskilled nursing facility days, skilled and nonskilled swing bed days, nursery days, observation bed days,



hospice days, home health agency days, and other days not typically associated with an acute care inpatient hospital stay.

(11) "Prospective payment system hospital" means a hospital reimbursed for inpatient and outpatient services provided to medicaid beneficiaries under the inpatient prospective payment system and the outpatient prospective payment system as defined in WAC 388-550-1050. For purposes of this chapter, prospective payment system hospital does not include a hospital participating in the certified public expenditure program or a bordering city hospital located outside of the state of Washington and in one of the bordering cities listed in WAC 388-501-0175 or successor regulation.

(12) "Psychiatric hospital" means a hospital facility licensed as a psychiatric hospital under chapter 71.12 RCW.

(13) "Regional support network" has the same meaning as provided in RCW 71.24.025.

(14) "Rehabilitation hospital" means a medicare-certified freestanding inpatient rehabilitation facility.

(15) "Secretary" means the secretary of the department of social and health services.

(16) "Small rural disproportionate share hospital payment" means a payment made in accordance with WAC 388-550-5200 or subsequently filed regulation.

**NEW SECTION. Sec. 3. HOSPITAL SAFETY NET ASSESSMENT FUND.** (1) A dedicated fund is hereby established within the state treasury to be known as the hospital safety net assessment fund. The purpose and use of the fund shall be to receive and disburse funds, together with accrued interest, in accordance with this chapter. Moneys in the fund, including interest earned, shall not be used or disbursed for any purposes other than those specified in this chapter. Any amounts expended from the fund that are later recouped by the department on audit or otherwise shall be returned to the fund.

(a) Any unexpended balance in the fund at the end of a fiscal biennium shall carry over into the following biennium and shall be applied to reduce the amount of the assessment under section 6(1)(c) of this act.

(b) Any amounts remaining in the fund on July 1, 2013, shall be used to make increased payments in accordance with sections 10 and 13 of this act for any outstanding claims with dates of service prior to July 1, 2013. Any amounts remaining in the fund after such increased payments are made shall be refunded to hospitals, pro rata according to the amount paid by the hospital, subject to the limitations of federal law.

(2) All assessments, interest, and penalties collected by the department under sections 4 and 6 of this act shall be deposited into the fund.

(3) Disbursements from the fund may be made only as follows:

(a) Subject to appropriations and the continued availability of other funds in an amount sufficient to maintain the level of medicaid hospital rates in effect on July 1, 2009;

(b) Upon certification by the secretary that the conditions set forth in section 17(1) of this act have been met with respect to the assessments imposed under section 4 (1) and (2) of this act, the payments provided under section 9 of this act, payments provided under section 13(2) of this act, and any initial payments

under sections 11 and 12 of this act, funds shall be disbursed in the amount necessary to make the payments specified in those sections;

(c) Upon certification by the secretary that the conditions set forth in section 17(1) of this act have been met with respect to the assessments imposed under section 4(3) of this act and the payments provided under sections 10 and 14 of this act, payments made subsequent to the initial payments under sections 11 and 12 of this act, and payments under section 13(3) of this act, funds shall be disbursed periodically as necessary to make the payments as specified in those sections;

(d) To refund erroneous or excessive payments made by hospitals pursuant to this chapter;

(e) The sum of forty-nine million three hundred thousand dollars per biennium may be expended in lieu of state general fund payments to hospitals. An additional sum of seventeen million five hundred thousand dollars for the 2009-2011 fiscal biennium may be expended in lieu of state general fund payments to hospitals if additional federal financial participation under section 5001 of P.L. No. 111-5 is extended beyond December 31, 2010;

(f) The sum of one million dollars per biennium may be disbursed for payment of administrative expenses incurred by the department in performing the activities authorized by this chapter;

(g) To repay the federal government for any excess payments made to hospitals from the fund if the assessments or payment increases set forth in this chapter are deemed out of compliance with federal statutes and regulations and all appeals have been exhausted. In such a case, the department may require hospitals receiving excess payments to refund the payments in question to the fund. The state in turn shall return funds to the federal government in the same proportion as the original financing. If a hospital is unable to refund payments, the state shall develop a payment plan and/or deduct moneys from future medicaid payments.

**NEW SECTION. Sec. 4. ASSESSMENTS.** (1) An assessment is imposed as set forth in this subsection effective after the date when the applicable conditions under section 17(1) of this act have been satisfied through June 30, 2013, for the purpose of funding restoration of reimbursement rates under sections 9(1) and 13(2)(a) of this act and funding payments made subsequent to the initial payments under sections 11 and 12 of this act. Payments under this subsection are due and payable on the first day of each calendar quarter after the department sends notice of assessment to affected hospitals. However, the initial assessment is not due and payable less than thirty calendar days after notice of the amount due has been provided to affected hospitals.

(a) For the period beginning on the date the applicable conditions under section 17(1) of this act are met through December 31, 2010:

(i) Each prospective payment system hospital shall pay an assessment of thirty-two dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(b) For the period beginning on January 1, 2011, and ending on June 30, 2011:

(i) Each prospective payment system hospital shall pay an assessment of forty dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(c) For the period beginning July 1, 2011, through June 30, 2013:

(i) Each prospective payment system hospital shall pay an assessment of forty-four dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(d)(i) For purposes of (a) and (b) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare inpatient days for each hospital that is not exempt from the assessment as described in section 5 of this act for the relevant state fiscal year 2008 portions included in the hospital's fiscal year end reports 2007 and/or 2008 cost reports. The department shall use nonmedicare hospital inpatient day data for each hospital taken from the centers for medicare and medicaid services' hospital 2552-96 cost report data file as of November 30, 2009, or equivalent data collected by the department.

(ii) For purposes of (c) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare hospital inpatient days for each hospital that is not exempt from the assessment under section 5 of this act, taken from the most recent publicly available hospital 2552-96 cost report data file or successor data file available through the centers for medicare and medicaid services, as of a date to be determined by the department. If cost report data are unavailable from the foregoing source for any hospital subject to the assessment, the department shall collect such information directly from the hospital.

(2) An assessment is imposed in the amounts set forth in this section for the purpose of funding the restoration of the rates under sections 9(2) and 13(2)(b) of this act and funding the initial payments under sections 11 and 12 of this act, which shall be due and payable within thirty calendar days after the department has transmitted a notice of assessment to hospitals. Such notice shall be transmitted immediately upon determination by the secretary that the applicable conditions established by section 17(1) of this act have been met.

(a) Prospective payment system hospitals.

(i) Each prospective payment system hospital shall pay an assessment of thirty dollars for each annual nonmedicare hospital inpatient day up to sixty thousand per year, multiplied by a ratio, the numerator of which is the number of days between June 30, 2009, and the day after the applicable conditions established by section 17(1) of this act have been met and the denominator of which is three hundred sixty-five.

(ii) Each prospective payment system hospital shall pay an assessment of one dollar for each annual nonmedicare hospital inpatient day over and above sixty thousand per year, multiplied by a ratio, the numerator of which is the number of days between June 30, 2009, and the day after the applicable conditions established by section 17(1) of this act have been met and the denominator of which is three hundred sixty-five.

(b) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by a ratio, the numerator of which is the number of days between June 30, 2009, and the day after the applicable conditions established by section 17(1) of this act have been met and the denominator of which is three hundred sixty-five.

(c) For purposes of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare inpatient days for each hospital that is not exempt from the assessment as described in section 5 of this act for the relevant state fiscal year 2008 portions included in the hospital's fiscal year end reports 2007 and/or 2008 cost reports. The department shall use nonmedicare hospital inpatient day data for each hospital taken from the centers for medicare and medicaid services' hospital 2552-96 cost report data file as of November 30, 2009, or equivalent data collected by the department.

(3) An assessment is imposed as set forth in this subsection for the period February 1, 2010, through June 30, 2013, for the purpose of funding increased hospital payments under sections 10 and 13(3) of this act, which shall be due and payable on the first day of each calendar quarter after the department has sent notice of the assessment to each affected hospital, provided that the initial assessment shall be transmitted only after the secretary has determined that the applicable conditions established by section 17(1) of this act have been satisfied and shall be payable no less than thirty calendar days after the department sends notice of the amount due to affected hospitals. The initial assessment shall include the full amount due from February 1, 2010, through the date of the notice.

(a) For the period February 1, 2010, through December 31, 2010:

(i) Prospective payment system hospitals.

(A) Each prospective payment system hospital shall pay an assessment of one hundred nineteen dollars for each annual nonmedicare hospital inpatient day up to sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(B) Each prospective payment system hospital shall pay an assessment of five dollars for each annual nonmedicare hospital inpatient day over and above sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each psychiatric hospital and each rehabilitation hospital shall pay an assessment of thirty-one dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(b) For the period beginning on January 1, 2011, and ending on June 30, 2011:

(i) Prospective payment system hospitals.

(A) Each prospective payment system hospital shall pay an assessment of one hundred fifty dollars for each annual nonmedicare inpatient day up to sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(B) Each prospective payment system hospital shall pay an assessment of six dollars for each annual nonmedicare inpatient day over and above sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five. The department may adjust the assessment or the number of nonmedicare hospital inpatient days used to calculate the assessment amount if necessary to maintain compliance with federal statutes and regulations related to medicaid program health care-related taxes.

(ii) Each psychiatric hospital and each rehabilitation hospital shall pay an assessment of thirty-nine dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(c) For the period beginning July 1, 2011, through June 30, 2013:

(i) Prospective payment system hospitals.

(A) Each prospective payment system hospital shall pay an assessment of one hundred fifty-six dollars for each annual nonmedicare hospital inpatient day up to sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(B) Each prospective payment system hospital shall pay an assessment of six dollars for each annual nonmedicare inpatient day over and above sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five. The department may adjust the assessment or the number of nonmedicare hospital inpatient days if necessary to maintain compliance with federal statutes and regulations related to medicaid program health care-related taxes.

(ii) Each psychiatric hospital and each rehabilitation hospital shall pay an assessment of thirty-nine dollars for each annual nonmedicare inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(d)(i) For purposes of (a) and (b) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare inpatient days for each hospital that is not exempt from the assessment as described in section 5 of this act for the relevant state fiscal year 2008 portions included in the hospital's fiscal year end reports 2007 and/or 2008 cost reports. The department shall use nonmedicare hospital inpatient day data for each hospital taken from the centers for medicare and medicaid services' hospital 2552-96 cost report data file as of November 30, 2009, or equivalent data collected by the department.

(ii) For purposes of (c) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare hospital inpatient days for each hospital that is not exempt from the assessment under section 5 of this act, taken from the most recent publicly available hospital 2552-96 cost report data file or successor data file available through the centers for medicare and medicaid services, as of a date to be determined by the department. If cost report data are unavailable from the

foregoing source for any hospital subject to the assessment, the department shall collect such information directly from the hospital.

(4) Notwithstanding the provisions of section 8 of this act, nothing in this act is intended to prohibit a hospital from including assessment amounts paid in accordance with this section on their medicare and medicaid cost reports.

NEW SECTION. Sec. 5. EXEMPTIONS. The following hospitals are exempt from any assessment under this chapter provided that if and to the extent any exemption is held invalid by a court of competent jurisdiction or by the centers for medicare and medicaid services, hospitals previously exempted shall be liable for assessments due after the date of final invalidation:

(1) Hospitals owned or operated by an agency of federal or state government, including but not limited to western state hospital and eastern state hospital;

(2) Washington public hospitals that participate in the certified public expenditure program;

(3) Hospitals that do not charge directly or indirectly for hospital services; and

(4) Long-term acute care hospitals.

NEW SECTION. Sec. 6. ADMINISTRATION AND COLLECTION. (1) The department, in cooperation with the office of financial management, shall develop rules for determining the amount to be assessed to individual hospitals, notifying individual hospitals of the assessed amount, and collecting the amounts due. Such rule making shall specifically include provision for:

(a) Transmittal of quarterly notices of assessment by the department to each hospital informing the hospital of its nonmedicare hospital inpatient days and the assessment amount due and payable. Such quarterly notices shall be sent to each hospital at least thirty calendar days prior to the due date for the quarterly assessment payment.

(b) Interest on delinquent assessments at the rate specified in RCW 82.32.050.

(c) Adjustment of the assessment amounts as follows:

(i) For each fiscal year beginning July 1, 2010, the assessment amounts under section 4 (1) and (3) of this act may be adjusted as follows:

(A) If sufficient other funds for hospitals, excluding any extension of section 5001 of P.L. No. 111-5, are available to support the reimbursement rates and other payments under section 9, 10, 11, 12, or 13 of this act without utilizing the full assessment authorized under section 4 (1) or (3) of this act, the department shall reduce the amount of the assessment for prospective payment system, psychiatric, and rehabilitation hospitals proportionately to the minimum level necessary to support those reimbursement rates and other payments.

(B) Provided that none of the conditions set forth in section 17(2) of this act have occurred, if the department's forecasts indicate that the assessment amounts under section 4 (1) and (3) of this act, together with all other available funds, are not sufficient to support the reimbursement rates and other payments under section 9, 10, 11, 12, or 13 of this act, the department shall increase the assessment rates for prospective payment system, psychiatric, and rehabilitation hospitals proportionately to the amount necessary to support those

reimbursement rates and other payments, plus a contingency factor up to ten percent of the total assessment amount.

(C) Any positive balance remaining in the fund at the end of the fiscal year shall be applied to reduce the assessment amount for the subsequent fiscal year.

(ii) Any adjustment to the assessment amounts pursuant to this subsection, and the data supporting such adjustment, including but not limited to relevant data listed in subsection (2) of this section, must be submitted to the Washington state hospital association for review and comment at least sixty calendar days prior to implementation of such adjusted assessment amounts. Any review and comment provided by the Washington state hospital association shall not limit the ability of the Washington state hospital association or its members to challenge an adjustment or other action by the department that is not made in accordance with this chapter.

(2) By November 30th of each year, the department shall provide the following data to the Washington state hospital association:

(a) The fund balance;

(b) The amount of assessment paid by each hospital;

(c) The annual medicaid fee-for-service payments for inpatient hospital services and outpatient hospital services; and

(d) The medicaid healthy options inpatient and outpatient payments as reported by all hospitals to the department on disproportionate share hospital applications. The department shall amend the disproportionate share hospital application and reporting instructions as needed to ensure that the foregoing data is reported by all hospitals as needed in order to comply with this subsection (2)(d).

(3) The department shall determine the number of nonmedicare hospital inpatient days for each hospital for each assessment period.

(4) To the extent necessary, the department shall amend the contracts between the managed care organizations and the department and between regional support networks and the department to incorporate the provisions of section 13 of this act. The department shall pursue amendments to the contracts as soon as possible after the effective date of this act. The amendments to the contracts shall, among other provisions, provide for increased payment rates to managed care organizations in accordance with section 13 of this act.

**NEW SECTION. Sec. 7.** LOCAL ASSESSMENTS OR TAXES NOT AUTHORIZED. Nothing in this chapter shall be construed to authorize any unit of local government to impose a tax or assessment on hospitals, including but not limited to a tax or assessment measured by a hospital's income, earnings, bed days, or other similar measures.

**NEW SECTION. Sec. 8.** ASSESSMENT PART OF OPERATING OVERHEAD. The incidence and burden of assessments imposed under this chapter shall be on hospitals and the expense associated with the assessments shall constitute a part of the operating overhead of hospitals. Hospitals shall not increase charges or billings to patients or third-party payers as a result of the assessments under this chapter. The department may require hospitals to submit certified statements by their chief financial officers or equivalent officials attesting that they have not increased charges or billings as a result of the assessments.

NEW SECTION. Sec. 9. RESTORATION OF JUNE 30, 2009, REIMBURSEMENT RATES. Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, the department shall:

(1) Restore medicaid inpatient and outpatient reimbursement rates to levels as if the four percent medicaid inpatient and outpatient rate reductions did not occur on July 1, 2009; and

(2) Recalculate the amount payable to each hospital that submitted an otherwise allowable claim for inpatient and outpatient medicaid-covered services rendered from and after July 1, 2009, up to and including the date when the applicable conditions under section 17(1) of this act have been satisfied, as if the four percent medicaid inpatient and outpatient rate reductions did not occur effective July 1, 2009, and, within sixty calendar days after the date upon which the applicable conditions set forth in section 17(1) of this act have been satisfied, remit the difference to each hospital.

NEW SECTION. Sec. 10. INCREASED HOSPITAL PAYMENTS. (1) Upon satisfaction of the applicable conditions set forth in section 17(1) of this act and for services rendered on or after February 1, 2010, the department shall increase the medicaid inpatient and outpatient fee-for-service hospital reimbursement rates in effect on June 30, 2009, by the percentages specified below:

(a) Prospective payment system hospitals:

(i) Inpatient psychiatric services: Thirteen percent;

(ii) Inpatient services: Thirteen percent;

(iii) Outpatient services: Thirty-six and eighty-three one-hundredths percent.

(b) Harborview medical center and University of Washington medical center:

(i) Inpatient psychiatric services: Three percent;

(ii) Inpatient services: Three percent;

(iii) Outpatient services: Twenty-one percent.

(c) Rehabilitation hospitals:

(i) Inpatient services: Thirteen percent;

(ii) Outpatient services: Thirty-six and eighty-three one-hundredths percent;

(d) Psychiatric hospitals:

(i) Inpatient psychiatric services: Thirteen percent;

(ii) Inpatient services: Thirteen percent.

(2) For claims processed for services rendered on or after February 1, 2010, but prior to satisfaction of the applicable conditions specified in section 17(1) of this act, the department shall, within sixty calendar days after satisfaction of those conditions, calculate the amount payable to hospitals in accordance with this section and remit the difference to each hospital that has submitted an otherwise allowable claim for payment for such services.

(3) By December 1, 2012, the department will submit a study to the legislature with recommendations on the amount of the assessments necessary to continue to support hospital payments for the 2013-2015 biennium. The evaluation will assess medicaid hospital payments relative to medicaid hospital costs. The study should address current federal law, including any changes on scope of medicaid coverage, provisions related to provider taxes, and impacts of



federal health care reform legislation. The study should also address the state's economic forecast. Based on the forecast, the department should recommend the amount of assessment needed to support future hospital payments and the departmental administrative expenses. Recommendations should be developed with the fiscal committees of the legislature, office of financial management, and the Washington state hospital association.

**NEW SECTION. Sec. 11. CRITICAL ACCESS HOSPITAL PAYMENTS.** Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, the department shall pay critical access hospitals that do not qualify for or receive a small rural disproportionate share payment in the subject state fiscal year an access payment of fifty dollars for each medicaid inpatient day, exclusive of days on which a swing bed is used for subacute care, from and after July 1, 2009. Initial payments to hospitals, covering the period from July 1, 2009, to the date when the applicable conditions under section 17(1) of this act are satisfied, shall be made within sixty calendar days after such conditions are satisfied. Subsequent payments shall be made to critical access hospitals on an annual basis at the time that disproportionate share eligibility and payment for the state fiscal year are established. These payments shall be in addition to any other amount payable with respect to services provided by critical access hospitals and shall not reduce any other payments to critical access hospitals.

**NEW SECTION. Sec. 12. DISPROPORTIONATE SHARE HOSPITAL PAYMENTS.** Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, small rural disproportionate share payments shall be increased to one hundred twenty percent of the level in effect as of June 30, 2009, for the period from and after July 1, 2009, until July 1, 2013. Initial payments, covering the period from July 1, 2009, to the date when the applicable conditions under section 17(1) of this act are satisfied, shall be made within sixty calendar days after those conditions are satisfied. Subsequent payments shall be made directly to hospitals by the department on a periodic basis.

**NEW SECTION. Sec. 13. INCREASED MANAGED CARE PAYMENTS AND CORRESPONDING PAYMENTS TO HOSPITALS.** Subject to the applicable conditions set forth in section 17(1) of this act, the department shall:

(1) Amend medicaid-managed care and regional support network contracts as necessary in order to ensure compliance with this chapter;

(2) With respect to the inpatient and outpatient rates established by section 9 of this act:

(a) Upon satisfaction of the applicable conditions under section 17(1) of this act, increase payments to managed care organizations and regional support networks as necessary to ensure that hospitals are reimbursed in accordance with section 9(1) of this act for services rendered from and after the date when applicable conditions under section 17(1) of this act have been satisfied, and pay an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks due as a result of the payments under this section, and require managed care organizations and regional support networks to make payments to each hospital in accordance with section 9 of this act. The increased payments made to hospitals pursuant to this subsection shall be in addition to any other amounts payable to hospitals by

managed care organizations or regional support networks and shall not affect any other payments to hospitals;

(b) Within sixty calendar days after satisfaction of the applicable conditions under section 17(1) of this act, calculate the additional amount due to each hospital to pay claims submitted for inpatient and outpatient medicaid-covered services rendered from and after July 1, 2009, through the date when the applicable conditions under section 17(1) of this act have been satisfied, based on the rates required by section 9(2) of this act, make payments to managed care organizations and regional support networks in amounts sufficient to pay the additional amounts due to each hospital plus an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks due as a result of the payments under this subsection, and require managed care organizations and regional support networks to make payments to each hospital in accordance with the department's calculations within forty-five calendar days after the department disburses funds for those purposes.

(3) With respect to the inpatient and outpatient hospital rates established by section 10 of this act:

(a) Upon satisfaction of the applicable conditions under section 17(1) of this act, increase payments to managed care organizations and regional support networks as necessary to ensure that hospitals are reimbursed in accordance with section 10 of this act, and pay an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks due as a result of the payments under this section;

(b) Require managed care organizations and regional support networks to reimburse hospitals for hospital inpatient and outpatient services rendered after the date that the applicable conditions under section 17(1) of this act are satisfied at rates no lower than the combined rates established by sections 9 and 10 of this act;

(c) Within sixty calendar days after satisfaction of the applicable conditions under section 17(1) of this act, calculate the additional amount due to each hospital to pay claims submitted for inpatient and outpatient medicaid-covered services rendered from and after February 1, 2010, through the date when the applicable conditions under section 17(1) of this act are satisfied based on the rates required by section 10 of this act, make payments to managed care organizations and regional support networks in amounts sufficient to pay the additional amounts due to each hospital plus an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks, and require managed care organizations and regional support networks to make payments to each hospital in accordance with the department's calculations within forty-five calendar days after the department disburses funds for those purposes;

(d) Require managed care organizations that contract with health care organizations that provide, directly or by contract, health care services on a prepaid or capitated basis to make payments to health care organizations for any of the hospital payments that the managed care organizations would have been required to pay to hospitals under this section if the managed care organizations did not contract with those health care organizations, and require the managed care organizations to require those health care organizations to make equivalent

payments to the hospitals that would have received payments under this section if the managed care organizations did not contract with the health care organizations;

(4) The department shall ensure that the increases to the medicaid fee schedules as described in section 10 of this act are included in the development of healthy options premiums.

(5) The department may require managed care organizations and regional support networks to demonstrate compliance with this section.

**NEW SECTION. Sec. 14. QUALITY INCENTIVE PAYMENTS.** (1) The department, in collaboration with the health care authority, the department of health, the department of labor and industries, the Washington state hospital association, the Puget Sound health alliance, and the forum, a collaboration of health carriers, physicians, and hospitals in Washington state, shall design a system of hospital quality incentive payments. The design of the system shall be submitted to the relevant policy and fiscal committees of the legislature by December 15, 2010. The system shall be based upon the following principles:

(a) Evidence-based treatment and processes shall be used to improve health care outcomes for hospital patients;

(b) Effective purchasing strategies to improve the quality of health care services should involve the use of common quality improvement measures by public and private health care purchasers, while recognizing that some measures may not be appropriate for application to specialty pediatric, psychiatric, or rehabilitation hospitals;

(c) Quality measures chosen for the system should be consistent with the standards that have been developed by national quality improvement organizations, such as the national quality forum, the federal centers for medicare and medicaid services, or the federal agency for healthcare research and quality. New reporting burdens to hospitals should be minimized by giving priority to measures hospitals are currently required to report to governmental agencies, such as the hospital compare measures collected by the federal centers for medicare and medicaid services;

(d) Benchmarks for each quality improvement measure should be set at levels that are feasible for hospitals to achieve, yet represent real improvements in quality and performance for a majority of hospitals in Washington state; and

(e) Hospital performance and incentive payments should be designed in a manner such that all noncritical access hospitals in Washington are able to receive the incentive payments if performance is at or above the benchmark score set in the system established under this section.

(2) Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, and for state fiscal year 2013 and each fiscal year thereafter, assessments may be increased to support an additional one percent increase in inpatient hospital rates for noncritical access hospitals that meet the quality incentive benchmarks established under this section.

**NEW SECTION. Sec. 15.** A new section is added to chapter 70.47 RCW to read as follows:

The increases in inpatient and outpatient reimbursement rates included in chapter 74.— RCW (the new chapter created in section 23 of this act) shall not

be reflected in hospital payment rates for services provided to basic health enrollees under this chapter.

**NEW SECTION. Sec. 16. MULTIHOSPITAL LOCATIONS, NEW HOSPITALS, AND CHANGES IN OWNERSHIP.** (1) If an entity owns or operates more than one hospital subject to assessment under this chapter, the entity shall pay the assessment for each hospital separately. However, if the entity operates multiple hospitals under a single medicaid provider number, it may pay the assessment for the hospitals in the aggregate.

(2) Notwithstanding any other provision of this chapter, if a hospital subject to the assessment imposed under this chapter ceases to conduct hospital operations throughout a state fiscal year, the assessment for the quarter in which the cessation occurs shall be adjusted by multiplying the assessment computed under section 4 (1) and (3) of this act by a fraction, the numerator of which is the number of days during the year which the hospital conducts, operates, or maintains the hospital and the denominator of which is three hundred sixty-five. Immediately prior to ceasing to conduct, operate, or maintain a hospital, the hospital shall pay the adjusted assessment for the fiscal year to the extent not previously paid.

(3) Notwithstanding any other provision of this chapter, in the case of a hospital that commences conducting, operating, or maintaining a hospital that is not exempt from payment of the assessment under section 5 of this act and that did not conduct, operate, or maintain such hospital throughout the cost reporting year used to determine the assessment amount, the assessment for that hospital shall be computed on the basis of the actual number of nonmedicare inpatient days reported to the department by the hospital on a quarterly basis. The hospital shall be eligible to receive increased payments under this chapter beginning on the date it commences hospital operations.

(4) Notwithstanding any other provision of this chapter, if a hospital previously subject to assessment is sold or transferred to another entity and remains subject to assessment, the assessment for that hospital shall be computed based upon the cost report data previously submitted by that hospital. The assessment shall be allocated between the transferor and transferee based on the number of days within the assessment period that each owned, operated, or maintained the hospital.

**NEW SECTION. Sec. 17. CONDITIONS.** (1) The assessment, collection, and disbursement of funds under this chapter shall be conditional upon:

(a) Withdrawal of those aspects of any pending state plan amendments previously submitted to the centers for medicare and medicaid services that are inconsistent with this chapter, specifically any pending state plan amendment related to the four percent rate reductions for inpatient and outpatient hospital rates and elimination of the small rural disproportionate share hospital payment program as implemented July 1, 2009;

(b) Approval by the centers for medicare and medicaid services of any state plan amendments or waiver requests that are necessary in order to implement the applicable sections of this chapter;

(c) To the extent necessary, amendment of contracts between the department and managed care organizations in order to implement this chapter; and

(d) Certification by the office of financial management that appropriations have been adopted that fully support the rates established in this chapter for the upcoming fiscal year.

(2) This chapter does not take effect or ceases to be imposed, and any moneys remaining in the fund shall be refunded to hospitals in proportion to the amounts paid by such hospitals, if and to the extent that:

(a) An appellate court or the centers for medicare and medicaid services makes a final determination that any element of this chapter, other than section 11 of this act, cannot be validly implemented;

(b) Medicaid inpatient or outpatient reimbursement rates for hospitals are reduced below the combined rates established by sections 9 and 10 of this act;

(c) Except for payments to the University of Washington medical center and harborview medical center, payments to hospitals required under sections 9, 10, 12, and 13 of this act are not eligible for federal matching funds;

(d) Other funding available for the medicaid program is not sufficient to maintain medicaid inpatient and outpatient reimbursement rates at the levels set in sections 9, 10, and 12 of this act; or

(e) The fund is used as a substitute for or to supplant other funds, except as authorized by section 3(3)(e) of this act.

**NEW SECTION. Sec. 18. SEVERABILITY.** (1) The provisions of this chapter are not severable: If the conditions set forth in section 17(1) of this act are not satisfied or if any of the circumstances set forth in section 17(2) of this act should occur, this entire chapter shall have no effect from that point forward, except that if the payment under section 11 of this act, or the application thereof to any hospital or circumstances does not receive approval by the centers for medicare and medicaid services as described in section 17(1)(b) of this act or is determined to be unconstitutional or otherwise invalid, the other provisions of this chapter or its application to hospitals or circumstances other than those to which it is held invalid shall not be affected thereby.

(2) In the event that any portion of this chapter shall have been validly implemented and the entire chapter is later rendered ineffective under this section, prior assessments and payments under the validly implemented portions shall not be affected.

(3) In the event that the payment under section 11 of this act, or the application thereof to any hospital or circumstances does not receive approval by the centers for medicare and medicaid services as described in section 17(1)(b) of this act or is determined to be unconstitutional or otherwise invalid, the amount of the assessment shall be adjusted under section 6(1)(c) of this act.

**Sec. 19.** 2009 c 564 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
MEDICAL ASSISTANCE PROGRAM**

General Fund—State Appropriation (FY 2010) . . . . .	\$1,597,387,000
General Fund—State Appropriation (FY 2011) . . . . .	\$1,984,797,000
General Fund—Federal Appropriation . . . . .	\$5,210,672,000
General Fund—Private/Local Appropriation . . . . .	\$12,903,000
Emergency Medical Services and Trauma Care Systems Trust Account—State Appropriation . . . . .	\$15,076,000

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Tobacco Prevention and Control Account—	
State Appropriation . . . . .	\$3,766,000
TOTAL APPROPRIATION . . . . .	\$8,824,601,000

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

(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(3) The legislature affirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(4) When a person is ineligible for medicaid solely by reason of residence in an institution for mental diseases, the department shall provide the person with the same benefits as he or she would receive if eligible for medicaid, using state-only funds to the extent necessary.

(5) In accordance with RCW 74.46.625, \$6,000,000 of the general fund—federal appropriation is provided solely for supplemental payments to nursing homes operated by public hospital districts. The public hospital district shall be responsible for providing the required nonfederal match for the supplemental payment, and the payments shall not exceed the maximum allowable under federal rules. It is the legislature's intent that the payments shall be supplemental to and shall not in any way offset or reduce the payments calculated and provided in accordance with part E of chapter 74.46 RCW. It is the legislature's further intent that costs otherwise allowable for rate-setting and settlement against payments under chapter 74.46 RCW shall not be disallowed solely because such costs have been paid by revenues retained by the nursing home from these supplemental payments. The supplemental payments are subject to retrospective interim and final cost settlements based on the nursing homes' as-filed and final medicare cost reports. The timing of the interim and final cost settlements shall be at the department's discretion. During either the interim cost settlement or the final cost settlement, the department shall recoup from the public hospital districts the supplemental payments that exceed the medicaid cost limit and/or the medicare upper payment limit. The department shall apply federal rules for identifying the eligible incurred medicaid costs and the medicare upper payment limit.

(6) \$1,110,000 of the general fund—federal appropriation and \$1,105,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for grants to rural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(7) \$9,818,000 of the general fund—state appropriation for fiscal year 2011, and \$9,865,000 of the general fund—federal appropriation are provided solely for grants to nonrural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(8) The department shall continue the inpatient hospital certified public expenditures program for the 2009-11 biennium. The program shall apply to all public hospitals, including those owned or operated by the state, except those classified as critical access hospitals or state psychiatric institutions. The department shall submit reports to the governor and legislature by November 1, 2009, and by November 1, 2010, that evaluate whether savings continue to exceed costs for this program. If the certified public expenditures (CPE) program in its current form is no longer cost-effective to maintain, the department shall submit a report to the governor and legislature detailing cost-effective alternative uses of local, state, and federal resources as a replacement for this program. During fiscal year 2010 and fiscal year 2011, hospitals in the program shall be paid and shall retain one hundred percent of the federal portion of the allowable hospital cost for each medicaid inpatient fee-for-service claim payable by medical assistance and one hundred percent of the federal portion of the maximum disproportionate share hospital payment allowable under federal regulations. Inpatient medicaid payments shall be established using an allowable methodology that approximates the cost of claims submitted by the hospitals. Payments made to each hospital in the program in each fiscal year of the biennium shall be compared to a baseline amount. The baseline amount will be determined by the total of (a) the inpatient claim payment amounts that would have been paid during the fiscal year had the hospital not been in the CPE program based on the reimbursement rates developed, implemented, and consistent with policies approved in the 2009-11 biennial operating appropriations act (chapter 564, Laws of 2009) and in effect on July 1, 2009, (b) one-half of the indigent assistance disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005, and (c) all of the other disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005 to the extent the same disproportionate share hospital programs exist in the 2009-11 biennium. If payments during the fiscal year exceed the hospital's baseline amount, no additional payments will be made to the hospital except the federal portion of allowable disproportionate share hospital payments for which the hospital can certify allowable match. If payments during the fiscal year are less than the baseline amount, the hospital will be paid a state grant equal to the difference between payments during the fiscal year and the applicable baseline amount. Payment of the state grant shall be made in the applicable fiscal year and distributed in monthly payments. The grants will be recalculated and redistributed as the baseline is updated during the fiscal year. The grant payments are subject to an interim settlement within eleven months after the end of the fiscal year. A final settlement shall be performed. To the extent that either settlement determines that a hospital has received funds in excess of what it would have received as described in this subsection, the hospital must repay the

excess amounts to the state when requested. \$6,570,000 of the general fund—state appropriation for fiscal year 2010, which is appropriated in section 204(1) of this act, and \$1,500,000 of the general fund—state appropriation for fiscal year 2011, which is appropriated in section 204(1) of this act, are provided solely for state grants for the participating hospitals. Sufficient amounts are appropriated in this section for the remaining state grants for the participating hospitals. CPE hospitals will receive the inpatient and outpatient reimbursement rate restorations in section 9 and rate increases in section 10(1)(b) of Engrossed Second Substitute House Bill No. 2956 (hospital safety net assessment) funded through the hospital safety net assessment fund rather than through the baseline mechanism specified in this section.

(9) The department is authorized to use funds appropriated in this section to purchase goods and supplies through direct contracting with vendors when the department determines it is cost-effective to do so.

(10) Sufficient amounts are appropriated in this section for the department to continue podiatry services for medicaid-eligible adults.

(11) Sufficient amounts are appropriated in this section for the department to provide an adult dental benefit that is at least equivalent to the benefit provided in the 2003-05 biennium.

(12) \$93,000 of the general fund—state appropriation for fiscal year 2010 and \$93,000 of the general fund—federal appropriation are provided solely for the department to pursue a federal Medicaid waiver pursuant to Second Substitute Senate Bill No. 5945 (Washington health partnership plan). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(13) The department shall require managed health care systems that have contracts with the department to serve medical assistance clients to limit any reimbursements or payments the systems make to providers not employed by or under contract with the systems to no more than the medical assistance rates paid by the department to providers for comparable services rendered to clients in the fee-for-service delivery system.

(14) Appropriations in this section are sufficient for the department to continue to fund family planning nurses in the community services offices.

(15) The department, in coordination with stakeholders, will conduct an analysis of potential savings in utilization of home dialysis. The department shall present its findings to the appropriate house of representatives and senate committees by December 2010.

(16) A maximum of \$166,875,000 of the general fund—state appropriation and \$38,389,000 of the general fund—federal appropriation may be expended in the fiscal biennium for the general assistance-unemployable medical program, and these amounts are provided solely for this program. Of these amounts, \$10,749,000 of the general fund—state appropriation for fiscal year 2010 and \$10,892,000 of the general fund—federal appropriation are provided solely for payments to hospitals for providing outpatient services to low income patients who are recipients of general assistance-unemployable. Pursuant to RCW 74.09.035, the department shall not expend for the general assistance medical care services program any amounts in excess of the amounts provided in this subsection.



(17) If the department determines that it is feasible within the amounts provided in subsection (16) of this section, and without the loss of federal disproportionate share hospital funds, the department shall contract with the carrier currently operating a managed care pilot project for the provision of medical care services to general assistance-unemployable clients. Mental health services shall be included in the services provided through the managed care system. If the department determines that it is feasible, effective October 1, 2009, in addition to serving clients in the pilot counties, the carrier shall expand managed care services to clients residing in at least the following counties: Spokane, Yakima, Chelan, Kitsap, and Cowlitz. If the department determines that it is feasible, the carrier shall complete implementation into the remaining counties. Total per person costs to the state, including outpatient and inpatient services and any additional costs due to stop loss agreements, shall not exceed the per capita payments projected for the general assistance-unemployable eligibility category, by fiscal year, in the February 2009 medical assistance expenditures forecast. The department, in collaboration with the carrier, shall seek to improve the transition rate of general assistance clients to the federal supplemental security income program.

(18) The department shall evaluate the impact of the use of a managed care delivery and financing system on state costs and outcomes for general assistance medical clients. Outcomes measured shall include state costs, utilization, changes in mental health status and symptoms, and involvement in the criminal justice system.

(19) The department shall report to the governor and the fiscal committees of the legislature by June 1, 2010, on its progress toward achieving a twenty percentage point increase in the generic prescription drug utilization rate.

(20) State funds shall not be used by hospitals for advertising purposes.

(21) The department shall seek a medicaid state plan amendment to create a professional services supplemental payment program for University of Washington medicine professional providers no later than July 1, 2009. The department shall apply federal rules for identifying the shortfall between current fee-for-service medicaid payments to participating providers and the applicable federal upper payment limit. Participating providers shall be solely responsible for providing the local funds required to obtain federal matching funds. Any incremental costs incurred by the department in the development, implementation, and maintenance of this program will be the responsibility of the participating providers. Participating providers will retain the full amount of supplemental payments provided under this program, net of any potential costs for any related audits or litigation brought against the state. The department shall report to the governor and the legislative fiscal committees on the prospects for expansion of the program to other qualifying providers as soon as feasibility is determined but no later than December 31, 2009. The report will outline estimated impacts on the participating providers, the procedures necessary to comply with federal guidelines, and the administrative resource requirements necessary to implement the program. The department will create a process for expansion of the program to other qualifying providers as soon as it is determined feasible by both the department and providers but no later than June 30, 2010.

(22) \$9,350,000 of the general fund—state appropriation for fiscal year 2010, \$8,313,000 of the general fund—state appropriation for fiscal year 2011, and \$20,371,000 of the general fund—federal appropriation are provided solely for development and implementation of a replacement system for the existing medicaid management information system. The amounts provided in this subsection are conditioned on the department satisfying the requirements of section 902 of this act.

(23) \$506,000 of the general fund—state appropriation for fiscal year 2011 and \$657,000 of the general fund—federal appropriation are provided solely for the implementation of Second Substitute House Bill No. 1373 (children's mental health). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(24) Pursuant to 42 U.S.C. Sec. 1396(a)(25), the department shall pursue insurance claims on behalf of medicaid children served through its in-home medically intensive child program under WAC 388-551-3000. The department shall report to the Legislature by December 31, 2009, on the results of its efforts to recover such claims.

(25) The department may, on a case-by-case basis and in the best interests of the child, set payment rates for medically intensive home care services to promote access to home care as an alternative to hospitalization. Expenditures related to these increased payments shall not exceed the amount the department would otherwise pay for hospitalization for the child receiving medically intensive home care services.

(26) \$425,000 of the general fund—state appropriation for fiscal year 2010, \$425,000 of the general fund—state appropriation for fiscal year 2011, and \$1,580,000 of the general fund—federal appropriation are provided solely to continue children's health coverage outreach and education efforts under RCW 74.09.470. These efforts shall rely on existing relationships and systems developed with local public health agencies, health care providers, public schools, the women, infants, and children program, the early childhood education and assistance program, child care providers, newborn visiting nurses, and other community-based organizations. The department shall seek public-private partnerships and federal funds that are or may become available to provide on-going support for outreach and education efforts under the federal children's health insurance program reauthorization act of 2009.

(27) The department, in conjunction with the office of financial management, shall ~~((reduce outpatient and inpatient hospital rates and))~~ implement a prorated inpatient payment policy. ~~((In determining the level of reductions needed, the department shall include in its calculations services paid under fee-for-service, managed care, and certified public expenditure payment methods; but reductions shall not apply to payments for psychiatric inpatient services or payments to critical access hospitals.))~~

(28) The department will pursue a competitive procurement process for antihemophilic products, emphasizing evidence-based medicine and protection of patient access without significant disruption in treatment.

(29) The department will pursue several strategies towards reducing pharmacy expenditures including but not limited to increasing generic prescription drug utilization by 20 percentage points and promoting increased utilization of the existing mail-order pharmacy program.

(30) The department shall reduce reimbursement for over-the-counter medications while maintaining reimbursement for those over-the-counter medications that can replace more costly prescription medications.

(31) The department shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(32) The department shall target funding for maternity support services towards pregnant women with factors that lead to higher rates of poor birth outcomes, including hypertension, a preterm or low birth weight birth in the most recent previous birth, a cognitive deficit or developmental disability, substance abuse, severe mental illness, unhealthy weight or failure to gain weight, tobacco use, or African American or Native American race.

(33) The department shall direct graduate medical education funds to programs that focus on primary care training.

(34) \$79,000 of the general fund—state appropriation for fiscal year 2010 and \$53,000 of the general fund—federal appropriation are provided solely to implement Substitute House Bill No. 1845 (medical support obligations).

(35) \$63,000 of the general fund—state appropriation for fiscal year 2010, \$583,000 of the general fund—state appropriation for fiscal year 2011, and \$864,000 of the general fund—federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings, and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(36) Sufficient amounts are provided in this section to provide full benefit dual eligible beneficiaries with medicare part D prescription drug copayment coverage in accordance with RCW 74.09.520.

**Sec. 20.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and 2009 c 451 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from

the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation

account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(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.

**Ch. 30**                      **WASHINGTON LAWS, 2010 Sp. Sess.**

NEW SECTION. **Sec. 21.** EXPIRATION. This chapter expires July 1, 2013.

NEW SECTION. **Sec. 22.** Upon expiration of chapter 74.— RCW (the new chapter created in section 24 of this act), inpatient and outpatient hospital reimbursement rates shall return to a rate structure as if the four percent medicaid inpatient and outpatient rate reductions did not occur on July 1, 2009, or as otherwise specified in the 2013-15 biennial operating appropriations act.

NEW SECTION. **Sec. 23.** EMERGENCY. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 24.** NEW CHAPTER. Sections 1 through 14, 16 through 18, and 21 of this act constitute a new chapter in Title 74 RCW.

Passed by the House April 10, 2010.  
Passed by the Senate April 10, 2010.  
Approved by the Governor April 27, 2010.  
Filed in Office of Secretary of State April 28, 2010.

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**CHAPTER 31**

[House Bill 3197]

BUDGET STABILIZATION ACCOUNT—TRANSFER TO GENERAL FUND

AN ACT Relating to transferring funds from the budget stabilization account to the general fund; and creating a new section.

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

NEW SECTION. **Sec. 1.** (1) The state treasurer shall transfer two hundred twenty-nine million dollars from the budget stabilization account to the state general fund for fiscal year 2011.

(2) The transfer in subsection (1) of this section is to minimize reductions to public school programs in the 2010 supplemental omnibus operating budget.

Passed by the House March 22, 2010.  
Passed by the Senate April 12, 2010.  
Approved by the Governor April 27, 2010.  
Filed in Office of Secretary of State April 28, 2010.

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**CHAPTER 32**

[Engrossed Substitute Senate Bill 6503]

STATE AGENCIES—REDUCTION IN OPERATING EXPENSES

AN ACT Relating to the operations of state agencies; amending RCW 42.04.060 and 41.04.665; reenacting and amending RCW 41.26.030, 41.32.010, 41.37.010, and 43.43.120; adding a new section to chapter 41.80 RCW; creating new sections; providing an expiration date; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** The legislature declares that unprecedented revenue shortfalls necessitate immediate action to reduce expenditures during the 2009-2011 fiscal biennium. From the effective date of this section, it is the

intent of the legislature that state agencies of the legislative branch, judicial branch, and executive branch including institutions of higher education, shall achieve a reduction in government operating expenses as provided in this act. It is the legislature's intent that, to the extent that the reductions in expenditures reduce compensation costs, agencies and institutions shall strive to preserve family wage jobs by reducing the impact of temporary layoffs on lower-wage jobs.

***\*NEW SECTION. Sec. 2. State agencies and institutions shall achieve reductions in compensation expenditures for employees employed by general government state agencies in Washington management services, or exempt positions as managers, as defined in RCW 41.06.022, as provided in the omnibus appropriations act. These reductions shall be sufficient to attain a savings of \$10 million general fund—state for fiscal year 2011. Savings in other funds and accounts shall be achieved as provided in the omnibus appropriations act.***

*\*Sec. 2 was vetoed. See message at end of chapter.*

**NEW SECTION. Sec. 3.** (1)(a) The office of financial management shall certify to each executive branch state agency and institution of higher education the compensation reduction amount to be achieved by that agency or institution. Each agency and institution shall achieve compensation expenditure reductions as provided in the omnibus appropriations act.

(b) Each executive branch state agency other than institutions of higher education may submit to the office of financial management a compensation reduction plan to achieve the cost reductions as provided in the omnibus appropriations act. The compensation reduction plan of each executive branch agency may include, but is not limited to, employee leave without pay, including additional mandatory and voluntary temporary layoffs, reductions in the agency workforce, compensation reductions, and reduced work hours, as well as voluntary retirement, separation, and other incentive programs authorized by section 912, chapter 564, Laws of 2009. The amount of compensation cost reductions to be achieved by each agency shall be adjusted to reflect voluntary and mandatory temporary layoffs at the agency during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010, but not adjusted by other compensation reduction plans adopted as a result of the enactment of chapter 564, Laws of 2009, or the enactment of other compensation cost reduction measures applicable to the 2009-2011 fiscal biennium.

(c) Each institution of higher education must submit to the office of financial management a compensation and operations reduction plan to achieve at least the cost reductions as provided in the omnibus appropriations act. For purposes of the reduction plan, the state board of community and technical colleges shall submit a single plan on behalf of all community and technical colleges. The reduction plan of each institution may include, but is not limited to, employee leave without pay, including mandatory and voluntary temporary layoffs, reductions in the institution workforce, compensation reductions, and reduced work hours, as well as voluntary retirement, separation, incentive programs authorized by section 912, chapter 564, Laws of 2009, as well as other reductions to the cost of operations. The amount of cost reductions to be achieved by each institution shall be adjusted to reflect voluntary and mandatory temporary layoffs at the institution during the 2009-2011 fiscal biennium and

implemented prior to January 1, 2010, but not adjusted by other compensation reduction plans adopted as a result of the enactment of chapter 564, Laws of 2009, or the enactment of other compensation cost reduction measures applicable to the 2009-2011 fiscal biennium.

(d) The director of financial management shall review, approve, and submit to the legislative fiscal committees those executive branch state agencies and higher education institution plans that achieves [achieve] the cost reductions as provided in the omnibus appropriations act. For those executive branch state agencies and institutions of higher education that do not have an approved compensation and operations reduction plan, the institution shall be closed on the dates specified in subsection (2) of this section.

(e) For each agency of the legislative branch, the chief clerk of the house of representatives and the secretary of the senate shall review and approve a plan of employee mandatory and voluntary leave for the 2009-2011 fiscal biennium that achieves the cost reductions as provided in the omnibus appropriations act. The amount of compensation cost reductions to be achieved shall be adjusted, if necessary, to reflect voluntary and mandatory temporary layoffs at the agencies during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010.

(f) For each agency of the judicial branch, the supreme court shall review and approve a plan of employee mandatory and voluntary leave for the 2009-2011 fiscal biennium that achieve the cost reductions as provided in the omnibus appropriations act. The amount of compensation cost reductions to be achieved shall be adjusted, if necessary, to reflect voluntary and mandatory temporary layoffs at the agencies during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010.

(2) Each state agency of the executive, legislative, and judicial branch, and any institution that does not have an approved plan in accordance with subsection (1) of this section shall be closed on the following dates in addition to the legal holidays specified in RCW 1.16.050:

- (a) Monday, July 12, 2010;
- (b) Friday, August 6, 2010;
- (c) Tuesday, September 7, 2010;
- (d) Monday, October 11, 2010;
- (e) Monday, December 27, 2010;
- (f) Friday, January 28, 2011;
- (g) Tuesday, February 22, 2011;
- (h) Friday, March 11, 2011;
- (i) Friday, April 22, 2011;
- (j) Friday, June 10, 2011.

(3) If the closure of state agencies or institutions under subsection (2) of this section prevents the performance of any action, the action shall be considered timely if performed on the next business day.

(4) The following activities of state agencies and institutions of higher education are exempt from subsections (1) and (2) of this section:

(a) Direct custody, supervision, and patient care in: (i) Corrections; (ii) juvenile rehabilitation; (iii) institutional care of veterans, or individuals with mental illness, and individuals with developmental disabilities; (iv) state hospitals, the University of Washington medical center, and Harborview medical center; (v) the special commitment center; (vi) the school for the blind; (vii) the



state center for childhood deafness and hearing loss; and (viii) the Washington youth academy;

(b) Direct protective services to children and other vulnerable populations, child support enforcement, disability determination services, complaint investigators, and residential care licensors and surveyors in the department of social and health services and the department of health;

(c) Washington state patrol investigative services and field enforcement;

(d) Hazardous materials response or emergency response and cleanup;

(e) Emergency public health and patient safety response and the public health laboratory;

(f) Military operations and emergency management within the military department;

(g) Firefighting;

(h) Enforcement officers in the department of fish and wildlife, the liquor control board, the gambling commission, the department of financial institutions, and the department of natural resources;

(i) State parks operated by the parks and recreation commission;

(j) In institutions of higher education, classroom instruction, operations not funded from state funds or tuition, campus police and security, emergency management and response, work performed by student employees if the duties were not previously assigned to nonstudents during the current or prior school year, and student health care;

(k) Operations of liquor control board business enterprises and games conducted by the state lottery;

(l) Agricultural commodity commissions and boards, and agricultural inspection programs operated by the department of agriculture;

(m) The unemployment insurance program and reemployment services of the employment security department;

(n) The workers' compensation program and workplace safety and health compliance activities of the department of labor and industries;

(o) The operation, maintenance, and construction of state ferries and state highways;

(p) The department of revenue;

(q) Licensing service offices in the department of licensing that are open no more than two days per week, and no licensing service office closures may occur on Saturdays as a result of this section;

(r) The governor, lieutenant governor, legislative agencies, and the office of financial management, during sessions of the legislature under Article II, section 12 of the state Constitution and the twenty-day veto period under Article IV [III], section 12 of the state Constitution;

(s) The office of the attorney general, except for management and administrative functions not directly related to civil, criminal, or administrative actions;

(t) The labor relations office of the office of financial management through November 1, 2010;

(u) The minimal use of state employees on the specified closure dates as necessary to protect public assets and information technology systems, and to maintain public safety; and

(v) The operations of the office of the insurance commissioner that are funded by industry regulatory fees.

(5)(a) The closure of an office of a state agency or institution of higher education under this section shall result in the temporary layoff of the employees of the agency or institution. The compensation of the employees shall be reduced proportionately to the duration of the temporary layoff. Temporary layoffs under this section shall not affect the employees' vacation leave accrual, seniority, health insurance, or sick leave credits. For the purposes of chapter 430, Laws of 2009, the compensation reductions under this section are deemed to be an integral part of an employer's expenditure reduction efforts and shall not result in the loss of retirement benefits in any state defined benefit retirement plan for an employee whose period of average final compensation includes a portion of the period from the effective date of this section through June 30, 2011.

(b)(i) During the closure of an office or institution under this section, any employee with a monthly full-time equivalent salary of two thousand five hundred dollars or less may, at the employee's option, use accrued vacation leave in lieu of temporary layoff during the closure. Solely for this purpose, and during the 2009-2011 fiscal biennium only, the department of personnel shall adopt rules to permit employees with less than six months of continuous state employment to use accrued vacation leave.

(ii) If an employee with a monthly full-time equivalent salary of two thousand five hundred dollars or less has no accrued vacation leave, that employee may use shared leave, if approved by the agency director, and if made available through donations under RCW 41.04.665 in lieu of temporary layoff during the closure.

(6) Except as provided in subsection (4) of this section, for employees not scheduled to work on a day specified in subsection (2) of this section, the employing agency must designate an alternative day during that month on which the employee is scheduled to work that the employee will take temporary leave without pay.

(7) To the extent that the implementation of this section is subject to collective bargaining under chapter 41.80 RCW, the bargaining shall be conducted pursuant to section 4 of this act. To the extent that the implementation of this section is subject to collective bargaining under chapters 28B.52, 41.56, 41.76, or 47.64 RCW, the bargaining shall be conducted pursuant to these chapters.

(8) For all or a portion of the employees of an agency of the executive branch, the office of financial management may approve the substitution of temporary layoffs on an alternative date during that month for any date specified in subsection (2) of this section as necessary for the critical work of any agency.

**NEW SECTION. Sec. 4.** A new section is added to chapter 41.80 RCW to read as follows:

(1) To the extent that the implementation of section 3 of this act is subject to collective bargaining:

(a) For institutions of higher education that have elected to have negotiations conducted by the governor or governor's designee in accordance with RCW 41.80.010(4), and that have an approved compensation reduction plan under section 3(1) of this act, negotiations regarding impacts of the

compensation reduction plan shall be conducted between the governor or governor's designee and a coalition at each college, college district, or university of all of the exclusive bargaining representatives subject to chapter 41.80 RCW;

(b) For institutions of higher education that have elected to have negotiations conducted by the governor or governor's designee in accordance with RCW 41.80.010(4), and that do not have an approved compensation reduction plan under section 3(1) of this act, negotiations regarding impacts of the temporary layoffs under section 3(2) of this act shall be conducted between the governor or governor's designee and one coalition of all of the exclusive bargaining representatives subject to chapter 41.80 RCW;

(c) For institutions of higher education that have not elected to have negotiations conducted by the governor or governor's designee under RCW 41.80.010(4), negotiations regarding impacts of section 3 of this act shall be conducted between each institution of higher education and the exclusive bargaining representatives;

(d) For agencies that have an approved compensation reduction plan under section 3(1) of this act, negotiations regarding impacts of the compensation reduction plan shall be conducted between the governor or governor's designee and a coalition at each agency of all of the exclusive bargaining representatives subject to chapter 41.80 RCW; and

(e) For agencies that do not have an approved compensation reduction plan under section 3(1) of this act, negotiations regarding impacts of the temporary layoffs under section 3(2) of this act shall be conducted between the governor or governor's designee and the exclusive bargaining representatives subject to chapter 41.80 RCW.

(2) This section expires June 30, 2011.

**Sec. 5.** RCW 42.04.060 and 2009 c 428 s 1 are each amended to read as follows:

Except as provided in section 3 of this act, all state elective and appointive officers shall keep their offices open for the transaction of business for a minimum of forty hours per week, except weeks that include state legal holidays. Customary business hours must be posted on the agency or office's web site and made known by other means designed to provide the public with notice.

~~((This section shall not apply to the courts of record of this state or to their officers nor to the office of the attorney general and the lieutenant governor.))~~

**Sec. 6.** RCW 41.26.030 and 2009 c 523 s 3 are each reenacted and 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 (16) and (18) of this section.

(14)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, or district 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, or district;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency; or

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996.

(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 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, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer.

(16) "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 (16)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under ~~((RCW 41.26.030(14) as now or hereafter amended))~~ 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 (16)(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.

(17) "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 control board, and the state department of corrections.

(18) "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 (~~RCW 41.26.030(14)~~) 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 (18)(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 (18)(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.

(19) "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.

(20) "Member" means any firefighter, law enforcement officer, or other person as would apply under subsections (16) or (18) 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.

(21) "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.

(22) "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.

(23) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(24) "Regular interest" means such rate as the director may determine.

(25) "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.

(26) "Retirement fund" means the "Washington law enforcement officers' and firefighters' retirement system fund" as provided for herein.

(27) "Retirement system" means the "Washington law enforcement officers' and firefighters' retirement system" provided herein.

(28)(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.

(29) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(30) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

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

(32) "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.

(33) "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 41.32.010 and 2008 c 204 s 1 and 2008 c 175 s 1 are each reenacted and amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan 1 members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan 2 members, 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 tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 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) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan 1 members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan 1 members.

(10)(a) "Earnable compensation" for plan 1 members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) For an employee member of the retirement system teaching in an extended school year program, two consecutive extended school years, as defined by the employer school district, may be used as the annual period for determining earnable compensation in lieu of the two fiscal years.

(iii) "Earnable compensation" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) 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 in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(iv) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(v) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan 2 and plan 3 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.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, 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 in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, 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 earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching 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.

(c) In calculating earnable compensation under (a) or (b) of this subsection, the department of retirement systems shall include 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, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system who has not been removed from membership under RCW 41.32.878 or 41.32.768. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan I members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan 1 members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan 1 members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan 1 members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan 1 members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan 2 and plan 3 members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

(26)(a) "Service" for plan 1 members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132(=).

(ii) Any other member employed in an eligible position or as a substitute who earns earnable compensation during the period from September through August shall receive service credit according to one of the following methods, whichever provides the most service credit to the member:

(A) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight

hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(B) If a member is employed in an eligible position or as a substitute teacher for at least five months of a six-month period between September through August of the following year and earns earnable compensation for six hundred thirty or more hours within the six-month period, he or she will receive a maximum of six service credit months for the school year, which shall be recorded as one service credit month for each month of the six-month period;

(C) All other members employed in an eligible position or as a substitute teacher shall receive service credit as follows:

(I) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(II) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(III) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iii) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(iv) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(v) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vi) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(vii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The

term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty 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 41.32.810(2).

(31) "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.

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

(33) "Director" means the director of the department.

(34) "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.

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

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan 2 members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan 2 and plan 3 on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan 1" means the teachers' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan 2" means the teachers' 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, and prior to July 1, 1996.

(40) "Plan 3" means the teachers' retirement system, plan 3 providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(41) "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.

(42) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(43) "Index B" means the index for the year prior to index A.

(44) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(45) "Adjustment ratio" means the value of index A divided by index B.

(46) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(47) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(48) "Separation from service or employment" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.32.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination. Mere expressions or inquiries about postretirement employment by an employer or employee that do not constitute a commitment to reemploy the employee after retirement are not an agreement under this section.

(49) "Employed" or "employee" 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.

**Sec. 8.** RCW 41.37.010 and 2007 c 492 s 11 and 2007 c 294 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) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

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

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

(4) "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, and the Washington state liquor control board; any county corrections department; or any city corrections department not covered under chapter 41.28 RCW.

(5) "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; or

(d) Whose primary responsibility is to supervise members eligible under this subsection.

(6)(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.

(7) "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.

(8) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(9) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(10) "Membership service" means all service rendered as a member.

(11) "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.

(12) "Regular interest" means such rate as the director may determine.

(13) "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.

(14)(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 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, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer.

(15) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(16) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(17) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(18) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(19) "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.

(20) "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.

(21) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(22) "Eligible position" means any permanent, full-time position included in subsection (5) of this section.

(23) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (22) of this section.

(24) "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.

(25) "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.

(26) "Director" means the director of the department.

(27) "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.

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

(29) "Plan" means the Washington public safety employees' retirement system plan 2.

(30) "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.

(31) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(32) "Index B" means the index for the year prior to index A.

(33) "Adjustment ratio" means the value of index A divided by index B.

(34) "Separation from service" occurs when a person has terminated all employment with an employer.

**Sec. 9.** RCW 43.43.120 and 2009 c 549 s 5124 and 2009 c 522 s 1 are each reenacted and amended to read as follows:

As used in (~~RCW 43.43.120~~) 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 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, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief.

(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 ~~((26.60.020))~~ 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.

(b) "Salary," for members commissioned on or after July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay.

(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.

~~((25))~~ 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.

**Sec. 10.** RCW 41.04.665 and 2008 c 36 s 3 are each amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services; ~~((¶))~~

(iv) The employee is a victim of domestic violence, sexual assault, or stalking; or

(v) During the 2009-2011 fiscal biennium only, the employee is eligible to use leave in lieu of temporary layoff under section 3(5) of this act;

(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, temporary layoff under section 3(5) of this act, or stalking has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(c) The employee's absence and the use of shared leave are justified;

(d) The employee has depleted or will shortly deplete his or her:

(i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;

(ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

(iii) Annual leave if he or she qualifies under (a)(iii) ~~((¶))~~, (iv), or (v) of this subsection;

(e) The employee has abided by agency rules regarding:

(i) Sick leave use if he or she qualifies under (a)(i) or (iv) of this subsection; or

(ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and

(f) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if he or she qualifies under (a)(i) of this subsection.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than two hundred sixty-one days of leave, except that shared leave received under the uniformed service shared leave pool in RCW 41.04.685 is not included in this total.

(3) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(4) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

(6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency. However, leave transferred to or from employees of school districts or educational service districts is limited to transfers to or from employees within the same employing district.

(7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(9) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Before the agency head makes a determination to return unused leave in connection with an illness or injury, or any other qualifying condition, he or she must receive from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(10) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

NEW SECTION. Sec. 11. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. This act 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 April 10, 2010.

Passed by the House April 2, 2010.

Approved by the Governor April 27, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 28, 2010.

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

"I am returning herewith, without my approval as to Section 2, Engrossed Substitute Senate Bill 6503 entitled:

"AN ACT Relating to the operations of state agencies."

This bill directs state agencies to achieve reductions in employee compensation costs. Section 2 of this bill would require additional compensation reductions of \$10 million General Fund State from Washington Management Service and exempt managers, who comprise less than five percent of state employees. A cut of this size, over such a small base, is too large to be practical. For example, it would take nearly two weeks of temporary layoff – over and above the ten days of layoff due to agency closures included in this bill – to reach this level of compensation reduction.

Managers will be subject to the temporary layoffs in proportion to all staff. Imposing this added reduction would interfere with recruiting and retaining qualified and experienced workers. It would likely cause salary inversion, making it particularly hard to promote senior state employees with technical skills into management jobs.



For these reasons I have vetoed Section 2 of Engrossed Substitute Senate Bill 6503.

With the exception of Section 2 of Engrossed Substitute Senate Bill 6503 is approved."

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### CHAPTER 33

[Substitute Senate Bill 6727]

#### HEALTH SCIENCES AND SERVICES AUTHORITIES

AN ACT Relating to health sciences and services authorities; amending RCW 35.104.060, 35.104.040, 82.14.480, and 42.30.110; and adding a new section to chapter 35.104 RCW.

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

**Sec. 1.** RCW 35.104.060 and 2009 c 564 s 921 are each amended to read as follows:

(1) The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers, including the authority may:

- (a) Sue and be sued in its own name;
- (b) Make and execute agreements, contracts, and other instruments, with any public or private entity or person, in accordance with this chapter;
- (c) Employ, contract with, or engage independent counsel, financial advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter;
- (d) Establish such special funds, and control deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;
- (e) Enter into contracts with public and private entities for research to be conducted in this state;
- (f) Delegate any of its powers and duties if consistent with the purposes of this chapter;
- (g) Exercise any other power reasonably required to implement the purposes of this chapter; and
- (h) Hire staff and pay administrative costs; however, such expenses shall be paid from moneys provided by the sponsoring local government and moneys received from gifts, grants, and bequests and the interest earned on the authority's accounts and investments. ~~((During the 2009-2011 fiscal biennium, up to))~~ **No more than** ten percent of the amounts received under RCW 82.14.480 may be used by a health sciences and services ~~((and sciences))~~ authority for the purposes of subsections (1)(c) and (h) of this section.

(2) In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

- (a) Use the authority's public moneys, leveraging those moneys with amounts received from other public and private sources in accordance with contribution agreements, to promote bioscience-based economic development, and to advance new therapies and procedures to combat disease and promote public health;
- (b) Solicit and receive gifts, grants, and bequests, and enter into contribution agreements with private entities and public entities to receive moneys in consideration of the authority's promise to leverage those moneys with the revenue generated by the tax authorized under RCW 82.14.480 and contributions from other public entities and private entities, in order to use those

moneys to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health;

(c) Hold funds received by the authority in trust for their use pursuant to this chapter to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health;

(d) Manage its funds, obligations, and investments as necessary and consistent with its purpose, including the segregation of revenues into separate funds and accounts;

(e) Borrow money and incur indebtedness pursuant to section 4 of this act.

(f) Make grants to entities pursuant to contract to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health. Grant agreements shall specify the deliverables to be provided by the recipient pursuant to the grant. Grants to private entities may only be provided under a contractual agreement that ensures the state will receive appropriate consideration, such as an assurance of job creation or retention, or the delivery of services that provide for the public health, safety, and welfare. The authority shall solicit requests for funding and evaluate the requests by reference to factors such as: (i) The quality of the proposed research; (ii) its potential to improve health outcomes, with particular attention to the likelihood that it will also lower health care costs, substitute for a more costly diagnostic or treatment modality, or offer a breakthrough treatment for a particular disease or condition; (iii) its potential to leverage additional funding; (iv) its potential to provide health care benefits; (v) its potential to stimulate employment; and (vi) evidence of public and private collaboration;

~~((f))~~ (g) Create one or more advisory boards composed of scientists, industrialists, and others familiar with health sciences and services; and

~~((g))~~ (h) Adopt policies and procedures to facilitate the orderly process of grant application, review, and reward.

(3) The records of the authority shall be subject to audit by the office of the state auditor.

**Sec. 2.** RCW 35.104.040 and 2007 c 251 s 4 are each amended to read as follows:

(1) The higher education coordinating board may approve applications submitted by local governments for an area's designation as a health sciences and services authority under this chapter. The director ~~((shall))~~ must determine the division to review applications submitted by local governments under this chapter. The application for designation ~~((shall))~~ must be in the form and manner and contain such information as the higher education coordinating board may prescribe, provided the application ~~((shall))~~:

(a) Contains sufficient information to enable the director to determine the viability of the proposal;

(b) Demonstrates that an ordinance or resolution has been passed by the legislative authority of a local government that delineates the boundaries of an area that may be designated an authority;

(c) ~~((Be))~~ Is submitted on behalf of the local government, or, if that office does not exist, by the legislative body of the local government;

(d) Demonstrates that the public funds directed to programs or facilities in the authority will leverage private sector resources and contributions to activities to be performed;

(e) Provides a plan or plans for the development of the authority as an entity to advance as a cluster for health sciences education, health sciences research, biotechnology development, biotechnology product commercialization, and/or health care services; and

(f) Demonstrates that the state has previously provided funds to health sciences and services programs or facilities in the applicant city, town, or county.

(2) The director ~~((shall))~~ must determine the division to develop criteria to evaluate the application. The criteria ~~((shall))~~ must include:

(a) The presence of infrastructure capable of spurring development of the area as a center of health sciences and services;

(b) The presence of higher education facilities where undergraduate or graduate coursework or research is conducted; and

(c) The presence of facilities in which health services are provided.

(3) There ~~((shall))~~ may be no more than ~~((one authority))~~ two authorities statewide.

(4) An authority may only be created in a county with a population of less than one million persons and located east of the crest of the Cascade mountains.

(5) The director may reject or approve an application. When denying an application, the director must specify the application's deficiencies. The decision regarding such designation as it relates to a specific local government is final; however, a rejected application may be resubmitted.

(6) Applications are due by December 31, ~~((2007))~~ 2010, and must be processed within sixty days of submission.

(7) The director may, at his or her discretion, amend the boundaries of an authority upon the request of the local government.

(8) The higher education coordinating board may adopt any rules necessary to implement this chapter ~~((251, Laws of 2007 within one hundred twenty days of July 22, 2007))~~.

(9) The higher education coordinating board must develop evaluation and performance measures in order to evaluate the effectiveness of the programs in the authorities that are funded with public resources. A report to the legislature ~~((shall be))~~ is due on a biennial basis beginning December 1, 2009. In addition, the higher education coordinating board ~~((shall))~~ must develop evaluation criteria that enables the local governments to measure the effectiveness of the program.

**Sec. 3.** RCW 82.14.480 and 2007 c 251 s 11 are each amended to read as follows:

(1) The legislative authority of a local jurisdiction that has created a health sciences and services authority under RCW 35.104.030, prior to January 1, 2010, may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and ~~((shall))~~ 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 local jurisdiction. The rate of the tax ~~((shall))~~ may not exceed 0.020 percent of the selling price in the case of a sales tax or the value of the article used in the case of a use tax.

(2) The tax imposed under subsection (1) of this section ~~((shall))~~ must be deducted from the amount of tax otherwise required to be collected or paid over to the department under chapter 82.08 or 82.12 RCW. The department of

revenue (~~shall~~) must perform the collection of the tax on behalf of the authority at no cost to the authority.

(3) The amounts received under this section may only be used in accordance with RCW 35.104.060 or to finance and retire the indebtedness incurred pursuant to RCW 35.104.070, in whole or in part.

(4) This section expires January 1, 2023.

NEW SECTION. **Sec. 4.** A new section is added to chapter 35.104 RCW to read as follows:

(1) A local government that has established a health sciences and services authority under RCW 35.104.030 may, by ordinance or resolution, authorize the authority to borrow money under the conditions set forth in this section.

(2) Moneys borrowed by an authority must be secured by funds derived from gifts or grants from any source, public or private, federal, state, or local government grants or payments, or intergovernmental transfers.

(3) The authority shall incur no expense or liability that is an obligation, either general or special, of the state or local government, or a general obligation of the authority, and shall pay no expense or liability from funds other than funds of the authority.

**Sec. 5.** RCW 42.30.110 and 2005 c 424 s 13 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees,

or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

~~((A))~~ (i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

~~((B))~~ (ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

~~((C))~~ (iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be

concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

Passed by the Senate April 12, 2010.

Passed by the House April 12, 2010.

Approved by the Governor April 27, 2010.

Filed in Office of Secretary of State April 28, 2010.

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## CHAPTER 34

[Engrossed Substitute Senate Bill 6872]

### MEDICAID NURSING FACILITY PAYMENTS

AN ACT Relating to medicaid nursing facility payments; amending RCW 74.46.010, 74.46.020, 74.46.431, 74.46.433, 74.46.435, 74.46.437, 74.46.439, 74.46.475, 74.46.485, 74.46.496, 74.46.501, 74.46.506, 74.46.508, 74.46.511, 74.46.515, 74.46.521, 74.46.835, and 74.46.800; adding new sections to chapter 74.46 RCW; repealing RCW 74.46.030, 74.46.040, 74.46.050, 74.46.060, 74.46.080, 74.46.090, 74.46.100, 74.46.155, 74.46.165, 74.46.190, 74.46.200, 74.46.220, 74.46.230, 74.46.240, 74.46.250, 74.46.270, 74.46.280, 74.46.290, 74.46.300, 74.46.310, 74.46.320, 74.46.330, 74.46.340, 74.46.350, 74.46.360, 74.46.370, 74.46.380, 74.46.390, 74.46.410, 74.46.445, 74.46.533, 74.46.600, 74.46.610, 74.46.620, 74.46.625, 74.46.630, 74.46.640, 74.46.650, 74.46.660, 74.46.680, 74.46.690, 74.46.700, 74.46.711, 74.46.770, 74.46.780, 74.46.790, 74.46.820, 74.46.900, 74.46.901, 74.46.902, 74.46.905, 74.46.906, and 74.46.433; providing effective dates; and declaring an emergency.

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

**Sec. 1.** RCW 74.46.010 and 1998 c 322 s 1 are each amended to read as follows:

(1) This chapter may be known and cited as the "nursing facility medicaid payment system."

(2) The purposes of this chapter are to set forth principles to guide the nursing facility medicaid payment system and specify the manner by which legislative appropriations for medicaid nursing facility services are to be allocated as payment rates among nursing facilities (~~(and to set forth auditing, billing, and other administrative standards associated with payments to nursing home facilities)~~).

(3) The legislature finds that the medicaid nursing facility rates calculated under this chapter provide sufficient reimbursement to efficient and economically operating facilities and bear a reasonable relationship to costs.

**Sec. 2.** RCW 74.46.020 and 2010 c 94 s 29 are each amended to read as follows:

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

(1) (~~"Accrual method of accounting" means a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.~~

(2)) "Appraisal" means the process of estimating the fair market value or reconstructing the historical cost of an asset acquired in a past period as performed by a professionally designated real estate appraiser with no pecuniary interest in the property to be appraised. It includes a systematic, analytic determination and the recording and analyzing of property facts, rights,

investments, and values based on a personal inspection and inventory of the property.

~~((3))~~ (2) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who are not related organizations and have adverse positions in the market place. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

~~((4))~~ (3) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

~~((5))~~ (4) "Audit" or "department audit" means an examination of the records of a nursing facility participating in the medicaid payment system, including but not limited to: The contractor's financial and statistical records, cost reports and all supporting documentation and schedules, receivables, and resident trust funds, to be performed as deemed necessary by the department and according to department rule.

~~((6))~~ "Bad debts" means amounts considered to be uncollectible from accounts and notes receivable.

(7) "Beneficial owner" means:

(a) Any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest;

(b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter;

(c) Any person who, subject to (b) of this subsection, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

except that, any person who acquires an ownership interest or power specified in (c)(i), (ii), or (iii) of this subsection with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest

which may be acquired through the exercise or conversion of such ownership interest or power;

(d) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised; except that:

(i) The pledge agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in (b) of this subsection; and

(ii) The pledge agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

~~(8))~~ (5) "Capitalization" means the recording of an expenditure as an asset.

~~((9))~~ (6) "Case mix" means a measure of the intensity of care and services needed by the residents of a nursing facility or a group of residents in the facility.

~~((10))~~ (7) "Case mix index" means a number representing the average case mix of a nursing facility.

~~((11))~~ (8) "Case mix weight" means a numeric score that identifies the relative resources used by a particular group of a nursing facility's residents.

~~((12))~~ (9) "Certificate of capital authorization" means a certification from the department for an allocation from the biennial capital financing authorization for all new or replacement building construction, or for major renovation projects, receiving a certificate of need or a certificate of need exemption under chapter 70.38 RCW after July 1, 2001.

~~((13))~~ (10) "Contractor" means a person or entity licensed under chapter 18.51 RCW to operate a medicare and medicaid certified nursing facility, responsible for operational decisions, and contracting with the department to provide services to medicaid recipients residing in the facility.

~~((14))~~ (11) "Default case" means no initial assessment has been completed for a resident and transmitted to the department by the cut-off date, or an assessment is otherwise past due for the resident, under state and federal requirements.

~~((15))~~ (12) "Department" means the department of social and health services (DSHS) and its employees.

~~((16))~~ (13) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

~~((17))~~ (14) "Direct care" means nursing care and related care provided to nursing facility residents. Therapy care shall not be considered part of direct care.

~~((18))~~ (15) "Direct care supplies" means medical, pharmaceutical, and other supplies required for the direct care of a nursing facility's residents.



~~((19))~~ (16) "Entity" means an individual, partnership, corporation, limited liability company, or any other association of individuals capable of entering enforceable contracts.

~~((20))~~ (17) "Equity" means the net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

~~((21))~~ (18) "Essential community provider" means a facility which is the only nursing facility within a commuting distance radius of at least forty minutes duration, traveling by automobile.

~~((22))~~ (19) "Facility" or "nursing facility" means a nursing home licensed in accordance with chapter 18.51 RCW, excepting nursing homes certified as institutions for mental diseases, or that portion of a multiservice facility licensed as a nursing home, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

~~((23))~~ (20) "Fair market value" means the replacement cost of an asset less observed physical depreciation on the date for which the market value is being determined.

~~((24))~~ (21) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles including, but not limited to, balance sheet, statement of operations, statement of changes in financial position, and related notes.

~~((25))~~ (22) "Generally accepted accounting principles" means accounting principles approved by the financial accounting standards board (FASB) or its successor.

~~((26))~~ "Goodwill" means the excess of the price paid for a nursing facility business over the fair market value of all net identifiable tangible and intangible assets acquired, as measured in accordance with generally accepted accounting principles.

~~((27))~~ (23) "Grouper" means a computer software product that groups individual nursing facility residents into case mix classification groups based on specific resident assessment data and computer logic.

~~((28))~~ (24) "High labor-cost county" means an urban county in which the median allowable facility cost per case mix unit is more than ten percent higher than the median allowable facility cost per case mix unit among all other urban counties, excluding that county.

~~((29))~~ (25) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

~~((30))~~ (26) "Home and central office costs" means costs that are incurred in the support and operation of a home and central office. Home and central office costs include centralized services that are performed in support of a nursing facility. The department may exclude from this definition costs that are nonduplicative, documented, ordinary, necessary, and related to the provision of care services to authorized patients.

~~((31))~~ "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

~~((32))~~ "Joint facility costs" means any costs which represent resources which benefit more than one facility, or one facility and any other entity.

~~(33))~~ (27) "Large nonessential community providers" means nonessential community providers with more than sixty licensed beds, regardless of how many beds are set up or in use.

(28) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination (due to any cause other than death or divorce) or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee, shall not be considered modification of a lease term.

~~((34))~~ (29) "Medical care program" or "medicaid program" means medical assistance, including nursing care, provided under RCW 74.09.500 or authorized state medical care services.

~~((35))~~ (30) "Medical care recipient," "medicaid recipient," or "recipient" means an individual determined eligible by the department for the services provided under chapter 74.09 RCW.

~~((36))~~ (31) "Minimum data set" means the overall data component of the resident assessment instrument, indicating the strengths, needs, and preferences of an individual nursing facility resident.

~~((37))~~ (32) "Net book value" means the historical cost of an asset less accumulated depreciation.

~~((38))~~ (33) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles.

~~((39))~~ (34) "Nonurban county" means a county which is not located in a metropolitan statistical area as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government.

~~((40)) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.~~

~~(41))~~ (35) "Owner" means a sole proprietor, general or limited partners, members of a limited liability company, and beneficial interest holders of five percent or more of a corporation's outstanding stock.

~~((42)) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.~~

~~(43))~~ (36) "Patient day" or "resident day" means a calendar day of care provided to a nursing facility resident, regardless of payment source, which will include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist. A "medicaid day" or "recipient day" means a calendar day of care provided to a medicaid recipient determined eligible by the department for

services provided under chapter 74.09 RCW, subject to the same conditions regarding admission and discharge applicable to a patient day or resident day of care.

~~((44)) "Professionally designated real estate appraiser" means an individual who is regularly engaged in the business of providing real estate valuation services for a fee, and who is deemed qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the writing of real estate valuation reports as well as the passing of written examinations on valuation practice and theory, and who by virtue of membership in such organization is required to subscribe and adhere to certain standards of professional practice as such organization prescribes.~~

~~(45))~~ (37) "Qualified therapist" means:

(a) A mental health professional as defined by chapter 71.05 RCW;

(b) An intellectual disabilities professional who is a therapist approved by the department who has had specialized training or one year's experience in treating or working with persons with intellectual or developmental disabilities;

(c) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has the equivalent education and clinical experience;

(d) A physical therapist as defined by chapter 18.74 RCW;

(e) An occupational therapist who is a graduate of a program in occupational therapy, or who has the equivalent of such education or training; and

(f) A respiratory care practitioner certified under chapter 18.89 RCW.

~~((46))~~ (38) "Rate" or "rate allocation" means the medicaid per-patient-day payment amount for medicaid patients calculated in accordance with the allocation methodology set forth in part E of this chapter.

~~((47)) "Real property," whether leased or owned by the contractor, means the building, allowable land, land improvements, and building improvements associated with a nursing facility.~~

~~(48))~~ (39) "Rebased rate" or "cost-rebased rate" means a facility-specific component rate assigned to a nursing facility for a particular rate period established on desk-reviewed, adjusted costs reported for that facility covering at least six months of a prior calendar year designated as a year to be used for cost-rebasing payment rate allocations under the provisions of this chapter.

~~((49))~~ (40) "Records" means those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, and transaction documentation, however such data are maintained.

~~((50)) "Related organization" means an entity which is under common ownership and/or control with, or has control of, or is controlled by, the contractor.~~

~~(a) "Common ownership" exists when an entity is the beneficial owner of five percent or more ownership interest in the contractor and any other entity.~~

~~(b) "Control" exists where an entity has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution, whether or not it is legally enforceable and however it is exercisable or exercised.~~

~~(51) "Related care" means only those services that are directly related to providing direct care to nursing facility residents. These services include, but are not limited to, nursing direction and supervision, medical direction, medical records, pharmacy services, activities, and social services.~~

~~(52))~~ (41) "Resident assessment instrument," including federally approved modifications for use in this state, means a federally mandated, comprehensive nursing facility resident care planning and assessment tool, consisting of the minimum data set and resident assessment protocols.

~~((53))~~ (42) "Resident assessment protocols" means those components of the resident assessment instrument that use the minimum data set to trigger or flag a resident's potential problems and risk areas.

~~((54))~~ (43) "Resource utilization groups" means a case mix classification system that identifies relative resources needed to care for an individual nursing facility resident.

~~((55) "Restricted fund" means those funds the principal and/or income of which is limited by agreement with or direction of the donor to a specific purpose.~~

~~(56))~~ (44) "Secretary" means the secretary of the department of social and health services.

~~((57))~~ (45) "Small nonessential community providers" means nonessential community providers with sixty or fewer licensed beds, regardless of how many beds are set up or in use.

(46) "Support services" means food, food preparation, dietary, housekeeping, and laundry services provided to nursing facility residents.

~~((58))~~ (47) "Therapy care" means those services required by a nursing facility resident's comprehensive assessment and plan of care, that are provided by qualified therapists, or support personnel under their supervision, including related costs as designated by the department.

~~((59))~~ (48) "Title XIX" or "medicaid" means the 1965 amendments to the social security act, P.L. 89-07, as amended and the medicaid program administered by the department.

~~((60))~~ (49) "Urban county" means a county which is located in a metropolitan statistical area as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government.

~~((61) "Vital local provider" means a facility that meets the following qualifications:~~

~~(a) It reports a home office with an address located in Washington state; and~~

~~(b) The sum of medicaid days for all Washington facilities reporting that home office as their home office was greater than two hundred fifteen thousand in 2003; and~~

~~(c) The facility was recognized as a "vital local provider" by the department as of April 1, 2007.~~

~~The definition of "vital local provider" shall expire, and have no force or effect, after June 30, 2007. After that date, no facility's payments under this chapter shall in any way be affected by its prior determination or recognition as a vital local provider.)~~

**Sec. 3.** RCW 74.46.431 and 2009 c 570 s 1 are each amended to read as follows:

(1) ~~(Effective July 1, 1999,)~~ Nursing facility medicaid payment rate allocations shall be facility-specific and shall have seven components: Direct care, therapy care, support services, operations, property, financing allowance, and variable return. The department shall establish and adjust each of these components, as provided in this section and elsewhere in this chapter, for each medicaid nursing facility in this state.

(2) ~~Component rate allocations in therapy care and support services (variable return, operations, property, and financing allowance for essential community providers as defined in this chapter) for all facilities shall be based upon a minimum facility occupancy of eighty-five percent of licensed beds, regardless of how many beds are set up or in use. (For all facilities other than essential community providers, effective July 1, 2001, component rate allocations in direct care, therapy care, support services, and variable return shall be based upon a minimum facility occupancy of eighty-five percent of licensed beds. For all facilities other than essential community providers, effective July 1, 2002, the component rate allocations in operations, property, and financing allowance shall be based upon a minimum facility occupancy of ninety percent of licensed beds, regardless of how many beds are set up or in use.)~~ Component rate allocations in operations, property, and financing allowance for essential community providers shall be based upon a minimum facility occupancy of eighty-five percent of licensed beds, regardless of how many beds are set up or in use. Component rate allocations in operations, property, and financing allowance for small nonessential community providers shall be based upon a minimum facility occupancy of ninety percent of licensed beds, regardless of how many beds are set up or in use. Component rate allocations in operations, property, and financing allowance for large nonessential community providers shall be based upon a minimum facility occupancy of ninety-two percent of licensed beds, regardless of how many beds are set up or in use. For all facilities, ~~(effective July 1, 2006,)~~ the component rate allocation in direct care shall be based upon actual facility occupancy. The median cost limits used to set component rate allocations shall be based on the applicable minimum occupancy percentage. In determining each facility's therapy care component rate allocation under RCW 74.46.511, the department shall apply the applicable minimum facility occupancy adjustment before creating the array of facilities' adjusted therapy costs per adjusted resident day. In determining each facility's support services component rate allocation under RCW 74.46.515(3), the department shall apply the applicable minimum facility occupancy adjustment before creating the array of facilities' adjusted support services costs per adjusted resident day. In determining each facility's operations component rate allocation under RCW 74.46.521(3), the department shall apply the minimum facility occupancy adjustment before creating the array of facilities' adjusted general operations costs per adjusted resident day.

(3) Information and data sources used in determining medicaid payment rate allocations, including formulas, procedures, cost report periods, resident assessment instrument formats, resident assessment methodologies, and resident classification and case mix weighting methodologies, may be substituted or altered from time to time as determined by the department.

(4)(a) Direct care component rate allocations shall be established using adjusted cost report data covering at least six months. ~~(Adjusted cost report~~

~~data from 1996 will be used for October 1, 1998, through June 30, 2001, direct care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2006, direct care component rate allocations. Adjusted cost report data from 2003 will be used for July 1, 2006, through June 30, 2007, direct care component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, direct care component rate allocations.))~~ Effective July 1, 2009, the direct care component rate allocation shall be rebased (~~((biennially, and thereafter for each odd-numbered year beginning July 1st))~~), using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2011))~~ 2012. Beginning July 1, 2012, the direct care component rate allocation shall be rebased biennially during every even-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year 2010 is used for July 1, 2012, through June 30, 2014, and so forth.

~~(b) ((Direct care component rate allocations based on 1996 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in RCW 74.46.506(5)(i).~~

~~(c) Direct care component rate allocations based on 1999 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in RCW 74.46.506(5)(i).~~

~~(d) Direct care component rate allocations based on 2003 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 2006, rate, as provided in RCW 74.46.506(5)(i).~~

~~(e))~~ Direct care component rate allocations established in accordance with this chapter shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the direct care component rate allocation established in accordance with this chapter. When no economic trends and conditions factor or factors for either fiscal year are defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the direct care component rate allocation established in accordance with this chapter.

(5)(a) Therapy care component rate allocations shall be established using adjusted cost report data covering at least six months. ~~((Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, therapy~~

~~care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2005, therapy care component rate allocations. Adjusted cost report data from 1999 will continue to be used for July 1, 2005, through June 30, 2007, therapy care component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, therapy care component rate allocations.)~~ Effective July 1, 2009, ~~((and thereafter for each odd-numbered year beginning July 1st,))~~ the therapy care component rate allocation shall be cost rebased ~~((biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period)),~~ so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2011))~~ 2012. Beginning July 1, 2012, the therapy care component rate allocation shall be rebased biennially during every even-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year 2010 is used for July 1, 2012, through June 30, 2014, and so forth.

(b) Therapy care component rate allocations established in accordance with this chapter shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the therapy care component rate allocation established in accordance with this chapter. When no economic trends and conditions factor or factors for either fiscal year are defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the therapy care component rate allocation established in accordance with this chapter.

(6)(a) Support services component rate allocations shall be established using adjusted cost report data covering at least six months. ~~((Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, support services component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2005, support services component rate allocations. Adjusted cost report data from 1999 will continue to be used for July 1, 2005, through June 30, 2007, support services component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, support services component rate allocations.))~~ Effective July 1, 2009, ~~((and thereafter for each odd-numbered year beginning July 1st,))~~ the support services component rate allocation shall be cost rebased ~~((biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period)),~~ so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2011))~~ 2012. Beginning July 1, 2012, the support services component rate allocation shall be rebased biennially during every even-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year 2010 is used for July 1, 2012, through June 30, 2014, and so forth.

(b) Support services component rate allocations established in accordance with this chapter shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. The economic

trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the support services component rate allocation established in accordance with this chapter. When no economic trends and conditions factor or factors for either fiscal year are defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the support services component rate allocation established in accordance with this chapter.

(7)(a) Operations component rate allocations shall be established using adjusted cost report data covering at least six months. ~~((Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, operations component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2006, operations component rate allocations. Adjusted cost report data from 2003 will be used for July 1, 2006, through June 30, 2007, operations component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, operations component rate allocations.))~~ Effective July 1, 2009, ~~((and thereafter for each odd numbered year beginning July 1st,))~~ the operations component rate allocation shall be cost rebased ~~((biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period)),~~ so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2011))~~ 2012. Beginning July 1, 2012, the operations component rate allocation shall be rebased biennially during every even-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year 2010 is used for July 1, 2012, through June 30, 2014, and so forth.

(b) Operations component rate allocations established in accordance with this chapter shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the operations component rate allocation established in accordance with this chapter. When no economic trends and conditions factor or factors for either fiscal year are defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the operations component rate allocation established in accordance with this chapter. ~~((A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose operations component rate is set equal to their adjusted June 30, 2006, rate, as provided in RCW 74.46.521(4).))~~

~~(8) For July 1, 1998, through September 30, 1998, a facility's property and return on investment component rates shall be the facility's June 30, 1998, property and return on investment component rates, without increase. For October 1, 1998, through June 30, 1999, a facility's property and return on investment component rates shall be rebased utilizing 1997 adjusted cost report data covering at least six months of data.~~



~~(9))~~ (8) Total payment rates under the nursing facility medicaid payment system shall not exceed facility rates charged to the general public for comparable services.

~~((10) Medicaid contractors shall pay to all facility staff a minimum wage of the greater of the state minimum wage or the federal minimum wage.~~

~~(11))~~ (9) The department shall establish in rule procedures, principles, and conditions for determining component rate allocations for facilities in circumstances not directly addressed by this chapter, including but not limited to: ~~((The need to prorate))~~ Inflation adjustments for partial-period cost report data, newly constructed facilities, existing facilities entering the medicaid program for the first time or after a period of absence from the program, existing facilities with expanded new bed capacity, existing medicaid facilities following a change of ownership of the nursing facility business, ~~((facilities banking beds or converting beds back into service,))~~ facilities temporarily reducing the number of set-up beds during a remodel, facilities having less than six months of either resident assessment, cost report data, or both, under the current contractor prior to rate setting, and other circumstances.

~~((12))~~ (10) The department shall establish in rule procedures, principles, and conditions, including necessary threshold costs, for adjusting rates to reflect capital improvements or new requirements imposed by the department or the federal government. Any such rate adjustments are subject to the provisions of RCW 74.46.421.

~~((13) Effective July 1, 2001, medicaid rates shall continue to be revised downward in all components, in accordance with department rules, for facilities converting banked beds to active service under chapter 70.38 RCW, by using the facility's increased licensed bed capacity to recalculate minimum occupancy for rate setting. However, for facilities other than essential community providers which bank beds under chapter 70.38 RCW, after May 25, 2001, medicaid rates shall be revised upward, in accordance with department rules, in direct care, therapy care, support services, and variable return components only, by using the facility's decreased licensed bed capacity to recalculate minimum occupancy for rate setting, but no upward revision shall be made to operations, property, or financing allowance component rates. The direct care component rate allocation shall be adjusted, without using the minimum occupancy assumption, for facilities that convert banked beds to active service, under chapter 70.38 RCW, beginning on July 1, 2006. Effective July 1, 2007, component rate allocations for direct care shall be based on actual patient days regardless of whether a facility has converted banked beds to active service.~~

~~(14))~~ (11) Effective July 1, 2010, there shall be no rate adjustment for facilities with banked beds. For purposes of calculating minimum occupancy, licensed beds include any beds banked under chapter 70.38 RCW.

(12) Facilities obtaining a certificate of need or a certificate of need exemption under chapter 70.38 RCW after June 30, 2001, must have a certificate of capital authorization in order for (a) the depreciation resulting from the capitalized addition to be included in calculation of the facility's property component rate allocation; and (b) the net invested funds associated with the capitalized addition to be included in calculation of the facility's financing allowance rate allocation.

**Sec. 4.** RCW 74.46.433 and 2006 c 258 s 3 are each amended to read as follows:

(1) The department shall establish for each medicaid nursing facility a variable return component rate allocation. In determining the variable return allowance:

(a) Except as provided in ~~((e))~~ (d) of this subsection, the variable return array and percentage shall be assigned whenever rebasing of noncapital rate allocations is scheduled under RCW 74.46.431 (4), (5), (6), and (7).

(b) To calculate the array of facilities ~~((for the July 1, 2001, rate setting))~~, the department, without using peer groups, shall first rank all facilities in numerical order from highest to lowest according to each facility's examined and documented, but unlidged, combined direct care, therapy care, support services, and operations per resident day cost from the ~~((1999 cost report period))~~ applicable cost report period specified in RCW 74.46.431(4)(a). However, before being combined with other per resident day costs and ranked, a facility's direct care cost per resident day shall be adjusted to reflect its facility average case mix index, to be averaged from the four calendar quarters of ~~((1999))~~ the cost report period identified in RCW 74.46.431(4)(a), weighted by the facility's resident days from each quarter, under RCW 74.46.501~~((7))~~ (6)(b)((ii)). The array shall then be divided into four quartiles, each containing, as nearly as possible, an equal number of facilities, and four percent shall be assigned to facilities in the lowest quartile, three percent to facilities in the next lowest quartile, two percent to facilities in the next highest quartile, and one percent to facilities in the highest quartile.

(c) The department shall ~~((, subject to (d) of this subsection,))~~ compute the variable return allowance by multiplying a facility's assigned percentage by the sum of the facility's direct care, therapy care, support services, and operations component rates determined in accordance with this chapter and rules adopted by the department.

(d) ~~((Effective July 1, 2001, if a facility's examined and documented direct care cost per resident day for the preceding report year is lower than its average direct care component rate weighted by medicaid resident days for the same year, the facility's direct care cost shall be substituted for its July 1, 2001, direct care component rate, and its variable return component rate shall be determined or adjusted each July 1st by multiplying the facility's assigned percentage by the sum of the facility's July 1, 2001, therapy care, support services, and operations component rates, and its direct care cost per resident day for the preceding year.~~

~~((e) Effective July 1, 2006,))~~ The variable return component rate allocation for each facility shall be thirty percent of the facility's June 30, 2006, variable return component rate allocation.

(2) The variable return rate allocation calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

**Sec. 5.** RCW 74.46.435 and 2001 1st sp.s. c 8 s 7 are each amended to read as follows:

(1) ~~((Effective July 1, 2001,))~~ The property component rate allocation for each facility shall be determined by dividing the sum of the reported allowable prior period actual depreciation, subject to ~~((RCW 74.46.310 through 74.46.380))~~ department rule, adjusted for any capitalized additions or replacements approved by the department, and the retained savings from such

cost center, by the greater of a facility's total resident days (~~for the facility~~) in the prior period or resident days as calculated on eighty-five percent facility occupancy for essential community providers, ninety percent occupancy for small nonessential community providers, or ninety-two percent facility occupancy for large nonessential community providers. (~~Effective July 1, 2002, the property component rate allocation for all facilities, except essential community providers, shall be set by using the greater of a facility's total resident days from the most recent cost report period or resident days calculated at ninety percent facility occupancy.~~) If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total resident days used in computing the property component rate shall be adjusted to anticipated resident day level.

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

(3) When a certificate of need for a new facility is requested, the department, in reaching its decision, shall take into consideration per-bed land and building construction costs for the facility which shall not exceed a maximum to be established by the secretary.

(4) (~~Effective July 1, 2001, for the purpose of calculating a nursing facility's property component rate, if a contractor has elected to bank licensed beds prior to April 1, 2001, or elects to convert banked beds to active service at any time, under chapter 70.38 RCW, the department shall use the facility's new licensed bed capacity to recalculate minimum occupancy for rate setting and revise the property component rate, as needed, effective as of the date the beds are banked or converted to active service. However, in no case shall the department use less than eighty-five percent occupancy of the facility's licensed bed capacity after banking or conversion. Effective July 1, 2002, in no case, other than essential community providers, shall the department use less than ninety percent occupancy of the facility's licensed bed capacity after conversion.~~)

(~~5~~) The property component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

*\*Sec. 6. RCW 74.46.437 and 2001 1st sp.s. c 8 s 8 are each amended to read as follows:*

*(1) (~~Beginning July 1, 1999,~~) The department shall establish for each medicaid nursing facility a financing allowance component rate allocation. The financing allowance component rate shall be rebased annually, effective July 1st, in accordance with the provisions of this section and this chapter.*

*(2) (~~Effective July 1, 2001,~~) The financing allowance shall be determined by multiplying the net invested funds of each facility by (~~10~~) 0.04, and dividing by the greater of a nursing facility's total resident days from the most recent cost report period or resident days calculated on eighty-five percent facility occupancy for essential community providers, ninety percent facility occupancy for small nonessential community providers, or ninety-two percent occupancy for large nonessential community providers. (~~Effective July 1, 2002, the financing allowance component rate allocation for all facilities, other than essential community providers, shall be set by using the greater of a facility's total resident days from the most recent cost report period or resident days calculated at ninety percent facility occupancy.~~) However,*

assets acquired on or after May 17, 1999, shall be grouped in a separate financing allowance calculation that shall be multiplied by ~~((-085))~~ 0.04. The financing allowance factor of ~~((-085))~~ 0.04 shall ~~((not))~~ be applied to the net invested funds pertaining to new construction or major renovations receiving certificate of need approval or an exemption from certificate of need requirements under chapter 70.38 RCW, or to working drawings that have been submitted to the department of health for construction review approval, prior to May 17, 1999. If a capitalized addition, renovation, replacement, or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total resident days used in computing the financing allowance shall be adjusted to the greater of the anticipated resident day level or eighty-five percent of the new licensed bed capacity for essential community providers, ninety percent of the new licensed bed capacity for small nonessential community providers, or ninety-two percent of the new licensed bed capacity for large nonessential community providers. ~~((Effective July 1, 2002, for all facilities, other than essential community providers, the total resident days used to compute the financing allowance after a capitalized addition, renovation, replacement, or retirement of an asset shall be set by using the greater of a facility's total resident days from the most recent cost report period or resident days calculated at ninety percent facility occupancy.))~~

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

(4) ~~((Effective July 1, 2001, for the purpose of calculating a nursing facility's financing allowance component rate, if a contractor has elected to bank licensed beds prior to May 25, 2001, or elects to convert banked beds to active service at any time, under chapter 70.38 RCW, the department shall use the facility's new licensed bed capacity to recalculate minimum occupancy for rate setting and revise the financing allowance component rate, as needed, effective as of the date the beds are banked or converted to active service. However, in no case shall the department use less than eighty five percent occupancy of the facility's licensed bed capacity after banking or conversion. Effective July 1, 2002, in no case, other than for essential community providers, shall the department use less than ninety percent occupancy of the facility's licensed bed capacity after conversion.))~~

~~(5))~~ *The financing allowance rate allocation calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.*

\*Sec. 6 was vetoed. See message at end of chapter.

**Sec. 7.** RCW 74.46.439 and 1999 c 353 s 12 are each amended to read as follows:

(1) In the case of a facility that was leased by the contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement, ~~((and for which the annualized lease payment, plus any interest and depreciation expenses associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total resident days, minus the property component rate allocation, is more than the sum of the financing allowance and the variable return rate determined according to this chapter, the following shall apply:~~

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

~~(b) The sum of the financing allowance computed under (a) of this subsection and the variable return rate shall be compared to the annualized lease payment, plus any interest and depreciation associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total resident days, minus the property component rate. The lesser of the two amounts shall be called the alternate return on investment rate.~~

~~(c) The sum of the financing allowance and variable return rate determined according to this chapter or the alternate return on investment rate, whichever is greater, shall be added to the prospective rates of the contractor.~~

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

~~(3))~~ the financing allowance rate will be the greater of the rate existing on June 30, 2010, or the rate calculated under RCW 74.46.437.

(2) The alternate return on investment component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

**Sec. 8.** RCW 74.46.475 and 1998 c 322 s 21 are each amended to read as follows:

~~((+))~~ The department shall analyze the submitted cost report or a portion thereof of each contractor for each report period to determine if the information is correct, complete, reported in conformance with department instructions and generally accepted accounting principles, the requirements of this chapter, and

such rules as the department may adopt. If the analysis finds that the cost report is incorrect or incomplete, the department may make adjustments to the reported information for purposes of establishing payment rate allocations. A schedule of such adjustments shall be provided to contractors and shall include an explanation for the adjustment and the dollar amount of the adjustment. Adjustments shall be subject to review and appeal as provided in this chapter.

~~((2) The department shall accumulate data from properly completed cost reports, in addition to assessment data on each facility's resident population characteristics, for use in:~~

- ~~(a) Exception profiling; and~~
- ~~(b) Establishing rates.~~

~~(3) The department may further utilize such accumulated data for analytical, statistical, or informational purposes as necessary.)~~

**Sec. 9.** RCW 74.46.485 and 2009 c 570 s 2 are each amended to read as follows:

(1) The department shall:

(a) Employ the resource utilization group III case mix classification methodology. The department shall use the forty-four group index maximizing model for the resource utilization group III grouper version 5.10, but the department may revise or update the classification methodology to reflect advances or refinements in resident assessment or classification, subject to federal requirements; and

(b) Implement minimum data set 3.0 under the authority of this section and RCW 74.46.431(3). The department must notify nursing home contractors twenty-eight days in advance the date of implementation of the minimum data set 3.0. In the notification, the department must identify for all ~~((quarterly))~~ semiannual rate settings following the date of minimum data set 3.0 implementation a previously established ~~((quarterly))~~ semiannual case mix adjustment established for the ~~((quarterly))~~ semiannual rate settings that will be used for ~~((quarterly))~~ semiannual case mix calculations in direct care until minimum data set 3.0 is fully implemented. After the department has fully implemented minimum data set 3.0, it must adjust any ~~((quarter))~~ semiannual rate setting in which it used the previously established ~~((quarterly))~~ case mix adjustment using the new minimum data set 3.0 data.

(2) A default case mix group shall be established for cases in which the resident dies or is discharged for any purpose prior to completion of the resident's initial assessment. The default case mix group and case mix weight for these cases shall be designated by the department.

(3) A default case mix group may also be established for cases in which there is an untimely assessment for the resident. The default case mix group and case mix weight for these cases shall be designated by the department.

**Sec. 10.** RCW 74.46.496 and 2006 c 258 s 4 are each amended to read as follows:

(1) Each case mix classification group shall be assigned a case mix weight. The case mix weight for each resident of a nursing facility for each calendar quarter or six-month period during a calendar year shall be based on data from resident assessment instruments completed for the resident and weighted by the

number of days the resident was in each case mix classification group. Days shall be counted as provided in this section.

(2) The case mix weights shall be based on the average minutes per registered nurse, licensed practical nurse, and certified nurse aide, for each case mix group, and using the ~~((health care financing administration of the))~~ United States department of health and human services 1995 nursing facility staff time measurement study stemming from its multistate nursing home case mix and quality demonstration project. Those minutes shall be weighted by statewide ratios of registered nurse to certified nurse aide, and licensed practical nurse to certified nurse aide, wages, including salaries and benefits, which shall be based on 1995 cost report data for this state.

(3) The case mix weights shall be determined as follows:

(a) Set the certified nurse aide wage weight at 1.000 and calculate wage weights for registered nurse and licensed practical nurse average wages by dividing the certified nurse aide average wage into the registered nurse average wage and licensed practical nurse average wage;

(b) Calculate the total weighted minutes for each case mix group in the resource utilization group III classification system by multiplying the wage weight for each worker classification by the average number of minutes that classification of worker spends caring for a resident in that resource utilization group III classification group, and summing the products;

(c) Assign a case mix weight of 1.000 to the resource utilization group III classification group with the lowest total weighted minutes and calculate case mix weights by dividing the lowest group's total weighted minutes into each group's total weighted minutes and rounding weight calculations to the third decimal place.

(4) The case mix weights in this state may be revised if the ~~((health care financing administration))~~ United States department of health and human services updates its nursing facility staff time measurement studies. The case mix weights shall be revised, but only when direct care component rates are cost-rebased as provided in subsection (5) of this section, to be effective on the July 1st effective date of each cost-rebased direct care component rate. However, the department may revise case mix weights more frequently if, and only if, significant variances in wage ratios occur among direct care staff in the different caregiver classifications identified in this section.

(5) Case mix weights shall be revised when direct care component rates are cost-rebased as provided in RCW 74.46.431(4).

**Sec. 11.** RCW 74.46.501 and 2006 c 258 s 5 are each amended to read as follows:

(1) From individual case mix weights for the applicable quarter, the department shall determine two average case mix indexes for each medicaid nursing facility, one for all residents in the facility, known as the facility average case mix index, and one for medicaid residents, known as the medicaid average case mix index.

(2)(a) In calculating a facility's two average case mix indexes for each quarter, the department shall include all residents or medicaid residents, as applicable, who were physically in the facility during the quarter in question based on the resident assessment instrument completed by the facility and the requirements and limitations for the instrument's completion and transmission

(January 1st through March 31st, April 1st through June 30th, July 1st through September 30th, or October 1st through December 31st).

(b) The facility average case mix index shall exclude all default cases as defined in this chapter. However, the medicaid average case mix index shall include all default cases.

(3) Both the facility average and the medicaid average case mix indexes shall be determined by multiplying the case mix weight of each resident, or each medicaid resident, as applicable, by the number of days, as defined in this section and as applicable, the resident was at each particular case mix classification or group, and then averaging.

(4)~~((a))~~) In determining the number of days a resident is classified into a particular case mix group, the department shall determine a start date for calculating case mix grouping periods as ~~((follows:~~

~~(i) If a resident's initial assessment for a first stay or a return stay in the nursing facility is timely completed and transmitted to the department by the cutoff date under state and federal requirements and as described in subsection (5) of this section, the start date shall be the later of either the first day of the quarter or the resident's facility admission or readmission date;~~

~~(ii) If a resident's significant change, quarterly, or annual assessment is timely completed and transmitted to the department by the cutoff date under state and federal requirements and as described in subsection (5) of this section, the start date shall be the date the assessment is completed;~~

~~(iii) If a resident's significant change, quarterly, or annual assessment is not timely completed and transmitted to the department by the cutoff date under state and federal requirements and as described in subsection (5) of this section, the start date shall be the due date for the assessment.~~

~~(b) If state or federal rules require more frequent assessment, the same principles for determining the start date of a resident's classification in a particular case mix group set forth in subsection (4)(a) of this section shall apply.~~

~~(c) In calculating the number of days a resident is classified into a particular case mix group, the department shall determine an end date for calculating case mix grouping periods as follows:~~

~~(i) If a resident is discharged before the end of the applicable quarter, the end date shall be the day before discharge;~~

~~(ii) If a resident is not discharged before the end of the applicable quarter, the end date shall be the last day of the quarter;~~

~~(iii) If a new assessment is due for a resident or a new assessment is completed and transmitted to the department, the end date of the previous assessment shall be the earlier of either the day before the assessment is due or the day before the assessment is completed by the nursing facility)) specified by rule.~~

(5) The cutoff date for the department to use resident assessment data, for the purposes of calculating both the facility average and the medicaid average case mix indexes, and for establishing and updating a facility's direct care component rate, shall be one month and one day after the end of the quarter for which the resident assessment data applies.

(6) ~~((A threshold of ninety percent, as described and calculated in this subsection, shall be used to determine the case mix index each quarter. The threshold shall also be used to determine which facilities' costs per case mix unit~~



~~are included in determining the ceiling, floor, and price. For direct care component rate allocations established on and after July 1, 2006, the threshold of ninety percent shall be used to determine the case mix index each quarter and to determine which facilities' costs per case mix unit are included in determining the ceiling and price. If the facility does not meet the ninety percent threshold, the department may use an alternate case mix index to determine the facility average and medicaid average case mix indexes for the quarter. The threshold is a count of unique minimum data set assessments, and it shall include resident assessment instrument tracking forms for residents discharged prior to completing an initial assessment. The threshold is calculated by dividing a facility's count of residents being assessed by the average census for the facility. A daily census shall be reported by each nursing facility as it transmits assessment data to the department. The department shall compute a quarterly average census based on the daily census. If no census has been reported by a facility during a specified quarter, then the department shall use the facility's licensed beds as the denominator in computing the threshold.~~

~~(7))~~(a) Although the facility average and the medicaid average case mix indexes shall both be calculated quarterly, the cost-rebasing period facility average case mix index will be used throughout the applicable cost-rebasing period in combination with cost report data as specified by RCW 74.46.431 and 74.46.506, to establish a facility's allowable cost per case mix unit. A facility's medicaid average case mix index shall be used to update a nursing facility's direct care component rate ~~((quarterly))~~ semiannually.

(b) The facility average case mix index used to establish each nursing facility's direct care component rate shall be based on an average of calendar quarters of the facility's average case mix indexes~~((-~~

~~(i) For October 1, 1998, direct care component rates, the department shall use an average of facility average case mix indexes from the four calendar quarters of 1997.~~

~~(ii) For July 1, 2001, direct care component rates, the department shall use an average of facility average case mix indexes from the four calendar quarters of 1999.~~

~~(iii) Beginning on July 1, 2006, when establishing the direct care component rates, the department shall use an average of facility case mix indexes))~~ from the four calendar quarters occurring during the cost report period used to rebase the direct care component rate allocations as specified in RCW 74.46.431.

(c) The medicaid average case mix index used to update or recalibrate a nursing facility's direct care component rate ~~((quarterly))~~ semiannually shall be from the calendar ~~((quarter))~~ six-month period commencing ~~((six))~~ nine months prior to the effective date of the ~~((quarterly))~~ semiannual rate. For example, ~~((October 1, 1998))~~ July 1, 2010, through December 31, ~~((1998))~~ 2010, direct care component rates shall utilize case mix averages from the ~~((April 1, 1998))~~ October 1, 2009, through ~~((June 30, 1998))~~ March 31, 2010, calendar quarters, and so forth.

**Sec. 12.** RCW 74.46.506 and 2007 c 508 s 3 are each amended to read as follows:

(1) The direct care component rate allocation corresponds to the provision of nursing care for one resident of a nursing facility for one day, including direct care supplies. Therapy services and supplies, which correspond to the therapy

care component rate, shall be excluded. The direct care component rate includes elements of case mix determined consistent with the principles of this section and other applicable provisions of this chapter.

(2) ~~((Beginning October 1, 1998,))~~ The department shall determine and update ~~((quarterly))~~ semiannually for each nursing facility serving medicaid residents a facility-specific per-resident day direct care component rate allocation, to be effective on the first day of each ~~((calendar quarter))~~ six-month period. In determining direct care component rates the department shall utilize, as specified in this section, minimum data set resident assessment data for each resident of the facility, as transmitted to, and if necessary corrected by, the department in the resident assessment instrument format approved by federal authorities for use in this state.

(3) The department may question the accuracy of assessment data for any resident and utilize corrected or substitute information, however derived, in determining direct care component rates. The department is authorized to impose civil fines and to take adverse rate actions against a contractor, as specified by the department in rule, in order to obtain compliance with resident assessment and data transmission requirements and to ensure accuracy.

(4) Cost report data used in setting direct care component rate allocations shall be for rate periods as specified in RCW 74.46.431(4)(a).

(5) ~~((Beginning October 1, 1998,))~~ The department shall rebase each nursing facility's direct care component rate allocation as described in RCW 74.46.431, adjust its direct care component rate allocation for economic trends and conditions as described in RCW 74.46.431, and update its medicaid average case mix index as described in RCW 74.46.496 and 74.46.501, consistent with the following:

(a) ~~((Reduce))~~ Adjust total direct care costs reported by each nursing facility for the applicable cost report period specified in RCW 74.46.431(4)(a) to reflect any department adjustments, and to eliminate reported resident therapy costs and adjustments, in order to derive the facility's total allowable direct care cost;

(b) Divide each facility's total allowable direct care cost by its adjusted resident days for the same report period, ~~((increased if necessary to a minimum occupancy of eighty five percent; that is, the greater of actual or imputed occupancy at eighty five percent of licensed beds,))~~ to derive the facility's allowable direct care cost per resident day~~((-. However, effective July 1, 2006, each facility's allowable direct care costs shall be divided by its adjusted resident days without application of a minimum occupancy assumption))~~;

(c) ~~((Adjust the facility's per resident day direct care cost by the applicable factor specified in RCW 74.46.431(4) to derive its adjusted allowable direct care cost per resident day;~~

~~((d))~~ Divide each facility's adjusted allowable direct care cost per resident day by the facility average case mix index for the applicable quarters specified by RCW 74.46.501~~((7)(b))~~ (6)(b) to derive the facility's allowable direct care cost per case mix unit;

~~((e) Effective for July 1, 2001, rate setting,))~~ (d) Divide nursing facilities into at least two and, if applicable, three peer groups: Those located in nonurban counties; those located in high labor-cost counties, if any; and those located in other urban counties;

~~((f))~~ (e) Array separately the allowable direct care cost per case mix unit for all facilities in nonurban counties; for all facilities in high labor-cost counties, if applicable; and for all facilities in other urban counties, and determine the median allowable direct care cost per case mix unit for each peer group;

~~((g))~~ Except as provided in (i) of this subsection, from October 1, 1998, through June 30, 2000, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is less than eighty-five percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to eighty-five percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(e);

(ii) Any facility whose allowable cost per case mix unit is greater than one hundred fifteen percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred fifteen percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(e);

(iii) Any facility whose allowable cost per case mix unit is between eighty-five and one hundred fifteen percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(e);

(h) Except as provided in (i) of this subsection, from July 1, 2000, through June 30, 2006, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is less than ninety percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to ninety percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(e);

(ii) Any facility whose allowable cost per case mix unit is greater than one hundred ten percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred ten percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(e);

(iii) Any facility whose allowable cost per case mix unit is between ninety and one hundred ten percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid

~~average case mix index from the applicable quarter specified in RCW 74.46.501(7)(e);~~

~~(i)(i) Between October 1, 1998, and June 30, 2000, the department shall compare each facility's direct care component rate allocation calculated under (g) of this subsection with the facility's nursing services component rate in effect on September 30, 1998, less therapy costs, plus any exceptional care offsets as reported on the cost report, adjusted for economic trends and conditions as provided in RCW 74.46.431. A facility shall receive the higher of the two rates.~~

~~(ii) Between July 1, 2000, and June 30, 2002, the department shall compare each facility's direct care component rate allocation calculated under (h) of this subsection with the facility's direct care component rate in effect on June 30, 2000. A facility shall receive the higher of the two rates. Between July 1, 2001, and June 30, 2002, if during any quarter a facility whose rate paid under (h) of this subsection is greater than either the direct care rate in effect on June 30, 2000, or than that facility's allowable direct care cost per case mix unit calculated in (d) of this subsection multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(e); the facility shall be paid in that and each subsequent quarter pursuant to (h) of this subsection and shall not be entitled to the greater of the two rates.~~

~~(iii) Between July 1, 2002, and June 30, 2006, all direct care component rate allocations shall be as determined under (h) of this subsection.~~

~~(iv) Effective July 1, 2006, for all providers, except vital local providers as defined in this chapter, all direct care component rate allocations shall be as determined under (j) of this subsection.~~

~~(v) Effective July 1, 2006, through June 30, 2007, for vital local providers, as defined in this chapter, direct care component rate allocations shall be determined as follows:~~

~~(A) The department shall calculate:~~

~~(I) The sum of each facility's July 1, 2006, direct care component rate allocation calculated under (j) of this subsection and July 1, 2006, operations component rate calculated under RCW 74.46.521; and~~

~~(II) The sum of each facility's June 30, 2006, direct care and operations component rates.~~

~~(B) If the sum calculated under (i)(v)(A)(I) of this subsection is less than the sum calculated under (i)(v)(A)(II) of this subsection, the facility shall have a direct care component rate allocation equal to the facility's June 30, 2006, direct care component rate allocation.~~

~~(C) If the sum calculated under (i)(v)(A)(I) of this subsection is greater than or equal to the sum calculated under (i)(v)(A)(II) of this subsection, the facility's direct care component rate shall be calculated under (j) of this subsection;~~

~~(j) Except as provided in (i) of this subsection, from July 1, 2006, forward, and for all future rate setting,)) (f) Determine each facility's ((quarterly)) semiannual direct care component rate as follows:~~

~~(i) Any facility whose allowable cost per case mix unit is greater than one hundred twelve percent of the peer group median established under ((#)) (e) of this subsection shall be assigned a cost per case mix unit equal to one hundred twelve percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied~~

by that facility's medicaid average case mix index from the applicable ~~((quarter))~~ six-month period specified in RCW 74.46.501~~((7))~~ (6)(c);

(ii) Any facility whose allowable cost per case mix unit is less than or equal to one hundred twelve percent of the peer group median established under ~~((f))~~ (e) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable ~~((quarter))~~ six-month period specified in RCW 74.46.501~~((7))~~ (6)(c).

(6) The direct care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

(7) Costs related to payments resulting from increases in direct care component rates, granted under authority of RCW 74.46.508~~((4))~~ for a facility's exceptional care residents, shall be offset against the facility's examined, allowable direct care costs, for each report year or partial period such increases are paid. Such reductions in allowable direct care costs shall be for rate setting, settlement, and other purposes deemed appropriate by the department.

**Sec. 13.** RCW 74.46.508 and 2003 1st sp.s. c 6 s 1 are each amended to read as follows:

~~((4))~~ The department is authorized to increase the direct care component rate allocation calculated under RCW 74.46.506(5) for residents who have unmet exceptional care needs as determined by the department in rule. The department may, by rule, establish criteria, patient categories, and methods of exceptional care payment.

~~((2) The department may by July 1, 2003, adopt rules and implement a system of exceptional care payments for therapy care.~~

~~(a) Payments may be made on behalf of facility residents who are under age sixty five, not eligible for medicare, and can achieve significant progress in their functional status if provided with intensive therapy care services.~~

~~(b) Payments may be made only after approval of a rehabilitation plan of care for each resident on whose behalf a payment is made under this subsection, and each resident's progress must be periodically monitored.)~~

**Sec. 14.** RCW 74.46.511 and 2008 c 263 s 3 are each amended to read as follows:

(1) The therapy care component rate allocation corresponds to the provision of medicaid one-on-one therapy provided by a qualified therapist as defined in this chapter, including therapy supplies and therapy consultation, for one day for one medicaid resident of a nursing facility. ~~((The therapy care component rate allocation for October 1, 1998, through June 30, 2001, shall be based on adjusted therapy costs and days from calendar year 1996. The therapy component rate allocation for July 1, 2001, through June 30, 2007, shall be based on adjusted therapy costs and days from calendar year 1999. Effective July 1, 2007,))~~ The therapy care component rate allocation shall be based on adjusted therapy costs and days as described in RCW 74.46.431(5). The therapy care component rate shall be adjusted for economic trends and conditions as specified in RCW 74.46.431(5), and shall be determined in accordance with this section. In determining each facility's therapy care component rate allocation, the

department shall apply the applicable minimum facility occupancy adjustment before creating the array of facilities' adjusted therapy care costs per adjusted resident day.

(2) In rebasing, as provided in RCW 74.46.431(5)(a), the department shall take from the cost reports of facilities the following reported information:

(a) Direct one-on-one therapy charges for all residents by payer including charges for supplies;

(b) The total units or modules of therapy care for all residents by type of therapy provided, for example, speech or physical. A unit or module of therapy care is considered to be fifteen minutes of one-on-one therapy provided by a qualified therapist or support personnel; and

(c) Therapy consulting expenses for all residents.

(3) The department shall determine for all residents the total cost per unit of therapy for each type of therapy by dividing the total adjusted one-on-one therapy expense for each type by the total units provided for that therapy type.

(4) The department shall divide medicaid nursing facilities in this state into two peer groups:

(a) Those facilities located within urban counties; and

(b) Those located within nonurban counties.

The department shall array the facilities in each peer group from highest to lowest based on their total cost per unit of therapy for each therapy type. The department shall determine the median total cost per unit of therapy for each therapy type and add ten percent of median total cost per unit of therapy. The cost per unit of therapy for each therapy type at a nursing facility shall be the lesser of its cost per unit of therapy for each therapy type or the median total cost per unit plus ten percent for each therapy type for its peer group.

(5) The department shall calculate each nursing facility's therapy care component rate allocation as follows:

(a) To determine the allowable total therapy cost for each therapy type, the allowable cost per unit of therapy for each type of therapy shall be multiplied by the total therapy units for each type of therapy;

(b) The medicaid allowable one-on-one therapy expense shall be calculated taking the allowable total therapy cost for each therapy type times the medicaid percent of total therapy charges for each therapy type;

(c) The medicaid allowable one-on-one therapy expense for each therapy type shall be divided by total adjusted medicaid days to arrive at the medicaid one-on-one therapy cost per patient day for each therapy type;

(d) The medicaid one-on-one therapy cost per patient day for each therapy type shall be multiplied by total adjusted patient days for all residents to calculate the total allowable one-on-one therapy expense. The lesser of the total allowable therapy consultant expense for the therapy type or a reasonable percentage of allowable therapy consultant expense for each therapy type, as established in rule by the department, shall be added to the total allowable one-on-one therapy expense to determine the allowable therapy cost for each therapy type;

(e) The allowable therapy cost for each therapy type shall be added together, the sum of which shall be the total allowable therapy expense for the nursing facility;

(f) The total allowable therapy expense will be divided by the greater of adjusted total patient days from the cost report on which the therapy expenses were reported, or patient days at eighty-five percent occupancy of licensed beds. The outcome shall be the nursing facility's therapy care component rate allocation.

(6) The therapy care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

(7) The therapy care component rate shall be suspended for medicaid residents in qualified nursing facilities designated by the department who are receiving therapy paid by the department outside the facility daily rate (~~under RCW 74.46.508(2))~~).

**Sec. 15.** RCW 74.46.515 and 2008 c 263 s 4 are each amended to read as follows:

(1) The support services component rate allocation corresponds to the provision of food, food preparation, dietary, housekeeping, and laundry services for one resident for one day.

(2) (~~Beginning October 1, 1998,~~) The department shall determine each medicaid nursing facility's support services component rate allocation using cost report data specified by RCW 74.46.431(6).

(3) To determine each facility's support services component rate allocation, the department shall:

(a) Array facilities' adjusted support services costs per adjusted resident day, as determined by dividing each facility's total allowable support services costs by its adjusted resident days for the same report period, increased if necessary to a minimum occupancy provided by RCW 74.46.431(2), for each facility from facilities' cost reports from the applicable report year, for facilities located within urban counties, and for those located within nonurban counties and determine the median adjusted cost for each peer group;

(b) Set each facility's support services component rate at the lower of the facility's per resident day adjusted support services costs from the applicable cost report period or the adjusted median per resident day support services cost for that facility's peer group, either urban counties or nonurban counties, plus ten percent; and

(c) Adjust each facility's support services component rate for economic trends and conditions as provided in RCW 74.46.431(6).

(4) The support services component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

**Sec. 16.** RCW 74.46.521 and 2007 c 508 s 5 are each amended to read as follows:

(1) The operations component rate allocation corresponds to the general operation of a nursing facility for one resident for one day, including but not limited to management, administration, utilities, office supplies, accounting and bookkeeping, minor building maintenance, minor equipment repairs and replacements, and other supplies and services, exclusive of direct care, therapy care, support services, property, financing allowance, and variable return.

(2) ~~((Except as provided in subsection (4) of this section, beginning October 1, 1998,))~~ The department shall determine each medicaid nursing facility's operations component rate allocation using cost report data specified by RCW 74.46.431(7)(a). ~~((Effective July 1, 2002,))~~ Operations component rates for ~~((all facilities except))~~ essential community providers shall be based upon a minimum occupancy of ~~((ninety))~~ eighty-five percent of licensed beds ~~((, and no operations component rate shall be revised in response to beds banked on or after May 25, 2001, under chapter 70.38 RCW)).~~ Operations component rates for small nonessential community providers shall be based upon a minimum occupancy of ninety percent of licensed beds. Operations component rates for large nonessential community providers shall be based upon a minimum occupancy of ninety-two percent of licensed beds.

(3) ~~((Except as provided in subsection (4) of this section,))~~ For all calculations and adjustments in this subsection, the department shall use the greater of the facility's actual occupancy or an imputed occupancy equal to eighty-five percent for essential community providers, ninety percent for small nonessential community providers, or ninety-two percent for large nonessential community providers. To determine each facility's operations component rate the department shall:

(a) Array facilities' adjusted general operations costs per adjusted resident day, as determined by dividing each facility's total allowable operations cost by its adjusted resident days for the same report period ~~((, increased if necessary to a minimum occupancy of ninety percent; that is, the greater of actual or imputed occupancy at ninety percent of licensed beds, for each facility from facilities' cost reports from the applicable report year,))~~ for facilities located within urban counties and for those located within nonurban counties and determine the median adjusted cost for each peer group;

(b) Set each facility's operations component rate at the lower of:

(i) The facility's per resident day adjusted operations costs from the applicable cost report period adjusted if necessary ~~((to a))~~ for minimum occupancy ~~((of eighty-five percent of licensed beds before July 1, 2002, and ninety percent effective July 1, 2002));~~ or

(ii) The adjusted median per resident day general operations cost for that facility's peer group, urban counties or nonurban counties; and

(c) Adjust each facility's operations component rate for economic trends and conditions as provided in RCW 74.46.431(7)(b).

~~(4)((a) Effective July 1, 2006, through June 30, 2007, for any facility whose direct care component rate allocation is set equal to its June 30, 2006, direct care component rate allocation, as provided in RCW 74.46.506(5), the facility's operations component rate allocation shall also be set equal to the facility's June 30, 2006, operations component rate allocation.~~

~~(b) The operations component rate allocation for facilities whose operations component rate is set equal to their June 30, 2006, operations component rate, shall be adjusted for economic trends and conditions as provided in RCW 74.46.431(7)(b).~~

~~(5))~~ The operations component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.



**Sec. 17.** RCW 74.46.835 and 1998 c 322 s 46 are each amended to read as follows:

(1) Payment for direct care at the pilot nursing facility in King county designed to meet the service needs of residents living with AIDS, as defined in RCW 70.24.017, and as specifically authorized for this purpose under chapter 9, Laws of 1989 1st ex. sess., shall be exempt from case mix methods of rate determination set forth in this chapter and shall be exempt from the direct care metropolitan statistical area peer group cost limitation set forth in this chapter.

(2) Direct care component rates at the AIDS pilot facility shall be based on direct care reported costs at the pilot facility, utilizing the same (~~three-year~~) rate-setting cycle prescribed for other nursing facilities, and as supported by a staffing benchmark based upon a department-approved acuity measurement system.

(3) The provisions of RCW 74.46.421 and all other rate-setting principles, cost lids, and limits, including settlement as provided in (~~RCW 74.46.165~~) rule shall apply to the AIDS pilot facility.

(4) This section applies only to the AIDS pilot nursing facility.

**Sec. 18.** RCW 74.46.800 and 1998 c 322 s 42 are each amended to read as follows:

(1) The department shall have authority to adopt, amend, and rescind such administrative rules and definitions as it deems necessary to carry out the policies and purposes of this chapter and to resolve issues and develop procedures (~~that it deems necessary~~) to implement, update, and improve (~~the case mix elements of~~) the nursing facility medicaid payment system.

(2) Nothing in this chapter shall be construed to require the department to adopt or employ any calculations, steps, tests, methodologies, alternate methodologies, indexes, formulas, mathematical or statistical models, concepts, or procedures for medicaid rate setting or payment that are not expressly called for in this chapter.

NEW SECTION. **Sec. 19.** A new section is added to chapter 74.46 RCW to read as follows:

The department shall establish, by rule, the procedures, principles, and conditions for the nursing facility medicaid payment system addressed by the following principles:

(1) The department must receive complete, annual reporting of all costs and the financial condition of each contractor, prepared and presented in a standardized manner. The department shall establish, by rule, due dates, requirements for cost report completion, actions required for improperly completed or late cost reports, fines for any statutory or regulatory noncompliance, retention requirements, and public disclosure requirements.

(2) The department shall examine all cost reports to determine whether the information is correct, complete, and reported in compliance with this chapter, department rules and instructions, and generally accepted accounting principles.

(3) Each contractor must establish and maintain, as a service to the resident, a bookkeeping system incorporated into the business records for all resident funds entrusted to the contractor and received by the contractor for the resident. The department shall adopt rules to ensure that resident personal funds handled

by the contractor are maintained by each contractor in a manner that is, at a minimum, consistent with federal requirements.

(4) The department shall have the authority to audit resident trust funds and receivables, at its discretion.

(5) Contractors shall provide the department access to the nursing facility, all financial and statistical records, and all working papers that are in support of the cost report, receivables, and resident trust funds.

(6) The department shall establish a settlement process in order to reconcile medicaid resident days to billed days and medicaid payments for the preceding calendar year. The settlement process shall ensure that any savings in the direct care or therapy care component rates be shifted only between direct care and therapy care component rates, and shall not be shifted into any other rate components.

(7) The department shall define and identify allowable and unallowable costs.

(8) A contractor shall bill the department for care provided to medicaid recipients, and the department shall pay a contractor for service rendered under the facility contract and appropriately billed. Billing and payment procedures shall be specified by rule.

(9) The department shall establish the conditions for participation in the nursing facility medicaid payment system.

(10) The department shall establish procedures and a rate setting methodology for a change of ownership.

(11) The department shall establish, consistent with federal requirements for nursing facilities participating in the medicaid program, an appeals or exception procedure that allows individual nursing home providers an opportunity to receive prompt administrative review of payment rates with respect to such issues as the department deems appropriate.

(12) The department shall have authority to adopt, amend, and rescind such administrative rules and definitions as it deems necessary to carry out the policies and purposes of this chapter.

NEW SECTION. Sec. 20. A new section is added to chapter 74.46 RCW to read as follows:

The department shall establish, by rule, the procedures, principles, and conditions for a pay-for-performance supplemental payment structure that provides payment add-ons for high performing facilities. To the extent that funds are appropriated for this purpose, the pay-for-performance structure will include a one percent reduction in payments to facilities with exceptionally high direct care staff turnover, and a method by which the funding that is not paid to these facilities is then used to provide a supplemental payment to facilities with lower direct care staff turnover.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) RCW 74.46.030 (Principles of reporting requirements) and 1980 c 177 s 3;

(2) RCW 74.46.040 (Due dates for cost reports) and 1998 c 322 s 3, 1985 c 361 s 4, 1983 1st ex.s. c 67 s 1, & 1980 c 177 s 4;

(3) RCW 74.46.050 (Improperly completed or late cost report—Fines—Adverse rate actions—Rules) and 1998 c 322 s 4, 1985 c 361 s 5, & 1980 c 177 s 5;

(4) RCW 74.46.060 (Completing cost reports and maintaining records) and 1998 c 322 s 5, 1985 c 361 s 6, 1983 1st ex.s. c 67 s 2, & 1980 c 177 s 6;

(5) RCW 74.46.080 (Requirements for retention of records by the contractor) and 1998 c 322 s 6, 1985 c 361 s 7, 1983 1st ex.s. c 67 s 3, & 1980 c 177 s 8;

(6) RCW 74.46.090 (Retention of cost reports and resident assessment information by the department) and 1998 c 322 s 7, 1985 c 361 s 8, & 1980 c 177 s 9;

(7) RCW 74.46.100 (Purposes of department audits—Examination—Incomplete or incorrect reports—Contractor's duties—Access to facility—Fines—Adverse rate actions) and 1998 c 322 s 8, 1985 c 361 s 9, 1983 1st ex.s. c 67 s 4, & 1980 c 177 s 10;

(8) RCW 74.46.155 (Reconciliation of medicaid resident days to billed days and medicaid payments—Payments due—Accrued interest—Withholding funds) and 1998 c 322 s 9;

(9) RCW 74.46.165 (Proposed settlement report—Payment refunds—Overpayments—Determination of unused rate funds—Total and component payment rates) and 2001 1st sp.s. c 8 s 2 & 1998 c 322 s 10;

(10) RCW 74.46.190 (Principles of allowable costs) and 1998 c 322 s 11, 1995 1st sp.s. c 18 s 96, 1983 1st ex.s. c 67 s 12, & 1980 c 177 s 19;

(11) RCW 74.46.200 (Offset of miscellaneous revenues) and 1980 c 177 s 20;

(12) RCW 74.46.220 (Payments to related organizations—Limits—Documentation) and 1998 c 322 s 12 & 1980 c 177 s 22;

(13) RCW 74.46.230 (Initial cost of operation) and 1998 c 322 s 13, 1993 sp.s. c 13 s 3, & 1980 c 177 s 23;

(14) RCW 74.46.240 (Education and training) and 1980 c 177 s 24;

(15) RCW 74.46.250 (Owner or relative—Compensation) and 1980 c 177 s 25;

(16) RCW 74.46.270 (Disclosure and approval or rejection of cost allocation) and 1998 c 322 s 14, 1983 1st ex.s. c 67 s 13, & 1980 c 177 s 27;

(17) RCW 74.46.280 (Management fees, agreements—Limitation on scope of services) and 1998 c 322 s 15, 1993 sp.s. c 13 s 4, & 1980 c 177 s 28;

(18) RCW 74.46.290 (Expense for construction interest) and 1980 c 177 s 29;

(19) RCW 74.46.300 (Operating leases of office equipment—Rules) and 1998 c 322 s 16 & 1980 c 177 s 30;

(20) RCW 74.46.310 (Capitalization) and 1983 1st ex.s. c 67 s 16 & 1980 c 177 s 31;

(21) RCW 74.46.320 (Depreciation expense) and 1980 c 177 s 32;

(22) RCW 74.46.330 (Depreciable assets) and 1980 c 177 s 33;

(23) RCW 74.46.340 (Land, improvements—Depreciation) and 1980 c 177 s 34;

(24) RCW 74.46.350 (Methods of depreciation) and 1999 c 353 s 13 & 1980 c 177 s 35;

(25) RCW 74.46.360 (Cost basis of land and depreciation base of depreciable assets) and 1999 c 353 s 2, 1997 c 277 s 1, 1991 sp.s. c 8 s 18, & 1989 c 372 s 14;

(26) RCW 74.46.370 (Lives of assets) and 1999 c 353 s 14, 1997 c 277 s 2, & 1980 c 177 s 37;

(27) RCW 74.46.380 (Depreciable assets) and 1993 sp.s. c 13 s 5, 1991 sp.s. c 8 s 12, & 1980 c 177 s 38;

(28) RCW 74.46.390 (Gains and losses upon replacement of depreciable assets) and 1980 c 177 s 39;

(29) RCW 74.46.410 (Unallowable costs) and 2007 c 508 s 1, 2001 1st sp.s. c 8 s 3, 1998 c 322 s 17, 1995 1st sp.s. c 18 s 97, 1993 sp.s. c 13 s 6, 1991 sp.s. c 8 s 15, 1989 c 372 s 2, 1986 c 175 s 3, 1983 1st ex.s. c 67 s 17, & 1980 c 177 s 41;

(30) RCW 74.46.445 (Contractors—Rate adjustments) and 1999 c 353 s 15;

(31) RCW 74.46.533 (Combined and estimated rebased rates—Determination—Hold harmless provision) and 2007 c 508 s 6;

(32) RCW 74.46.600 (Billing period) and 1980 c 177 s 60;

(33) RCW 74.46.610 (Billing procedure—Rules) and 1998 c 322 s 32, 1983 1st ex.s. c 67 s 33, & 1980 c 177 s 61;

(34) RCW 74.46.620 (Payment) and 1998 c 322 s 33 & 1980 c 177 s 62;

(35) RCW 74.46.625 (Supplemental payments) and 1999 c 392 s 1;

(36) RCW 74.46.630 (Charges to patients) and 1998 c 322 s 34 & 1980 c 177 s 63;

(37) RCW 74.46.640 (Suspension of payments) and 1998 c 322 s 35, 1995 1st sp.s. c 18 s 112, 1983 1st ex.s. c 67 s 34, & 1980 c 177 s 64;

(38) RCW 74.46.650 (Termination of payments) and 1998 c 322 s 36 & 1980 c 177 s 65;

(39) RCW 74.46.660 (Conditions of participation) and 1998 c 322 s 37, 1992 c 215 s 1, 1991 sp.s. c 8 s 13, & 1980 c 177 s 66;

(40) RCW 74.46.680 (Change of ownership—Assignment of department's contract) and 1998 c 322 s 38, 1985 c 361 s 2, & 1980 c 177 s 68;

(41) RCW 74.46.690 (Change of ownership—Final reports—Settlement) and 1998 c 322 s 39, 1995 1st sp.s. c 18 s 113, 1985 c 361 s 3, 1983 1st ex.s. c 67 s 36, & 1980 c 177 s 69;

(42) RCW 74.46.700 (Resident personal funds—Records—Rules) and 1991 sp.s. c 8 s 19 & 1980 c 177 s 70;

(43) RCW 74.46.711 (Resident personal funds—Conveyance upon death of resident) and 2001 1st sp.s. c 8 s 14 & 1995 1st sp.s. c 18 s 69;

(44) RCW 74.46.770 (Contractor appeals—Challenges of laws, rules, or contract provisions—Challenge based on federal law) and 1998 c 322 s 40, 1995 1st sp.s. c 18 s 114, 1983 1st ex.s. c 67 s 39, & 1980 c 177 s 77;

(45) RCW 74.46.780 (Appeals or exception procedure) and 1998 c 322 s 41, 1995 1st sp.s. c 18 s 115, 1989 c 175 s 159, 1983 1st ex.s. c 67 s 40, & 1980 c 177 s 78;

(46) RCW 74.46.790 (Denial, suspension, or revocation of license or provisional license—Penalties) and 1980 c 177 s 79;

(47) RCW 74.46.820 (Public disclosure) and 2005 c 274 s 356, 1998 c 322 s 43, 1985 c 361 s 14, 1983 1st ex.s. c 67 s 41, & 1980 c 177 s 82;

(48) RCW 74.46.900 (Severability—1980 c 177) and 1980 c 177 s 93;

- (49) RCW 74.46.901 (Effective dates—1983 1st ex.s. c 67; 1980 c 177) and 1983 1st ex.s. c 67 s 49, 1981 1st ex.s. c 2 s 10, & 1980 c 177 s 94;
- (50) RCW 74.46.902 (Section captions—1980 c 177) and 1980 c 177 s 89;
- (51) RCW 74.46.905 (Severability—1983 1st ex.s. c 67) and 1983 1st ex.s. c 67 s 43; and
- (52) RCW 74.46.906 (Effective date—1998 c 322 §§ 1-37, 40-49, and 52-54) and 1998 c 322 s 55.

**NEW SECTION. Sec. 22.** The following acts or parts of acts are each repealed, effective July 1, 2011: RCW 74.46.433 (Variable return component rate allocation) and 2010 1st sp.s. c ... (SSB 6872) s 4, 2006 c 258 s 3, 2001 1st sp.s. c 8 s 6, & 1999 c 353 s 9.

**NEW SECTION. Sec. 23.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2010.

Passed by the Senate April 13, 2010.

Passed by the House April 13, 2010.

Approved by the Governor May 4, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 5, 2010.

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

"I am returning herewith, without my approval as to Section 6, Engrossed Substitute Senate Bill 6872 entitled:

"AN ACT Relating to medicaid nursing facility payments."

This bill makes several changes to the nursing facility rate statute.

Section 6 of this bill would reduce the financing allowance from 10 percent to 4 percent for assets purchased prior to May 17, 1999 and from 8.5 percent to 4 percent for assets purchased on or after May 17, 1999. These retroactive reductions in return on investments would apply to owners the state previously had urged to upgrade their facilities. Such changes could make additional needed investments unlikely.

For these reasons I have vetoed Section 6 of Engrossed Substitute Senate Bill 6872.

With the exception of Section 6, Engrossed Substitute Senate Bill 6872 is approved."

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## CHAPTER 35

[Engrossed House Bill 2561]

### JOB CREATION—ENERGY IMPROVEMENTS

AN ACT Relating to creating jobs by funding construction of energy cost saving improvements to public facilities and raising revenue therefor; amending RCW 82.08.0293, 82.12.0293, and 39.94.040; adding a new chapter to Title 43 RCW; creating new sections; making an appropriation; providing a contingent effective date; providing for submission of certain sections of this act to a vote of the people; and declaring an emergency.

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

**PART I  
SHORT TITLE AND INTENT**

NEW SECTION. Sec. 101. This act may be known and cited as the jobs act.

NEW SECTION. Sec. 102. The legislature intends to create jobs in every corner of Washington state by issuing bonds, which will catalyze energy savings and repair work at public schools and state colleges and universities.

It is the intent of the legislature that these investments will create jobs quickly and directly, at a time when the state's residents need jobs. It is the further intent of the legislature that these investments both accelerate innovation in the energy efficiency sector and create locally developed technologies and companies to provide sustainable jobs. The legislature intends to prioritize the use of innovative technologies and facilitate the development of a sustainable innovation cluster that creates and installs highly efficient building technologies and creates jobs.

The legislature intends that these job-creating projects save taxpayers money, with an estimated one hundred twenty-six million dollars saved each year in public schools through reduced energy and operational costs, and improve the health and safety of those buildings. The energy savings are equivalent to the use of an estimated ninety thousand houses. It is also the intent of the legislature that these job-creating projects lead to reduced pollutants, as the weatherization and energy efficiency projects will reduce pollution emissions by an estimated amount equivalent to removing an estimated one hundred thirty thousand cars from the roads each year.

**PART II  
BOND AUTHORIZATION**

NEW SECTION. Sec. 201. (1) For the purpose of creating jobs by constructing needed capital improvements to public facilities for energy, utility, and operational cost savings, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of five hundred five million dollars, or so much thereof as may be required, for this purpose and all costs incidental thereto. The bonds issued under the authority of this section are known as jobs act bonds.

(2) Bonds authorized in this section must be sold in the manner, at the time or times, in amounts, and at such prices as the state finance committee determines.

(3) The authorization to issue bonds contained in this chapter does not expire until the full authorization has been issued.

(4) No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. Sec. 202. (1) The nondebt-limit general fund bond retirement account must be used for the payment of the principal of and interest on the bonds authorized in section 201 of this act.

(2) The state finance committee must, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to

meet the bond retirement and interest requirements on the bonds authorized in section 201 of this act.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of section 201 of this act, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. **Sec. 203.** (1) Bonds issued under this section and sections 201 and 202 of this act must state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

### **PART III PROGRAM REQUIREMENTS, APPROPRIATIONS, AND REVENUE PROVISIONS**

NEW SECTION. **Sec. 301.** (1) The department of commerce, in consultation with the department of general administration and the Washington State University energy program, shall administer the jobs act.

(2) The department of general administration must develop guidelines that are consistent with national and international energy savings performance standards for the implementation of energy savings performance contracting projects by the energy savings performance contractors by December 31, 2010.

(3) The definitions in this section apply throughout this chapter and section 302 of this act unless the context clearly requires otherwise.

(a) "Cost-effectiveness" means that the present value to higher education institutions and school districts of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(b) "Energy cost savings" means savings realized in expenses for energy use and expenses associated with water, wastewater, or solid waste systems.

(c) "Energy equipment" means energy management systems and any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including but not limited to design, engineering, financing, installation, project management, guarantees, operations, and maintenance. Reduction in energy use or energy cost may also include reductions in the use or cost of water, wastewater, or solid waste.

(d) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a public agency to conduct energy audits and guarantee energy savings from energy efficiency.

(e) "Innovative measures" means advanced or emerging technologies, systems, or approaches that may not yet be in common practice but improve energy efficiency, accelerate deployment, or reduce energy usage, and become widely commercially available in the future if proven successful in demonstration programs without compromising the guaranteed performance or measurable energy and operational cost savings anticipated. Examples of innovative measures include, but are not limited to, advanced energy and systems operations monitoring, diagnostics, and controls systems for buildings; novel heating, cooling, ventilation, and water heating systems; advanced windows and insulation technologies, highly efficient lighting technologies, designs, and controls; and integration of renewable energy sources into buildings, and energy savings verification technologies and solutions.

(f) "Operational cost savings" means savings realized from parts, service fees, capital renewal costs, and other measurable annual expenses to maintain and repair systems. This definition does not mean labor savings related to existing facility staff.

(g) "Public facilities" means buildings, building components, and major equipment or systems owned by public school districts and public higher education institutions.

**NEW SECTION. Sec. 302.** (1) Within appropriations specifically provided for the purposes of this chapter, the department of commerce, in consultation with the department of general administration, and the Washington State University energy program shall establish a competitive process to solicit and evaluate applications from public school districts, public higher education institutions, and other state agencies. Final grant awards shall be determined by the department of commerce.

(2) Grants must be awarded in competitive rounds, based on demand and capacity, with at least five percent of each grant round awarded to small public school districts with fewer than one thousand full-time equivalent students, based on demand and capacity.

(3) Within each competitive round, projects must be weighted and prioritized based on the following criteria and in the following order:

(a) Leverage ratio: In each round, the higher the leverage ratio of nonstate funding sources to state jobs act grant, the higher the project ranking.

(b) Energy savings: In each round, the higher the energy savings, the higher the project ranking. Applicants must submit documentation that demonstrates energy and operational cost savings resulting from the installation of the energy equipment and improvements. The energy savings analysis must be performed by a licensed engineer and documentation must include but is not limited to the following:

(i) A description of the energy equipment and improvements;

(ii) A description of the energy and operational cost savings; and

(iii) A description of the extent to which the project employs collaborative and innovative measures and encourages demonstration of new and emerging technologies with high energy savings or energy cost reductions.



(c) Expediency of expenditure: Project readiness to spend funds must be prioritized so that the legislative intent to expend funds quickly is met.

(4) Projects that do not use energy savings performance contracting must: (a) Verify energy and operational cost savings, as defined in section 301 of this act, for ten years or until the energy and operational costs savings pay for the project, whichever is shorter; (b) follow the department of general administration's energy savings performance contracting project guidelines developed pursuant to section 301 of this act; and (c) employ a licensed engineer for the energy audit and construction. The department of commerce may require third-party verification of savings if a project is not implemented by an energy savings performance contractor selected by the department of general administration through the request of qualifications process. Third-party verification must be conducted either by an energy savings performance contractor selected by the department of general administration through a request for qualifications, a licensed engineer specializing in energy conservation, or by a project resource conservation manager or educational service district resource conservation manager.

(5) To intensify competition, the department of commerce may only award funds to the top eighty-five percent of projects applying in a round until the department of commerce determines a final round is appropriate. Projects that do not receive a grant award in one round may reapply in subsequent rounds.

(6) To match federal grants and programs that require state matching funds and produce significantly higher efficiencies in operations and utilities, the level of innovation criteria may be increased for the purposes of weighted scoring to capture those federal dollars for selected projects that require a higher level of innovation and regional collaboration.

(7) Grant amounts awarded to each project must allow for the maximum number of projects funded with the greatest energy and cost benefit.

(8)(a) The department of commerce must use bond proceeds to pay one-half of the preliminary audit, up to five cents per square foot, if the project does not meet the school district's and higher education institution's predetermined cost-effectiveness criteria. School districts and higher education institutions must pay the other one-half of the cost of the preliminary audit if the project does not meet their predetermined cost-effectiveness criteria.

(b) The energy savings performance contractor may not charge for an investment grade audit if the project does not meet the school district's and higher education institution's predetermined cost-effectiveness criteria. School districts and higher education institutions must pay the full price of an investment grade audit if they do not proceed with a project that meets the school district's and higher education institution's predetermined cost-effectiveness criteria.

(9) The department of commerce may charge projects administrative fees and may pay the department of general administration and the Washington State University energy program administration fees in an amount determined through a memorandum of understanding.

(10) The department of commerce and the department of general administration must submit a joint report to the appropriate committees of the legislature and the office of financial management on the timing and use of the grant funds, program administrative function, compliance with apprenticeship

utilization requirements in RCW 39.04.320, compliance with prevailing wage requirements, and administration fees by the end of each fiscal year, until the funds are fully expended and all savings verification requirements are fulfilled.

**NEW SECTION. Sec. 303. FOR THE DEPARTMENT OF COMMERCE—JOBS ACT**

The appropriation in this section is subject to the following conditions and limitations: The appropriation is for fiscal year 2011 and is provided solely for grants to public school districts and public higher education institutions for energy and operational cost savings improvements to public facilities and related projects that result in energy and operational cost savings under the provision and requirements of sections 301 and 302 of this act. Related projects are those projects that must be completed in order for the energy efficiency improvements to be effective.

Appropriation:

Washington Works Account—State. . . . .	\$500,000,000
Prior Biennia (Expenditures). . . . .	\$0
Future Biennia (Projected Costs). . . . .	\$0
TOTAL. . . . .	\$500,000,000

**NEW SECTION. Sec. 304.** The legislature intends to increase general state revenues to pay for a portion of the increased debt service costs for voter-approved bonds and for debt-limit bonds authorized by the legislature for projects awarded grants under sections 301 and 302 of this act for energy efficiency projects in public facilities.

**Sec. 305.** RCW 82.08.0293 and 2010 1st sp.s. c ... (2ESSB 6143) s 902 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

- (a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and
- (b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(2) ~~((Until July 1, 2013,))~~ The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, candy, or dietary supplements. ~~((Beginning July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, candy, or dietary supplements.))~~ For purposes of this subsection, the following definitions apply:

- (a) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:
  - (i) Contains one or more of the following dietary ingredients:
    - (A) A vitamin;
    - (B) A mineral;
    - (C) An herb or other botanical;
    - (D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(b)(i) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(I) Food that is only cut, repackaged, or pasteurized by the seller; or

(II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(ii) "Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system—United States, 2002";

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

(d) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation containing flour and does not require refrigeration.

(e) "Bottled water" means water that is placed in a sealed container or package for human consumption. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts,

or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) 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" means a facility:

(i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under 42 U.S.C. Sec. 1485; and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) For soft drinks and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

**Sec. 306.** RCW 82.12.0293 and 2010 1st sp.s. c ... (2ESSB 6143) s 903 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of food and food ingredients for human consumption. "Food and food ingredients" has the same meaning as in RCW 82.08.0293.

(2) ~~((Until July 1, 2013,))~~ The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, candy, or dietary supplements. ~~((Beginning July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, candy, or dietary supplements.))~~ "Prepared food," "soft drinks," "dietary supplements," "candy," and "bottled water" have the same meanings as in RCW 82.08.0293.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section (~~(apply)~~ applies to food and food ingredients which are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) Which are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) 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.

#### PART IV TECHNICAL PROVISIONS

NEW SECTION. Sec. 401. (1) The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 201 of this act, and section 202 of this act may not be deemed to provide an exclusive method for the payment.

(2) The office of the state treasurer must determine a mechanism to allow individual Washington state residents to purchase jobs act bonds.

NEW SECTION. Sec. 402. The bonds authorized by this chapter constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

NEW SECTION. Sec. 403. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds provided for in this act, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

NEW SECTION. Sec. 404. The Washington works account is created in the state treasury. All receipts from bonds authorized under section 201 of this act must be deposited in the account. Moneys in the account may be spent only after appropriation. The proceeds from the sale of the bonds authorized in section 201 of this act must be deposited in the account. Moneys in the account must be used exclusively for:

(1) The purposes of sections 301, 302, and 303 of this act, which includes energy and operational cost savings improvements and related projects that result in energy and operational cost savings for public school districts and public higher education institutions; and

(2) The payment of the expenses incurred in connection with the sale and issuance of the bonds.

NEW SECTION. Sec. 405. If the state finance committee deems it necessary to issue any portion of the bonds authorized in this chapter as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of

such taxable bonds must be transferred to the state taxable building construction account in lieu of any deposits otherwise provided by section 404 of this act. The state treasurer must submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. For purposes of this section, "nontaxable bond proceeds" includes proceeds from bonds issued as tax exempt bonds and proceeds from taxable bonds eligible for direct federal subsidy under federal internal revenue service rules.

**Sec. 406.** RCW 39.94.040 and 2003 c 6 s 2 are each amended to read as follows:

(1) Except as provided in RCW 28B.10.022, the state may not enter into any financing contract for itself if the aggregate principal amount payable thereunder is greater than an amount to be established from time to time by the state finance committee or participate in a program providing for the issuance of certificates of participation, including any contract for credit enhancement, without the prior approval of the state finance committee. Except as provided in RCW 28B.10.022, the state finance committee shall approve the form of all financing contracts or a standard format for all financing contracts. The state finance committee also may:

(a) Consolidate existing or potential financing contracts into master financing contracts with respect to property acquired by one or more agencies, departments, instrumentalities of the state, the state board for community and technical colleges, or a state institution of higher learning; or to be acquired by an other agency;

(b) Approve programs providing for the issuance of certificates of participation in master financing contracts for the state or for other agencies;

(c) Enter into agreements with trustees relating to master financing contracts; and

(d) Make appropriate rules for the performance of its duties under this chapter.

(2) In the performance of its duties under this chapter, the state finance committee may consult with representatives from the department of general administration, the office of financial management, and the department of information services.

(3) With the approval of the state finance committee, the state also may enter into agreements with trustees relating to financing contracts and the issuance of certificates of participation.

(4) Except for financing contracts for real property used for the purposes described under chapter 28B.140 RCW, the state may not enter into any financing contract for real property of the state without prior approval of the legislature.

(5) The state may not enter into any financing contract on behalf of an other agency without the approval of such a financing contract by the governing body of the other agency. For the purposes of this requirement, a financing contract must be treated as used for real property if it is being entered into by the state for the acquisition of land; the acquisition of an existing building; the construction of a new building; or a major remodeling, renovation, rehabilitation, or rebuilding of an existing building. Prior approval of the legislature is not

required under this chapter for a financing contract entered into by the state under this chapter for energy conservation improvements to existing buildings where such improvements include (a) fixtures and equipment that are not part of a major remodeling, renovation, rehabilitation, or rebuilding of the building, or (b) other improvements to the building that are being performed for the primary purpose of energy conservation. Such energy conservation improvements must be determined eligible for financing under this chapter by the office of financial management in accordance with financing guidelines established by the state treasurer, and are to be treated as personal property for the purposes of this chapter.

#### PART V REFERENDUM PROVISIONS

NEW SECTION. Sec. 501. (1) The secretary of state shall submit sections 101 through 203 and 401 through 405 of this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 and Article VIII, section 3 of the state Constitution and the laws adopted to facilitate their operation.

(2) If the people ratify this act as specified under subsection (1) of this section, revenues generated shall be spent as detailed in this act.

(3) Pursuant to RCW 29A.72.050(6), the statement of subject and concise description for the ballot title shall read: "The legislature has passed Engrossed House Bill No. 2561 (this act), concerning job creation through energy efficiency projects in school buildings. This bill would promote job creation by authorizing bonds to construct energy efficiency savings improvements to schools, including higher education buildings."

NEW SECTION. Sec. 502. Sections 303 through 306 of this act are contingent upon approval by the voters of sections 101 through 203 and 401 through 405 of this act. If sections 101 through 203 and 401 through 405 of this act are not approved by the voters by December 1, 2010, sections 303 through 306 of this act are null and void.

NEW SECTION. Sec. 503. Sections 201 through 203, 301, 302, and 401 through 405 of this act constitute a new chapter in Title 43 RCW.

#### PART VI MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 601. This act takes effect if Second Engrossed Substitute Senate Bill No. 6143 is enacted by the legislature during the 2010 1st special session.

Passed by the House April 12, 2010.

Passed by the Senate April 12, 2010.

Approved by the Governor May 4, 2010.

Filed in Office of Secretary of State May 5, 2010.

## CHAPTER 36

[Engrossed Substitute House Bill 2836]

## SUPPLEMENTAL CAPITAL BUDGET

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 43.155.050, 28B.20.725, 28B.30.750, 43.160.080, 90.71.370, 39.10.210, and 39.94.040; amending 2009 c 497 ss 1005, 1013, 1029, 1019, 1023, 1030, 1031, 1034, 1035, 1039, 1040, 1045, 1046, 1048, 1054, 1055, 1065, 1071, 1075, 1060, 1061, 1063, 1064, 1068, 1073, 1081, 1086, 1087, 2001, 2002, 2027, 2014, 2034, 2037, 2038, 2067, 2072, 2075, 2078, 2068, 2054, 2064, 3059, 3039, 3007, 3049, 3054, 3060, 3020, 3052, 3093, 3094, 3090, 3091, 3085, 3109, 3133, 3138, 3157, 3168, 3169, 3172, 3178, 3182, 3197, 3203, 4008, 5007, 5008, 5009, 5002, 5013, 5014, 5011, 5027, 5029, 5024, 5023, 5026, 5028, 5037, 5030, 5041, 5035, 5039, 5055, 5047, 5054, 5056, 5057, 5064, 5061, 5065, 5068, 5079, 5080, 5083, 5092, 5094, 5093, 5097, 5104, 5100, 5111, 5115, 5116, 5118, 5120, 5174, 5176, 5127, 5180, 5171, 5182, 5210, 5183, 5184, 5217, 5218, 5219, 5220, 5204, 5205, 5206, 5208, 5165, 5177, 5178, 5191, 5151, 5181, 5190, 5192, 5168, 5135, 5195, 5223, 5179, 5213, 5164, 5224, 5143, 5167, 6009, and 6004 (uncodified); amending 2008 c 5 s 1 (uncodified); adding new sections to 2009 c 497 (uncodified); creating a new section; repealing RCW 39.86.200; repealing 2009 c 497 ss 1089, 2030, 2079, 3098, 4009, 5043, 5059, 5072, 5084, 5098, and 5112 (uncodified); and declaring an emergency.

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

**NEW SECTION. Sec. 1.** A supplemental capital budget is hereby adopted and, subject to the provisions set forth in this act, the several dollar amounts hereinafter specified, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for capital projects during the period beginning with the effective date of this act and ending June 30, 2011, out of the several funds specified in this act.

**PART 1  
GENERAL GOVERNMENT**

**Sec. 1001.** 2009 c 497 s 1005 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Local and Community Projects (20064008)

The reappropriation in this section is subject to the following conditions and limitations: (1) \$64,319 of the remaining reappropriation for El Centro de la raza may be used for building infrastructure. (2) \$10,000 of the remaining reappropriation for miracle league handicapped baseball may be used for pre-grading and resurfacing construction. (3) \$1,394,107 of the remaining reappropriation for MOBIUS/inland northwest science and technology center may be used for building design ((and)), construction, and renovation. (4) \$500,000 of the remaining reappropriation for the Soundway property preservation project may be used by the city of Seattle, in cooperation with the nature consortium for habitat, recreation improvements, or stewardship of the property, if the city of Seattle enacts pending city legislation to preserve the property and place it under the jurisdiction of city of Seattle parks and recreation. (5) The reappropriation is adjusted for the transfer of the Vancouver national historical reserve west barracks project to the Washington state historical society and the termination of the following projects that are no longer viable: (a) Snohomish senior center and (b) central area motivation program (CAMP).



Reappropriation:

State Building Construction Account—State . . . . .	(\$10,658,000)
	<u>\$9,258,000</u>
Prior Biennia (Expenditures) . . . . .	\$37,141,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$47,799,000)
	<u>\$46,399,000</u>

Sec. 1002. 2009 c 497 s 1013 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Job and Economic Development Grants (20064950)

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

(1) The ((re))appropriation is subject to the provisions of section 107, chapter 371, Laws of 2006.

(2) The ((re))appropriation is subject to the project list in section 107, chapter 371, Laws of 2006.

(3) Up to \$1,000,000 of the ((re))appropriation for the Pacific Northwest national labs campus infrastructure project is provided solely for giga-pop infrastructure.

(4) Up to \$2,200,000 of the ((re))appropriation is provided solely for military communities infrastructure projects. Military communities infrastructure projects shall include:

(a) Grants to counties and cities for the purchase of development easements and the purchase of real property in fee simple to restrict the use of accident potential zones and clear zones. The office of financial management shall establish a competitive process for selecting projects to receive the grants. Final allocation of these grants shall be at the discretion and with the approval of the director of the office of financial management.

The grants are subject to the following conditions:

(i) The county or city must be subject to and in compliance with RCW 36.70A.530;

(ii) The grants may not be used to remove encroachments into these zones allowed by county or city zoning or permitting actions;

(iii) The county or city must have an encroachment prevention plan preventing future encroachment into these zones; and

(iv) The grant provided by the state must not exceed one-third of the project cost with funds from local and federal sources providing the balance of the funds.

(b) Up to \$481,000 of the ((re))appropriation is provided solely for improvements to a military department site on Fairchild air force base.

Reappropriation:

Public Works Assistance Account—State . . . . .	(\$14,172,000)
	<u>\$1,733,000</u>

Appropriation:

State Building Construction Account—State . . . . .	\$12,439,000
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Prior Biennia (Expenditures) . . . . .	\$35,828,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$50,000,000

**Sec. 1003.** 2009 c 497 s 1029 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Local and Community Projects (20084001)

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

(1) The projects must comply with RCW 43.63A.125 and other requirements for community projects administered by the department.

(2) The reappropriation is subject to the provisions of section 1008, chapter 328, Laws of 2008.

(3) \$1,000,000 of the remaining reappropriation for the Evergreen school district health and biosciences academy may be used for land acquisition. If the facility is not constructed by June 30, 2015, the school district shall reimburse the state an amount equal to \$1,000,000 increased by the average percentage appreciation in property values for undeveloped land in the surrounding area between the date the school district acquired the property and June 30, 2015 or the date the school district disposes of the property.

(4) \$600,000 of the remaining reappropriation for the institute for community leadership may be used for land acquisition.

(5) \$250,000 of the remaining reappropriation for the Pacific Northwest ilocandia association may be used for acquisition and renovation.

(6) \$200,000 of the remaining reappropriation for the library connection at Greenbridge may be used for construction and equipment.

(7) \$1,000,000 of the remaining reappropriation for the Evergreen school district health and biosciences academy may be used for land acquisition.

(8) The remaining reappropriation for the Mobius/inland northwest science and technology center may be used for building design, construction, and renovation.

(9) The reappropriation is adjusted for the transfer of the Vancouver national historical reserve project to the Washington state historical society; the reduction of \$1,400,000 from the Tacoma narrows bridge lights project; and the termination of the following projects that are no longer viable: (a) Camp kilworth land acquisition -Federal Way, (b) Kitsap SEED, and (c) Seatac world war I memorial plaza.

Reappropriation:

State Building Construction Account—State . . . . .	(\$61,200,000)
	<u>\$56,650,000</u>
Prior Biennia (Expenditures) . . . . .	\$71,694,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$132,894,000)
	<u>\$128,344,000</u>

Sec. 1004. 2009 c 497 s 1019 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Public Works Trust Fund (20074005)

Reappropriation:

Public Works Assistance Account—State . . . . .	(\$232,000,000)
	<u>\$132,000,000</u>
State Taxable Building Construction Account—	
State . . . . .	\$95,000,000
Subtotal Reappropriation . . . . .	(\$327,000,000)
	<u>\$227,000,000</u>

Appropriation:

<u>State Taxable Building Construction Account—</u>	
<u>State . . . . .</u>	<u>\$100,000,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$327,000,000

Sec. 1005. 2009 c 497 s 1023 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Job Development Fund Grants (20074010)

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

(1) The ((re))appropriation is subject to the provisions of section 1032, chapter 520, Laws of 2007.

~~((The appropriation in this section is subject to the following conditions and limitations: The))~~ (2) \$3,000,000 of the appropriation is provided solely for a grant to the port of Grays Harbor for the bulk liquid facility project.

Reappropriation:

Job Development Account—State . . . . .	(\$22,228,000)
	<u>\$4,298,000</u>

Appropriation:

<del>((Job Development Account—State . . . . .</del>	<del>\$3,000,000))</del>
<u>State Building Construction Account—State . . . . .</u>	<u>\$20,930,000</u>
Prior Biennia (Expenditures) . . . . .	\$24,702,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$49,930,000

Sec. 1006. 2009 c 497 s 1030 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Community Development Fund (20084850)

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

(1) The reappropriation is subject to the provisions of section 1014, chapter 328, Laws of 2008.

(2) \$105,521 of the remaining reappropriation for El Centro de la raza center may be used for building infrastructure.

(3) \$1,000,000 of the remaining reappropriation for the Salishan housing community project may be used for infrastructure and housing.

(4) The reappropriation is adjusted for the termination of the homesight center project which is no longer viable.

Reappropriation:

State Building Construction Account—State	.....	(\$9,715,000)
		<u>\$9,465,000</u>
Prior Biennia (Expenditures)	.....	\$11,451,000
Future Biennia (Projected Costs)	.....	\$0
TOTAL	.....	(\$21,166,000)
		<u>\$20,916,000</u>

Sec. 1007. 2009 c 497 s 1031 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Belfair Sewer Improvements (20084852)

Reappropriation:

State Building Construction Account—State	.....	\$5,500,000
<del>(Public Works Assistance Account—State</del>	<del>.....</del>	<del>\$4,800,000</del>
Subtotal Reappropriation	.....	<u>\$10,300,000)</u>

Appropriation:

State Building Construction Account—State	.....	<u>\$4,800,000</u>
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	.....	\$0
TOTAL	.....	\$10,300,000

Sec. 1008. 2009 c 497 s 1034 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Quillayute Valley Wood-Fire Boiler (20084858)

Reappropriation:

Energy Freedom Account—State	.....	(\$1,000,000)
		<u>\$20,000</u>

Appropriation:

State Building Construction Account—State	.....	<u>\$980,000</u>
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	.....	\$0
TOTAL	.....	\$1,000,000

Sec. 1009. 2009 c 497 s 1035 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Snohomish County Biodiesel (20084859)

Reappropriation:

Energy Freedom Account—State . . . . . ((~~\$500,000~~))  
\$419,000

Appropriation:

State Building Construction Account—State . . . . . \$81,000  
 Prior Biennia (Expenditures) . . . . . \$0  
 Future Biennia (Projected Costs) . . . . . \$0  
 TOTAL . . . . . \$500,000

**Sec. 1010.** 2009 c 497 s 1039 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Drinking Water State Revolving Fund Loan Program (30000005)

Appropriation:

Drinking Water Assistance Account—State . . . . . ((~~\$8,000,000~~))  
\$10,930,000  
 Drinking Water Assistance Repayment Account—State . . . . . \$31,201,000  
 Subtotal Appropriation . . . . . ((~~\$39,201,000~~))  
\$42,131,000  
  
 Prior Biennia (Expenditures) . . . . . \$0  
 Future Biennia (Projected Costs) . . . . . \$215,974,000  
 TOTAL . . . . . ((~~\$255,175,000~~))  
\$258,105,000

**Sec. 1011.** 2009 c 497 s 1040 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Building for the Arts Grants (30000006)

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

- (1) Projects must be selected based on their readiness to proceed.
- (2) The appropriation is provided solely for the following list of projects:

Admiral Theatre-No Theatre Left Behind	\$140,000
<del>((Artspace Everett Lofts</del>	<del>\$1,000,000))</del>
Building a Foundation for Discovery	\$250,000
Campus Consolidation (Cornish)	\$375,000
Convert Key Bank to Everett's Plaza Theatre	\$500,000
Cottage Renovation (Hedgebrook)	\$20,000
Downstairs at the 5th	\$800,000
Federal Way Performing Arts Center	\$325,000
Gateway Center (Lummi)	\$150,000
James Center for the Performing Arts (Sequim)	\$150,000
Langston Hughes Performing Arts Center	\$475,000

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Legacy Project (Imagine)	\$200,000
Modular Classrooms for Dance (Gladish)	\$30,000
Mt. Baker Theatre	\$1,000,000
Museum Expansion (Maryhill)	\$1,500,000
New Hands On Children's Museum	\$1,000,000
Reconstruction of First Stage (Issaquah)	\$400,000
Seattle Opera Center	\$650,000
Stage Two (Whidbey)	\$450,000
Vashon Arts Center	\$1,115,000
Visual Arts Education Center (Snohomish County)	\$1,000,000
Viva Vera Capital Campaign	\$70,000
 Total	 (( <del>\$11,600,000</del> ))
	<u>\$10,600,000</u>

Appropriation:

State Building Construction Account—State . . . . .	(( <del>\$11,600,000</del> ))
	<u>\$10,600,000</u>
 Prior Biennia (Expenditures) . . . . .	 \$0
Future Biennia (Projected Costs) . . . . .	\$48,000,000
TOTAL . . . . .	(( <del>\$59,600,000</del> ))
	<u>\$58,600,000</u>

**Sec. 1012.** 2009 c 497 s 1045 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Housing Assistance, Weatherization, and Affordable Housing (30000013)

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

(1) \$7,000,000 of the appropriations is provided solely for facilities housing low-income migrant, seasonal, or temporary farmworkers. The operation of the facilities built under this section shall be in compliance with 8 U.S.C. Sec. 1342. The department shall work with the farmworker housing advisory committee to prioritize funding of projects to the areas of highest need. Funding may also be provided, to the extent qualified projects are submitted, for health and safety projects. Any of this appropriation that is not obligated by June 30, 2011, shall be added to the amount appropriated for the general pool of projects.

(2) \$3,000,000 of the appropriations is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.

(3) \$10,000 of the appropriations is provided solely to the ((Ballard food bank/Ballard homes for all coalition)) St. Luke's Lutheran Church/Interfaith Task Force on Homelessness for the construction of a mobile camp facility.

(4) \$2,500,000 of the appropriations is provided solely for the development of farm infrastructure improvements. Any of this appropriation that is not obligated by June 30, 2011, must be added to the amount appropriated for the general pool of projects.

(5) \$1,000,000 from the taxable bonds account is provided solely for the development or preservation of farmworker housing for migrant and seasonal farmworkers located on private farms.

(6) \$5,000,000 of the appropriation from the state building construction account is provided solely to build low-income housing units in underserved communities and to concurrently develop capacity in these same communities. Underserved communities of concern are those that have high levels of poverty, specifically, thirty percent of the local median income; experience chronic homelessness; and lack affordable housing. Underserved communities include veterans, immigrants, refugees, and those communities of color disproportionately impacted by chronic homelessness and lack of affordable housing. The department shall collaborate with representatives of underserved communities and organizations committed to assistance in these efforts to prioritize and plan distribution of funding.

(7) The department may not make loans from capital bond proceeds appropriated in this section if the appropriations are also obligated for other grants or loans or if the anticipated repayments of the loans are from future state legislative appropriations.

(8) The legislature recognizes and supports the housing priorities reflected in the American recovery and reinvestment act of 2009 with the estimated amount of \$144,000,000 provided solely for the following programs:

(a) The community development fund's neighborhood stabilization fund to purchase and rehabilitate foreclosed vacant properties and to help create affordable housing and stabilize neighborhoods.

(b) The public housing capital fund to assist housing authorities build and rehabilitate low-income housing stock. Housing authorities are required to give priority consideration to the rehabilitation of vacant rental units and capital projects that are already underway or included in the five-year capital fund plans.

(c) HOME funding to the Washington state housing finance commission for a competitive program pursuant to the qualified allocation plan to owners of projects who have received or receive simultaneously an award of low-income housing tax credits under section 42(h) of the internal revenue code of 1986.

(d) Weatherization appropriated in section 1052 of this act for grants and loans to local energy programs for weatherization of multifamily and single family homes.

(9) \$5,000,000 is provided solely for two geographically diverse projects that serve security lifeline clients who are homeless and have a mental or behavioral health disorder. This housing must be provided in coordination with community agencies who can offer supportive services.

(10) Up to \$25,000,000 of the appropriation is for the department of commerce to contract with the Washington state housing finance commission to provide equity funding and administration necessary to implement the Washington works housing program and to facilitate nonprofit entities' use of tax-exempt multifamily bonds issued by the Washington state housing finance

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commission. The projects receiving these funds shall meet the affordability requirement for the period after initial bond indebtedness, as established in section 2(2) of chapter 6, Laws of 2010.

Appropriation:

State Building Construction Account—State . . . . .	(\$30,000,000)
	<u>\$34,500,000</u>
State Taxable Building Construction Account—State . . . . .	(\$60,000,000)
	<u>\$85,500,000</u>
Washington Housing Trust Account—State . . . . .	\$10,000,000
Subtotal Appropriation . . . . .	(\$100,000,000)
	<u>\$130,000,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$400,000,000
TOTAL . . . . .	(\$500,000,000)
	<u>\$530,000,000</u>

Sec. 1013. 2009 c 497 s 1046 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ~~((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT))~~ COMMERCE**  
 Community Schools (9100002)

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

- (1) The acquisition, rehabilitation, expansion, or improvement of surplus school buildings to be converted into community facilities for the delivery of nonresidential coordinated services for children and families.
  - (a) Eligible applicants include local governments, nonprofit organizations, nonprofit early learning providers, and tribal governments. Only the following surplus schools may be eligible for grant funding under this section: Fauntleroy school, University Heights school, and Martin Luther King elementary school.
  - (b) As part of the grant process, applicants must submit a comprehensive plan for the use of the surplus school that includes information on the following:
    - (i) A list of partner entities that will assist the lead eligible applicant to provide or coordinate services for children and families;
    - (ii) A memorandum of understanding between the lead eligible applicant and each partner; and
    - (iii) An examination of capital and operating funding sources that applicants intend to apply to the project and coordinated services at each school to be served, whether such funding is derived from grants under this section or from other federal, state, local, or private sources.
  - (c) Project applicants must demonstrate that the proposed project is ready to proceed, will make timely use of the funds, and requires state funding to accomplish a discrete, usable phase of the project that may include acquisition.
  - (d) If grant funds under this subsection are used for the acquisition of surplus school facilities, the sale proceeds must be used by the local school board disposing of such property for renovation, replacement, or new



construction of school facilities in the district, but shall not be used as local match for projects receiving state school construction assistance grants.

(e) In contracts for grants authorized under this subsection, the department shall include provisions that require that capital improvements must be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities must be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

(2) The construction of a non-mobile facility, accessible to students in central and eastern Washington for the purpose of financial literacy education, for the eastern and western Washington junior achievement world initiative.

(3) \$1,500,000 of the appropriation in this section is provided solely for acquisition of the Martin Luther King elementary school. This is in addition to the amount provided for the Martin Luther King elementary school in section 1033, chapter 497, Laws of 2009.

Appropriation:

State Building Construction Account—State .....	(\$5,000,000)
	<u>\$6,500,000</u>
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$5,000,000)
	<u>\$6,500,000</u>

**Sec. 1014.** 2009 c 497 s 1048 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Local and Community Projects (30000019)

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

(1) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations whose sole purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and shall not be advanced under any circumstances.

(5) Projects funded in this section must be held by the recipient for a minimum of ten years and used for the same purpose or purposes intended by the legislature as required in RCW 43.63A.125(2)(c).

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) Except as directed otherwise prior to the effective date of this section, the department shall not expend the appropriations in this section unless and until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature.

(8) The appropriation is provided solely for the following list of projects:

#### Local Community Projects

7th St. Theater	\$330,000
Arc of Tri-Cities	\$900,000
Bellevue Clinic—Seattle Children's Hospital	\$2,000,000
Blessed Sacrament Food and Emergency Facilities Renovation	\$200,000
Children's Village Expansion Project	\$500,000
Clark County Food Distribution Facility	\$1,500,000
Coal Creek YMCA (Newcastle)	\$800,000
Dawson Place Child Advocacy Center	\$1,000,000
Federal Way National Little League Field Lighting Project and Monument Entry Sign	\$177,000
Harlequin Theater	\$235,000
Home Dialysis Center and Professional Workforce Training	\$250,000
Kirkland Park Place Redevelopment	\$2,000,000
Livingston Baker Fire and Life Safety	\$750,000
Marshland Diking District	\$500,000
Marysville Boys & Girls Club	\$500,000
McClure Middle School Energy Saving Performance Contract Demonstration Project	\$1,000,000
Mountains to Sound Greenway	\$100,000
Mukilteo Boys & Girls Club	\$150,000
Neighborcare Health Clinic and Rainier Beach Medical Clinic	\$1,000,000
Parkland at Japanese Gulch	\$1,000,000
Petrovitsky Park Upgrade	\$750,000
Phoenix House	\$200,000
Poulsbo Marine Center	\$500,000
Public Broadcasting Frequency Expansion	\$223,000
<del>((Ready by Five Early Learning Center</del>	<del>\$1,000,000))</del>
Renovations to Mill Creek City Annex Building	\$30,000

Snohomish County Emergency Center	\$1,000,000
South Tacoma Community Center	\$1,000,000
Whatcom Hospice House	\$700,000
Zina Linnik	\$950,000
Appropriation:	
State Building Construction Account—State .....	(( <del>\$21,245,000</del> ))
	<u>\$20,245,000</u>
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(( <del>\$21,245,000</del> ))
	<u>\$20,245,000</u>

NEW SECTION. Sec. 1015. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF COMMERCE**

2010 Local and Community Projects (30000082)

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

(1) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations whose sole purpose is to purchase real property that does not include a construction or renovation component.

(2) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(3) Project funds are available on a reimbursement basis only, and shall not be advanced under any circumstances.

(4) Projects funded in this section must be held by the recipient for a minimum of ten years and used for the same purpose or purposes intended by the legislature as required in RCW 43.63A.125(6).

(5) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(6) Except as directed otherwise prior to the effective date of this section, the department shall not expend the appropriations in this section unless and until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature.

(7) The appropriation is provided solely for the following list of projects:

**Local Community Projects**

Aviation High School	\$2,000,000
Children's Village Expansion	\$250,000

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East King County Performing Arts Center (PACE)	\$2,000,000
Hanford Reach Interpretive Center	\$500,000
Junior Achievement (Statewide JA World Initiative)	\$1,500,000
Lake Boren Park - Replace Unsafe Playground	\$325,000
Museum of Flight Space Gallery	\$3,000,000
Pike Market Workforce Childcare Facility	\$1,000,000
Rainier Beach Medical & Dental Clinic (Neighborcare Health)	\$500,000
Relocation of NAVES [NAVOS] Mental Health Center in Brien [Burien]	\$1,000,000
Restoration of Historic Piciform [Pickford] Theater	\$250,000
San Juan Island Farmers Market - Purchase Historic Building	\$375,000
South King County Multi service Center	\$300,000
Spokane Aerospace Technology Center Design	\$400,000
Urban League Village at Colman School/NW African American Museum	\$100,000
West Hill/Skyway Area Infrastructure	\$250,000

**Appropriation:**

State Building Construction Account—State . . . . .	\$13,750,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
<b>TOTAL . . . . .</b>	<b>\$13,750,000</b>

**NEW SECTION. Sec. 1016.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF COMMERCE**

Jobs Act for K-12 Public Schools and Higher Education Institutions (91000085)

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

(1) The appropriation is provided solely for grants to public school districts and public higher education institutions for operational cost savings improvements to public school district and higher education facilities and related projects that result in energy and operational cost savings. Related projects are those projects that must be completed in order for the energy efficiency improvements to be effective. Grants may also be used for loan interest payments over the term of a loan.

(2) The department of commerce, in consultation with the department of general administration, the office of the superintendent of public instruction, and the Washington State University energy program shall establish a competitive process to solicit and evaluate applications from public school districts and public higher education institutions. Final grant awards shall be determined by the department of commerce.

(3) The definitions in this section apply throughout this section.

(a) "Cost-effectiveness" means that the present value to public school districts and public higher education institutions of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(b) "Energy equipment" means energy management systems and any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including but not limited to design, engineering, financing, installation, project management, guarantees, operations, and maintenance. Reduction in energy use or energy cost may also include reductions in the use or cost of water, wastewater, or solid waste.

(c) "Energy cost savings" means savings realized in expenses for energy use and expenses associated with water, wastewater, or solid waste systems.

(d) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a public agency to conduct energy audits and guarantee energy savings from energy efficiency.

(e) "Operational cost savings" means savings realized from parts, service fees, capital renewal costs, and other measurable annual expenses to maintain and repair systems. This definition does not mean labor savings related to existing facility staff.

(f) "Public facilities" means buildings, building components, and major equipment or systems owned by public school districts and public higher education institutions.

(g) "Innovative measures" means advanced or emerging technologies, systems or approaches that may not yet be in common practice but improve energy efficiency, accelerate deployment, or reduce energy usage, and become widely commercially available in the future if proven successful in demonstration programs without compromising the guaranteed performance or measurable energy and operational cost savings anticipated. Examples of innovative measures include, but are not limited to, advanced energy and systems operations monitoring, diagnostics and controls systems for buildings; novel heating, cooling, ventilation and water heating systems; advanced windows and insulation technologies, highly efficient lighting technologies, designs, and controls; and integration of renewable energy sources into buildings, and energy savings verification technologies and solutions.

(4) Grants must be awarded in competitive rounds, based on demand and capacity, with at least five percent of each grant round awarded to small public school districts with fewer than 1,000 full-time equivalent students, based on demand and capacity.

(5) Within each competitive round, projects must be weighted and prioritized based on the following criteria and in the following order:

(a) Leverage ratio: In each round, the higher the leverage ratio of nonstate funding sources to state jobs act grant, the higher the project ranking.

(b) Energy savings: In each round, the higher the energy savings, the higher the project ranking. Applicants must submit documentation that demonstrates

energy and operational cost savings resulting from the installation of the energy equipment and improvements. The energy savings analysis shall be performed by a licensed engineer, and the documentation must include but is not limited to the following:

(i) A description of the energy equipment and improvements;  
(ii) A description of the energy and operational cost savings; and  
(iii) A description of the extent to which the project employs collaborative and innovative measures and encourages demonstration of new and emerging technologies with high energy-savings or energy cost-reductions.

(c) Expediency of expenditure: Project readiness to spend funds must be prioritized so that the legislative intent to expend funds quickly is met.

(6) Projects that do not use energy savings performance contracting must:  
(a) Verify energy and operational cost savings for ten years or until the energy and operational costs savings pay for the project, whichever is shorter; (b) follow the department of general administration's energy savings performance contracting project guidelines; and (c) employ a licensed engineer for the energy audit and construction. The department of commerce may require third-party verification of savings if a project is not implemented by an energy savings performance contractor selected by the department of general administration through the request of qualifications process. Third-party verification must be conducted either by an energy savings performance contractor selected by the department of general administration through a request for qualifications, a licensed engineer that is a certified energy manager, a project resource conservation manager, or educational service district resource conservation manager.

(7) To intensify competition, the department of commerce may only award funds to the top eighty-five percent of projects applying in a round until the department of commerce determines a final round is appropriate. Projects that do not receive a grant award in one round may reapply in subsequent rounds.

(8) To match federal grants and programs that require state matching funds and produce significantly higher efficiencies in operations and utilities, the level of innovation criteria may be increased for the purposes of weighted scoring to capture those federal dollars for selected projects that require a higher level of innovation and regional collaboration.

(9) Grant amounts awarded to each project must allow for the maximum number of projects funded with the greatest energy and cost benefit.

(10)(a) The department of commerce must use bond proceeds to pay one-half of the preliminary audit, up to five cents per square foot, if the project does not meet the school district's and higher education institution's predetermined cost-effectiveness criteria. Public school districts and public higher education institutions must pay the other one-half of the cost of the preliminary audit if the project does not meet their predetermined cost-effectiveness criteria.

(b) The energy savings performance contractor shall not charge for an investment grade audit if the project does not meet the school district's and higher education institution's predetermined cost-effectiveness criteria. Public school districts and public higher education institutions must pay the full price of an investment grade audit if they do not proceed with a project that meets the school district's and higher education institution's predetermined cost-effectiveness criteria.

(11) The department of commerce may charge projects administrative fees and may pay the department of general administration, the Washington State University energy program, and the office of the superintendent of public instruction administration fees in an amount determined through a memorandum of understanding.

(12) The department of commerce and the department of general administration must submit a joint report to the appropriate committees of the legislature and the office of financial management on the timing and use of the grant funds, program administrative function, compliance with apprenticeship utilization requirements in RCW 39.04.320, compliance with prevailing wage requirements, and administration fees by the end of each fiscal year, until the funds are fully expended and all savings verification requirements are fulfilled.

Appropriation:

State Building Construction Account—State . . . . .	\$50,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$50,000,000

NEW SECTION. Sec. 1017. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF COMMERCE**

Energy Regional Innovation Cluster Match (91000080)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to support facilities to be located in Washington state to increase the competitiveness of state or regional proposals for federal energy innovation and research funding. State funding must not exceed twenty percent of the total program or project funds. If a Washington state research organization is not awarded federal funding for energy innovation and research by June 30, 2011, the remaining appropriation in this section may be allotted for export assistance as provided in section 1018 of this act.

Appropriation:

Public Facility Construction Loan Revolving Account—State . . . . .	\$5,500,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$5,500,000

NEW SECTION. Sec. 1018. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF COMMERCE**

CERB - Export Assistance Grants and Loans (92000069)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for loans and grants to local governments and public institutions of higher education for technical assistance

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and infrastructure to support growth of export of Washington state products and services.

Appropriation:

Public Facility Construction Loan Revolving Account—State . . . . .	\$3,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$3,000,000

**Sec. 1019.** 2009 c 497 s 1054 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**  
Cowlitz River Dredging (20082856)

Reappropriation:

State Building Construction Account—State . . . . .	\$313,000
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Appropriation:

State Building Construction Account—State . . . . .	\$500,000
Prior Biennia (Expenditures) . . . . .	\$687,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$1,000,000)
	\$1,500,000

**Sec. 1020.** 2009 c 497 s 1055 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**  
Catastrophic Flood Relief (20084850)

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

(1) \$1,640,000 of the reappropriation is provided solely for nonfederal matching funds and state agency costs associated with the army corps of engineers flood hazard mitigation projects for the Chehalis river basin.

(2) \$1,200,000 of the total reappropriation is provided solely for the Chehalis basin flood control authority to develop governance agreements for development, operation, and maintenance of flood hazard mitigation measures throughout the basin. The development of the governance agreements shall include preliminary estimates of local property tax options necessary to support the maintenance and operation of the twin city levy project and tax options necessary to support other possible flood control measures throughout the basin. The agreements must be executed by July 1, 2011.

(3)(a) \$2,000,000 of the reappropriation is provided solely for the following studies of flood mitigation measures: (i) Studies contracted prior to the effective date of this act; (ii) a study to evaluate the feasibility of a combination of the United States' army corps of engineers twin city project, with other retention structures, and nonstructural flood mitigation measures to be completed by June 30, 2011; (iii) a study to determine how ecosystem services, including nonstructural alternatives, would likely mitigate downstream flooding to be completed by December 2010; (iv) continuation of the general investigation of basin wide flood control measures by the United States' army corps of engineers; (v) an independent peer review of completed geotechnical and hydrological



studies of possible upper basin retention structures to be completed by October 2010; (vi) a study of the effect of possible retention structures and other flood control measures on fish in the basin to be completed by June 2011, provided that the fish study shall not examine options for retention structures that the peer review in this section determines is not feasible.

(b) From the effective date of this act and prior to any expenditure on new studies, the Chehalis basin flood authority must submit any new study proposal to the basinwide general investigation project manager of the United States army corps of engineers for review. Based upon the United States army corps of engineers review of the proposal, the Chehalis basin flood authority must develop a proposed scope of work for the study that ensures, to the fullest extent possible, that the study will be eligible for federal work-in-kind credit.

(c) The Chehalis basin flood authority must: (i) In consultation with the department of ecology, select qualified experts to conduct the peer review of geotechnical and hydrological studies; and (ii) consult with the Washington state department of fish and wildlife, the confederated tribes of the Chehalis reservation, and the Lewis county public utility district to develop and agree upon a scope of work for, and select a qualified expert to, conduct the fish study. The peer review must be submitted to the office of financial management before funds are allotted for the fish study.

(4) \$300,000 of the reappropriation is provided solely for an early flood warning system.

(5) It is the intent of the legislature to fulfill the commitment of section 101, chapter 179, Laws of 2008 and chapter 180, Laws of 2008, by appropriating funds when the federal match requirement is needed.

Reappropriation:

State Building Construction Account—State . . . . .	(\$47,351,000)
	<u>\$5,140,000</u>
Prior Biennia (Expenditures) . . . . .	(\$2,649,000)
	<u>\$3,450,000</u>
Future Biennia (Projected Costs) . . . . .	(\$0)
	<u>\$41,410,000</u>
TOTAL . . . . .	<u>\$50,000,000</u>

NEW SECTION. Sec. 1021. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Risk Pool (91000001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for a risk pool to complete projects within the scope described in budget documents submitted as part of the governor's capital budget request and consistent with legislative history. This section only applies to projects included in this 2010 supplemental capital budget with reduced appropriations. The office of financial management may allot portions of this appropriation ten days after notifying the senate ways and means committee and the house of representatives capital budget committee. The notification must include an explanation of the need and the amount for the allotment to complete the scope of an approved project.

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Appropriation:

State Building Construction Account—State . . . . .	\$4,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$4,000,000

NEW SECTION, Sec. 1022. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Port Angeles Economic Development Agreement (30000024)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to carry out paragraph 2.C. of the economic development agreement associated with the case of *Lower Elwha Klallam Tribe et al v. State et al*, Thurston county superior court, cause No. 05-2-01595-8. The state has already provided \$250,000 to carry out that paragraph. After disbursement of the appropriation in this section, the state will provide no further funding under the economic development agreement.

Appropriation:

State Building Construction Account—State . . . . .	\$250,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$250,000

NEW SECTION, Sec. 1023. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT.** (1) Due to the downturn of the economy and the direct effects on the state bond debt limit, the legislature intends to reduce bond debt while focusing resources on maintaining and creating jobs. Therefore, the legislature directs the office of financial management to work with state agencies to achieve savings in the amount of \$50,000,000 by reducing previously approved allotments or by withholding approval of planned allotments for those projects that have not shown substantial progress under the criteria established in subsection (2) of this section or from projects with savings identified pursuant to section 6012 of this act.

(2) A project is subject to allotment reduction or non-approval of a planned allotment under this section if:

- (a)(i) It is a state project administered by a state agency; or
- (ii) It is a grant or a loan project for which a state agency allocates funding to a non-state entity;

(b) Appropriations for the project were made in the 2009-11 or previous omnibus capital appropriations acts from the state building construction account, state taxable building construction account, or any other debt limit bond account, not including projects receiving 2010 supplemental capital budget appropriations, minor works projects, or the school construction assistance grant program; and

(c) The project has failed to secure all required and appropriate transaction elements necessary to execute contracts with the administering state agency by November 30, 2010. Required and appropriate transaction elements may

include, but are not limited to, matching funds, permits, environmental reviews, and required contracts and partnership agreements.

(3) Amounts attributable to allotment reductions or non-approval of planned allotments made under this section must be placed in or remain in unallotted status and remain unexpended.

(4) By December 31, 2010, the office of financial management must report to the house of representatives capital budget committee and the senate ways and means committee on the projects for which allotments were reduced or for which approval was withheld, including a list of the specific projects and related funds remaining in unallotted status.

(5) Agencies and prospective grant or loan recipients are encouraged to reapply or request funds in the 2011-13 biennial capital appropriations act for projects for which allotments were reduced or not approved under this section.

**Sec. 1024.** 2009 c 497 s 1065 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**  
O'Brien Building Improvements (20081007)

The appropriation in this section is subject to the following conditions and limitations: Upon completion of the project, temporary modular buildings shall be removed, and the parking lot shall be restored and landscaped within budget.

Reappropriation:	
State Building Construction Account—State . . . . .	\$1,500,000
Appropriation:	
State Building Construction Account—State . . . . .	<del>(\$9,671,000)</del>
	\$8,220,000
Prior Biennia (Expenditures) . . . . .	\$1,481,000
Future Biennia (Projected Costs) . . . . .	<del>(\$5,329,000)</del>
	\$0
TOTAL . . . . .	<del>(\$17,981,000)</del>
	\$11,201,000

**Sec. 1025.** 2009 c 497 s 1071 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**  
Capital Lake Plan Completion (20082953)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided for lake management efforts to control invasive species. The Capital Lake adaptive management planning process must be suspended.

Reappropriation:	
State Building Construction Account—State . . . . .	<del>(\$200,000)</del>
	\$100,000
Prior Biennia (Expenditures) . . . . .	\$300,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$500,000)</del>
	\$400,000

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**Sec. 1026.** 2009 c 497 s 1075 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Powerhouse: Improvements and Preservation (30000056)

Appropriation:

State Building Construction Account—State . . . . .	(\$1,459,000)
	<u>\$1,240,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$1,459,000)
	<u>\$1,240,000</u>

**Sec. 1027.** 2009 c 497 s 1060 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Transportation Building Preservation (20021008)

Reappropriation:

Thurston County Capital Facilities Account—State . . . . .	(\$2,500,000)
	<u>\$395,000</u>

Appropriation:

<u>State Building Construction Account—State . . . . .</u>	<u>\$2,105,000</u>
Prior Biennia (Expenditures) . . . . .	\$7,116,000
Future Biennia (Projected Costs) . . . . .	\$22,706,000
TOTAL . . . . .	\$32,322,000

**Sec. 1028.** 2009 c 497 s 1061 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Highway-License Building Repair and Renewal (20061013)

Reappropriation:

Thurston County Capital Facilities Account—State . . . . .	(\$100,000)
	<u>\$76,000</u>

Appropriation:

<u>State Building Construction Account—State . . . . .</u>	<u>\$24,000</u>
Prior Biennia (Expenditures) . . . . .	\$3,423,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$3,523,000

**Sec. 1029.** 2009 c 497 s 1063 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Natural Resources Building Repairs and Renewal (20061014)

Reappropriation:

State Vehicle Parking Account—State . . . . .	\$30,000
Thurston County Capital Facilities Account—State . . . . .	(\$100,000)
	<u>\$22,000</u>
Subtotal Reappropriation . . . . .	(\$130,000)
	<u>\$52,000</u>

Appropriation:

State Building Construction Account—State .....	\$78,000
Prior Biennia (Expenditures) .....	\$2,853,000
Future Biennia (Projected Costs) .....	\$4,520,000
TOTAL .....	\$7,503,000

**Sec. 1030.** 2009 c 497 s 1064 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor Works - Infrastructure Preservation (20081004)

Reappropriation:

<del>(Thurston County Capital Facilities Account—State .....</del>	<del>\$136,000)</del>
State Building Construction Account—State .....	\$584,000
<del>((Subtotal Reappropriation .....</del>	<del>\$720,000))</del>

Appropriation:

State Building Construction Account—State .....	\$136,000
Prior Biennia (Expenditures) .....	\$4,401,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$5,121,000

**Sec. 1031.** 2009 c 497 s 1068 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor Works - Facility Preservation (20081015)

Reappropriation:

State Building Construction Account—State .....	\$380,000
<del>((Thurston County Capital Facilities Account—State .....</del>	<del>\$723,000</del>
Subtotal Reappropriation .....	\$1,103,000))

Appropriation:

State Building Construction Account—State .....	\$723,000
Prior Biennia (Expenditures) .....	\$5,583,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$6,686,000

**Sec. 1032.** 2009 c 497 s 1073 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor Works Preservation (30000012)

Appropriation:

State Building Construction Account—State .....	<del>(\$2,800,000)</del>
	\$3,400,000
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	\$34,109,000
TOTAL .....	<del>(\$36,909,000)</del>
	\$37,509,000

NEW SECTION. **Sec. 1033.** A new section is added to 2009 c 497 (uncodified) to read as follows:

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**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**  
Capitol Campus Heating System Improvements (30000486)

Appropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,800,000
TOTAL	\$2,000,000

**Sec. 1034.** 2009 c 497 s 1081 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**  
Pro Arts Building (91000002)

~~((The appropriation in this section is subject to the following conditions and limitations: Pre-design and design funds are provided solely to develop a new office building. Up to \$225,000 may be used to develop the pre-design for the Pro Arts site to include a new office building that may house tenants from the general administration building including the office of financial management, the Puget Sound partnership, the office of the state treasurer, and other small commissions and agencies. The pre-design shall be developed with representatives from the capitol campus design advisory committee, the department of general administration, and the office of financial management. The pre-design shall be used to develop the optimum use of space for the Pro Arts site, identify any required mitigation, parking requirements, schedule of construction, and cost of construction. The pre-design shall be provided to the appropriate fiscal committees of the legislature and the office of financial management by February 1, 2010. The allotment for design funds will be made after the pre-design is approved by the office of financial management and the appropriate fiscal committees of the legislature.))~~

Appropriation:

State Building Construction Account—State	<del>(\$2,000,000)</del> <u>\$225,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	<del>(\$2,000,000)</del> <u>\$225,000</u>

**NEW SECTION. Sec. 1035.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE MILITARY DEPARTMENT**  
Camp Murray New Primary Gate Entrance (30000482)

Appropriation:

General Fund—Federal	\$3,270,000
Military Department Capital Account—State	\$1,657,000
Subtotal Appropriation	\$4,927,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,927,000

**Sec. 1036.** 2009 c 497 s 1086 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

Minor Works Preservation (30000002)

Appropriation:

General Fund—Federal . . . . .	<del>(\$3,069,000)</del>
	<u>\$8,672,000</u>
State Building Construction Account—State . . . . .	\$1,709,000
Subtotal Appropriation . . . . .	<del>(\$4,778,000)</del>
	<u>\$10,381,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$18,700,000
TOTAL . . . . .	<del>(\$23,478,000)</del>
	<u>\$29,081,000</u>

**Sec. 1037.** 2009 c 497 s 1087 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

Minor Works Program (30000003)

Appropriation:

General Fund—Federal . . . . .	<del>(\$679,000)</del>
	<u>\$3,139,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$10,229,000
TOTAL . . . . .	<del>(\$10,908,000)</del>
	<u>\$13,368,000</u>

NEW SECTION. **Sec. 1038.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE MILITARY DEPARTMENT**

Combined Support Maintenance Shop (20082006)

Appropriation:

General Fund—Federal . . . . .	\$4,736,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$22,164,000
TOTAL . . . . .	\$26,900,000

**PART 2  
HUMAN SERVICES**

**Sec. 2001.** 2009 c 497 s 2001 (uncodified) is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

Replace Hawthorne Hall Dormitory (20082001)

~~((The appropriation in this section is subject to the following conditions and limitations: The office of financial management shall allot funds for the dormitory construction at the criminal justice training commission only after the recommendation of the steering committee participating in the analysis in~~

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~~section 1057 of this act has been provided to the legislative fiscal committees and submitted to the office of financial management for review.~~

~~Appropriation:~~

~~State Building Construction Account—State ..... \$16,745,000))~~

Reappropriation:

State Building Construction Account—State ..... \$632,000

Prior Biennia (Expenditures) ..... \$1,293,000

Future Biennia (Projected Costs) ..... ~~(((\$0))~~

\$16,934,000

TOTAL ..... ~~(((\$18,670,000))~~

\$18,859,000

**Sec. 2002.** 2009 c 497 s 2002 (uncodified) is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

School Mapping (30000011)

The appropriation in this section is subject to the following conditions and limitations: The legislature intends to complete half of the remaining community and technical college mapping with this appropriation (~~and to appropriate funding for the remaining half of unmapped square feet in community and technical colleges in the 2011-13 biennium~~)).

Appropriation:

State Building Construction Account—State ..... ~~(((\$500,000))~~

\$1,100,000

Prior Biennia (Expenditures) ..... \$0

Future Biennia (Projected Costs) ..... ~~(((\$546,000))~~

\$0

TOTAL ..... ~~(((\$1,046,000))~~

\$1,100,000

~~NEW SECTION.~~ **Sec. 2003.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

Central Office Roof Replacement and Fall Restraint Upgrade (30000012)

Appropriation:

Accident Account—State ..... \$1,250,000

Medical Aid Account—State ..... \$1,250,000

Subtotal Appropriation ..... \$2,500,000

Prior Biennia (Expenditures) ..... \$0

Future Biennia (Projected Costs) ..... \$0

TOTAL ..... \$2,500,000

**Sec. 2004.** 2009 c 497 s 2027 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Eastern State Hospital: Roof Replacements (30000846)



Appropriation:

State Building Construction Account—State	.....	(\$1,085,000)
		<u>\$922,000</u>
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	.....	\$1,088,000
TOTAL	.....	(\$2,173,000)
		<u>\$2,010,000</u>

**Sec. 2005.** 2009 c 497 s 2014 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Special Commitment Center: Utility Replacements (20081504)

The reappropriation and appropriation in this section are subject to the following conditions and limitations: It is the intent of the appropriation and reappropriation to replace essential utilities, such as sanitary sewer, high voltage electrical, and fiber optic communications, serving the special commitment center and McNeil corrections center on McNeil Island by replacing the Island's electrical feed from the shoreline landing to the McNeil corrections center generator building, and continuing on to the special commitment center. The department shall coordinate the work with the department of corrections for the most cost-effective approach to the work.

Reappropriation:

State Building Construction Account—State	.....	\$2,900,000
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Appropriation:

State Building Construction Account—State	.....	(\$3,490,000)
		<u>\$2,966,000</u>
Prior Biennia (Expenditures)	.....	\$140,000
Future Biennia (Projected Costs)	.....	\$0
TOTAL	.....	(\$6,530,000)
		<u>\$6,006,000</u>

NEW SECTION. **Sec. 2006.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Capacity to Replace Maple Lane School (92000005)

Appropriation:

State Building Construction Account—State	.....	\$760,000
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	.....	\$1,025,000
TOTAL	.....	\$1,785,000

**Sec. 2007.** 2009 c 497 s 2034 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF HEALTH**

Drinking Water Assistance Program (30000013)

The appropriation in this section is subject to the following conditions and limitations: \$38,462,000 is provided from the American recovery and reinvestment act of 2009.

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Appropriation:

Drinking Water Assistance Account—Federal . . . . .	(\$24,348,000)
	<u>\$38,348,000</u>
Drinking Water Assistance Account—Federal	
American Recovery and Reinvestment Act . . . . .	\$38,462,000
Subtotal Appropriation . . . . .	(\$62,810,000)
	<u>\$76,810,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$62,810,000)
	<u>\$76,810,000</u>

**Sec. 2008.** 2009 c 497 s 2037 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**  
State Veterans Cemetery (20082004)

Reappropriation:

General Fund—Federal . . . . .	\$6,815,000
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Appropriation:

General Fund—Federal . . . . .	\$1,909,000
Prior Biennia (Expenditures) . . . . .	\$1,010,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$7,825,000)
	<u>\$9,734,000</u>

**Sec. 2009.** 2009 c 497 s 2038 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**  
Minor Works - Facilities Preservation (30000003)

Appropriation:

State Building Construction Account—State . . . . .	(\$500,000)
	<u>\$775,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$6,585,000
TOTAL . . . . .	(\$7,085,000)
	<u>\$7,360,000</u>

**Sec. 2010.** 2009 c 497 s 2067 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Washington Corrections Center for Women: Roof Replacement (30000178)

Appropriation:

State Building Construction Account—State . . . . .	(\$1,832,000)
	<u>\$1,557,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$1,832,000)
	<u>\$1,557,000</u>

NEW SECTION. **Sec. 2011.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Washington State Penitentiary: Housing Units, Kitchen, and Site Work  
(30000482)

Appropriation:

State Building Construction Account—State	\$5,990,000
Public Safety Reimbursable Bond Account	\$829,000
Subtotal Appropriation	\$6,819,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$44,000,000
TOTAL	\$50,819,000

Sec. 2012. 2009 c 497 s 2072 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Clallam Bay Corrections Center: Replace 5 Towers and Housing Roofs  
(30000108)

The appropriation in this section is subject to the following conditions and limitations: The funding is provided solely for the replacement of roofs on offender housing units.

Appropriation:

State Building Construction Account—State	<del>(\$3,000,000)</del>
	<u>\$2,550,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	<del>(\$3,000,000)</del>
	<u>\$2,550,000</u>

Sec. 2013. 2009 c 497 s 2075 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Monroe Corrections Center: Water Line Replacements (30000137)

Appropriation:

State Building Construction Account—State	<del>(\$1,809,000)</del>
	<u>\$1,538,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	<del>(\$1,809,000)</del>
	<u>\$1,538,000</u>

Sec. 2014. 2009 c 497 s 2078 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Washington State Penitentiary: Kitchen Improvements (20061007)

Reappropriation:

State Building Construction Account—State	<del>(\$402,000)</del>
	<u>\$0</u>
Prior Biennia (Expenditures)	\$228,000
Future Biennia (Projected Costs)	\$0

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TOTAL . . . . . (~~(\$630,000)~~)  
\$228,000

**Sec. 2015.** 2009 c 497 s 2068 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

300 Minimum Security Bed Expansion - Three Locations (20082850)

Reappropriation:

State Building Construction Account—State . . . . . (~~(\$321,000)~~)  
\$15,000

Prior Biennia (Expenditures) . . . . . \$156,000

Future Biennia (Projected Costs) . . . . . \$0

TOTAL . . . . . (~~(\$477,000)~~)  
\$171,000

**Sec. 2016.** 2009 c 497 s 2054 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Washington State Penitentiary: Replace Roofs (20081007)

Reappropriation:

State Building Construction Account—State . . . . . (~~(\$1,200,000)~~)  
\$180,000

Prior Biennia (Expenditures) . . . . . \$589,000

Future Biennia (Projected Costs) . . . . . \$0

TOTAL . . . . . (~~(\$1,789,000)~~)  
\$769,000

**Sec. 2017.** 2009 c 497 s 2064 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Mission Creek Corrections Center for Women: 100-Bed Expansion (20082020)

Reappropriation:

State Building Construction Account—State . . . . . (~~(\$5,331,000)~~)  
\$4,419,000

Prior Biennia (Expenditures) . . . . . \$1,296,000

Future Biennia (Projected Costs) . . . . . \$0

TOTAL . . . . . (~~(\$6,627,000)~~)  
\$5,715,000

NEW SECTION. **Sec. 2018.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Westside Corrections Complex: Siting and Predesign (92000032)

Appropriation:

State Building Construction Account—State . . . . . \$2,600,000

Prior Biennia (Expenditures) . . . . . \$0

Future Biennia (Projected Costs) . . . . . \$0

TOTAL . . . . . \$2,600,000

**PART 3  
NATURAL RESOURCES**

**Sec. 3001.** 2009 c 497 s 3059 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Kittitas Groundwater Study (30000029)

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

By September 30, 2010, if, after consultation with major Yakima basin governments and stakeholders, the department of ecology and Kittitas county reach an agreement on a preferred approach, including the appropriate geographic scope and administering entity, the appropriation may be fully or partially redirected for the following purposes:

(1) Funds may be provided to develop and implement water banking and transfer methods and agreements that are fully protective of senior water rights and that protect domestic groundwater users and improve the profitability of farming operations. The legislature finds such activities to be in the public interest because they can help sustain the viability of the agricultural economy and enhance the certainty of water supplies for domestic groundwater users.

(2) Funds may be provided to lease or purchase water rights to create a reserve water supply for domestic groundwater users that have a groundwater right with a priority date later than May 10, 1905, as well as for all out-of-priority groundwater users. In securing water for such domestic groundwater users, strong preference shall be given to the use of water banking and transfer methods that provide alternatives to permanent purchase and dry-up of agricultural water rights in the basin, including dry-year options, water banking, long-term water supply lease agreements, long-term agricultural land fallowing agreements, and reduced consumptive use through efficiency or alternative cropping arrangements while maintaining historic return flows.

(3) A portion of the appropriation may be used for administrative costs, not to exceed four percent, and other costs associated with leasing or acquiring and transferring the water rights. All costs shall be fully recovered from participating domestic water users for their prorated portion of the cost, including but not limited to the costs of securing a water right or rights for this purpose, costs associated with the development and implementation of alternative agricultural water transfer methods, associated annual operational costs, and federal water service contract costs owed to the United States bureau of reclamation. Funds recovered in this manner shall be deposited in the state and local improvement revolving fund and may be used for any purpose provided in this section.

Appropriation:

State and Local Improvements Revolving Account	
(Water Supply Facilities)—State .....	\$700,000
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$700,000

Sec. 3002. 2009 c 497 s 3039 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Flood Protection Study (20082855)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation in this section is provided solely for the department to conduct a study to determine the number of decertified levees in the state and to identify strategies for maintaining accreditation, re-accrediting, or recertifying ((the)) levees so that they ((provide)) are recognized by federal agencies as providing optimum protection for the communities protected by the levees. The department must prioritize areas to include in the study based on population and the economic impact of potential flood damage.

The study must include the following components:

- (1) A working group of levee managers, local agencies, and stakeholders to advise and inform the study;
- (2) ~~((A))~~ In-state examples of the costs and processes of technical review of the structural integrity of levee systems;
- (3) An inventory, map, and ~~((rate the effectiveness))~~ description of the level of protection of existing levee systems; ~~((and))~~
- (4) The development of strategies and actions needed to improve the existing levee system and to ensure certification by the United States army corps of engineers for one-hundred year flood protection;
- (5) The identification of current funding sources and the amounts available for levee improvements; and
- (6) Recommendation for additional new funding sources and options.
- (7) The study must be completed and a report provided to the appropriate legislative committees by ~~((July))~~ December 1, 2010.
- (8) The study under this section is exempt from the provisions of section 602, chapter 3, Laws of 2010 and section 7, chapter 5, Laws of 2009.

Reappropriation:

State Building Construction Account—State . . . . .	\$280,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$280,000

Sec. 3003. 2009 c 497 s 3007 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Sunnyside Valley Irrigation District Water Conservation (20052851)

Reappropriation:

State Building Construction Account—State . . . . .	\$2,800,000
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Appropriation:

State Building Construction Account—State . . . . .	<del>(( \$2,850,000 ))</del>
	\$7,250,000
Prior Biennia (Expenditures) . . . . .	\$4,147,000
Future Biennia (Projected Costs) . . . . .	\$4,000,000
TOTAL . . . . .	<del>(( \$13,797,000 ))</del>
	\$18,197,000

**Sec. 3004.** 2009 c 497 s 3049 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Upper Columbia River Black Sand Beach Cleanup (30000016)

Appropriation:

State Building Construction Account—State	.....	(\$3,000,000)
		<u>\$500,000</u>
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	.....	\$0
TOTAL	.....	(\$3,000,000)
		<u>\$500,000</u>

**Sec. 3005.** 2009 c 497 s 3054 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Storm Water Retrofit and Low-Impact Development Grant Program (30000097)

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

(1) \$1,343,000 of the state toxics control account—state appropriation is provided solely for storm water retrofit and low-impact development in the city of Bremerton.

(2) \$6,929,000 of the local toxics control account—state appropriation and \$1,071,000 of the state toxics control account—state appropriation is provided solely for local governments to build staffing capacity to address storm water in their communities and to improve storm water research, data management, and monitoring.

(3) The remaining moneys must be allocated through a grant process to local governments covered by national pollutant discharge elimination system municipal phase I or phase II permits to fund local government projects or activities that mitigate or prevent contamination of storm water or the recontamination of receiving waters previously remediated under federal or state-approved activities.

Appropriation:

State Building Construction Account—State	.....	(\$3,000,000)
		<u>\$30,334,000</u>
<u>State Toxics Control Account—State</u>	.....	<u>\$15,737,000</u>
State and Local Improvements Revolving Account - Waste Disposal Facilities	.....	\$1,284,000
State and Local Improvements Revolving Account - Waste Disposal Facilities, 1980	.....	\$325,000
<u>Local Toxics Control Account—State</u>	.....	<u>\$6,929,000</u>
Subtotal Appropriation	.....	(\$4,609,000)
		<u>\$54,609,000</u>
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	.....	\$0
TOTAL	.....	(\$4,609,000)
		<u>\$54,609,000</u>

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**Sec. 3006.** 2009 c 497 s 3060 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**  
Remedial Action Grant Program (30000039)

The appropriation in this section is subject to the following conditions and limitations: \$3,000,000 is provided solely for the city of Bothell to remediate soil contamination.

Appropriation:

State Building Construction Account—State . . . . .	\$37,700,000
Local Toxics Control Account—State . . . . .	\$38,211,000
Subtotal Appropriation . . . . .	\$75,911,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$180,000,000
TOTAL . . . . .	<del>(\$217,700,000)</del>
	\$255,911,000

**Sec. 3007.** 2009 c 497 s 3020 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**  
Breazeale Interpretive Center (20082856)

Reappropriation:

General Fund—Federal . . . . .	<del>(\$270,000)</del>
	\$419,000
Prior Biennia (Expenditures) . . . . .	<del>(\$225,000)</del>
	\$76,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$495,000

NEW SECTION. **Sec. 3008.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**  
Settlement Funding to Clean Up Toxic Sites (30000145)

Appropriation:

Cleanup Settlement Account—State . . . . .	\$8,500,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$8,500,000

NEW SECTION. **Sec. 3009.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**  
Cleanup Asarco Contamination on Vashon/Maury Islands and Mines (91000009)

The appropriation in this section is subject to the following conditions and limitations: \$4,100,000 of the cleanup settlement account appropriation and \$10,900,000 of the state toxics control account appropriation are provided solely for the department of ecology to assist King County in the acquisition and



remediation of property on Vashon and Maury Islands. The properties are in the Tacoma smelter plume area and are contaminated with arsenic and other heavy metals from the Asarco smelter.

Appropriation:

Cleanup Settlement Account—State . . . . .	\$4,100,000
State Toxics Control Account—State . . . . .	\$10,900,000
Subtotal Appropriation . . . . .	\$15,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$15,000,000

NEW SECTION. Sec. 3010. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Clean Up Toxic Sites - Puget Sound (30000144)

The appropriation in this section is subject to the following conditions and limitations: \$17,500,000 of the cleanup settlement account—state appropriation is provided solely for cleanup activities associated with the Asarco contamination in Everett.

Appropriation:

State Building Construction Account—State . . . . .	\$511,000
Cleanup Settlement Account—State . . . . .	\$18,300,000
State Toxics Control Account—State . . . . .	\$22,387,000
Subtotal Appropriation . . . . .	\$41,198,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$41,198,000

NEW SECTION. Sec. 3011. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Reducing Diesel Particle Emissions in Tacoma (30000139)

The appropriation in this section is provided contingent upon the department working with the Port of Tacoma to establish a diesel idling reduction program. The department shall report to the legislature by December 1, 2010, on the progress of the diesel idling reduction program and other efforts to reduce diesel particle emissions in Tacoma.

Appropriation:

Air Pollution Control Account—State . . . . .	\$1,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$1,000,000

NEW SECTION. Sec. 3012. A new section is added to 2009 c 497 (uncodified) to read as follows:

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**FOR THE DEPARTMENT OF ECOLOGY**

Reducing Wood Smoke Particle Emissions in Tacoma (30000140)

Appropriation:

Air Pollution Control Account—State . . . . .	\$600,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$600,000

NEW SECTION, Sec. 3013. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Water Pollution Control Revolving Fund Program Match (91000008)

Appropriation:

Public Works Assistance Account—State . . . . .	\$1,400,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$1,400,000

NEW SECTION, Sec. 3014. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Water Pollution Control Revolving Fund Program (30000142)

Appropriation:

Water Pollution Control Revolving Account—State . . . . .	\$25,000,000
Water Pollution Control Revolving Account—Federal . . . . .	\$12,000,000
Subtotal Appropriation . . . . .	\$37,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$37,000,000

**Sec. 3015.** 2009 c 497 s 3052 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Safe Soils Remediation Program (30000019)

Appropriation:

State Building Construction Account—State . . . . .	<del>(\$4,000,000)</del>
	\$2,380,000
Cleanup Settlement Account—State . . . . .	\$1,620,000
Subtotal Appropriation . . . . .	\$4,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$4,000,000

NEW SECTION, Sec. 3016. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Wastewater Treatment and Water Reclamation (92000041)

The appropriation in this section is provided solely for wastewater treatment and reclamation projects as follows:

<b>Project</b>	<b>Funding</b>
Potlatch wastewater treatment and reclamation	\$1,645,000
Willapa Harbor sewer project	\$1,000,000
Omak sanitary sewer project	\$450,000
Sultan wastewater treatment facility	\$335,000

Appropriation:

State Building Construction Account—State	\$3,430,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
<b>TOTAL</b>	<b>\$3,430,000</b>

**Sec. 3017.** 2009 c 497 s 3093 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Flaming Geyser State Park Park-wide Infrastructure Redevelopment (30000173)

Appropriation:

State Building Construction Account—State	<del>(\$3,533,000)</del>
	<u>\$3,003,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
<b>TOTAL</b>	<b><del>(\$3,533,000)</del></b>
	<b><u>\$3,003,000</u></b>

**Sec. 3018.** 2009 c 497 s 3094 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Dash Point State Park Sanitary Sewer Collection System (30000269)

Appropriation:

State Building Construction Account—State	<del>(\$3,820,000)</del>
	<u>\$3,247,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
<b>TOTAL</b>	<b><del>(\$3,820,000)</del></b>
	<b><u>\$3,247,000</u></b>

**Sec. 3019.** 2009 c 497 s 3090 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Illahee State Park Wastewater Treatment Upgrade (30000447)

Appropriation:

State Building Construction Account—State	<del>(\$1,850,000)</del>
	<u>\$1,572,000</u>

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Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$1,850,000)</u>
	<u>\$1,572,000</u>

**Sec. 3020.** 2009 c 497 s 3091 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Cama Beach State Park (30000101)

Appropriation:

State Building Construction Account—State . . . . .	<u>(\$3,265,000)</u>
	<u>\$2,775,000</u>

Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$3,265,000)</u>
	<u>\$2,775,000</u>

**Sec. 3021.** 2009 c 497 s 3085 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Federal Grant Authority (30000006)

The appropriation in this section is provided contingent upon the commission providing advance notice to the appropriate fiscal committees of the legislature and the office of financial management before applying for federal grants for acquisition of park lands and facilities. The commission shall submit this information in the form of a report that explains the funding source, the match and use requirements, a description of the project that will be funded, and a description of future impacts to the operating budget.

Appropriation:

General Fund—Federal . . . . .	<u>(\$990,000)</u>
	<u>\$1,990,000</u>

Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$4,000,000
TOTAL . . . . .	<u>(\$4,990,000)</u>
	<u>\$5,990,000</u>

NEW SECTION. **Sec. 3022.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Deception Pass State Park - Wastewater System (30000483)

Appropriation:

State Building Construction Account—State . . . . .	\$300,000
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Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$2,600,000
TOTAL . . . . .	\$2,900,000

**Sec. 3023.** 2009 c 497 s 3109 (uncodified) is amended to read as follows:

**FOR THE RECREATION AND CONSERVATION FUNDING BOARD**

Washington Wildlife and Recreation Program (20044002)

The reappropriations in this section are subject to the following conditions and limitations: Any amount of the reappropriations that is not obligated to a specific project may be used to fund alternate projects approved by the legislature from the same account in biennia succeeding that in which the moneys were originally appropriated.

Reappropriation:

Outdoor Recreation Account—State . . . . .	\$1,499,000
Habitat Conservation Account—State . . . . .	<del>(\$4,789,000)</del>
	<u>\$4,319,000</u>
Subtotal Reappropriation . . . . .	<del>(\$6,288,000)</del>
	<u>\$5,818,000</u>
Prior Biennia (Expenditures) . . . . .	\$38,712,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$45,000,000)</del>
	<u>\$44,530,000</u>

**Sec. 3024.** 2009 c 497 s 3133 (uncodified) is amended to read as follows:

**FOR THE RECREATION AND CONSERVATION FUNDING BOARD**

Washington Wildlife Recreation Grants (20084011)

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

(1) The reappropriations are provided solely for the approved list of projects in LEAP capital document No. 2007-3 as developed on March 17, 2007, and LEAP capital document No. 2008-1 as developed on February 13, 2008.

(2) If additional funds are available after funding the farmlands preservation account projects approved in subsection (1) of this section, the committee may: Provide one-time grants of up to \$25,000 each to counties requesting assistance in developing farmlands preservation strategies for the purpose of seeking grants from the farmlands preservation account in future grant cycles.

(3) Funds reappropriated for distribution according to the provisions of RCW 79A.15.040(1)(c) must be allocated forty percent to local government projects and sixty percent to state agency projects. If the cumulative total of local government projects is less than forty percent of the total distribution to this category, the difference may be allocated to state agency projects.

(4) Up to \$627,299 of the reappropriation from the riparian protection account is provided solely for the Chehalis river surge plain natural area preserve. This amount may not be expended for the project until the department of natural resources has completed a management plan for the preserve that maintains recreational access and that management plan is presented to the house of representatives capital budget and senate ways and means committees.

Reappropriation:

Farmlands Preservation Account—State . . . . .	<del>(\$5,300,000)</del>
	<u>\$4,319,000</u>
Riparian Protection Account—State . . . . .	\$12,500,000
Habitat Conservation Account—State . . . . .	\$23,956,000
Outdoor Recreation Account—State . . . . .	\$22,994,000

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Subtotal Reappropriation .....	(\$64,750,000)
	<u>\$63,769,000</u>
Prior Biennia (Expenditures) .....	\$35,250,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$100,000,000)
	<u>\$99,019,000</u>

**Sec. 3025.** 2009 c 497 s 3138 (uncodified) is amended to read as follows:

**FOR THE RECREATION AND CONSERVATION FUNDING BOARD**

Aquatic Lands Enhancement Account (30000007)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the list of projects in LEAP capital document No. 2009-3, developed March 9, 2009.

Appropriation:

State Building Construction Account—State .....	(\$5,025,000)
	<u>\$4,025,000</u>
<u>Aquatic Lands Enhancement Account—State .....</u>	<u>\$1,000,000</u>
<u>Subtotal Appropriation .....</u>	<u>\$5,025,000</u>
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	\$20,100,000
TOTAL .....	\$25,125,000

**Sec. 3026.** 2009 c 497 s 3157 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Voights Creek Hatchery (20081003)

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

(1) \$200,000 of the amount appropriated is provided solely for the repair necessary to restore the facility for limited operations;

(2) \$550,000 of the amount appropriated is provided (~~solely~~) for property acquisition and permitting. No later than June 1, 2010, the department shall submit to the office of financial management and the fiscal committees of the legislature construction costs that total no more than fourteen million dollars.

If the department does not acquire property, the amount provided in this subsection shall lapse; and

(3) \$50,000 of the amount appropriated is provided solely for the department to participate in a work group with the Puyallup Tribe of Indians that will make recommendations no later than December 1, 2009, regarding the options for improving production from hatcheries along the Puyallup river system while reducing cost. Options to be considered include shifting production among the hatcheries, consolidation of hatcheries, and shifting responsibilities for construction, maintenance and operations of hatcheries.

Reappropriation:

State Building Construction Account—State .....	\$150,000
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Appropriation:

State Building Construction Account—State .....	\$800,000
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Prior Biennia (Expenditures) . . . . .	\$355,000
Future Biennia (Projected Costs) . . . . .	\$1,800,000
TOTAL . . . . .	\$3,105,000

Sec. 3027. 2009 c 497 s 3168 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**  
 Mitigation Projects and Dedicated Funding (20082048)

~~((The reappropriation in this section is subject to the following conditions and limitations:))~~ (1) The reappropriation and the appropriation in this section are provided contingent upon the department providing advance notice to the appropriate fiscal committees of the legislature and the office of financial management before applying for federal grants for acquisition of fish and wildlife habitat lands. The department shall submit this information in the form of a report that explains the funding source, the match and use requirements, a description of the project that will be funded, and a description of future impacts to the operating budget.

(2) Up to \$2,300,000 of the reappropriation is provided solely for capital projects and engineering to pay the total cost of labor and materials provided by the department of fish and wildlife.

Reappropriation:

General Fund—Federal . . . . .	\$9,000,000
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Appropriation:

General Fund—Private/Local . . . . .	\$2,500,000
Game Special Wildlife Account—Federal . . . . .	\$600,000
Game Special Wildlife Account—Private/Local . . . . .	\$900,000
General Fund—Federal . . . . .	<del>(\$25,000,000)</del>
	<u>\$31,000,000</u>
Subtotal Appropriation . . . . .	<del>(\$29,000,000)</del>
	<u>\$35,000,000</u>

Prior Biennia (Expenditures) . . . . .	\$19,125,000
Future Biennia (Projected Costs) . . . . .	\$114,800,000
TOTAL . . . . .	<del>(\$171,925,000)</del>
	<u>\$177,925,000</u>

Sec. 3028. 2009 c 497 s 3169 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**  
 Minor Works - Facility Preservation (30000149)

Appropriation:

State Building Construction Account—State . . . . .	<del>(\$677,000)</del>
	<u>\$420,000</u>

Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$10,000,000
TOTAL . . . . .	<del>(\$10,677,000)</del>
	<u>\$10,420,000</u>

NEW SECTION. Sec. 3029. A new section is added to 2009 c 497 (uncodified) to read as follows:

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**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Leque Island Highway 532 Road Protection (92000019)

Appropriation:

State Building Construction Account—State	\$680,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$680,000

**Sec. 3030.** 2009 c 497 s 3172 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Minor Works - Road Maintenance and Abandonment Plan (30000022)

Appropriation:

State Building Construction Account—State	<del>(\$1,000,000)</del>	<u>\$950,000</u>
Prior Biennia (Expenditures)	\$0	
Future Biennia (Projected Costs)	\$4,050,000	
TOTAL	<del>(\$5,050,000)</del>	<u>\$5,000,000</u>

**Sec. 3031.** 2009 c 497 s 3178 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Minor Works - Dam and Dike (30000145)

Appropriation:

State Building Construction Account—State	<del>(\$943,000)</del>	<u>\$897,000</u>
Prior Biennia (Expenditures)	\$0	
Future Biennia (Projected Costs)	\$3,780,000	
TOTAL	<del>(\$4,723,000)</del>	<u>\$4,677,000</u>

**Sec. 3032.** 2009 c 497 s 3182 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Minor Works - Programmatic (30000179)

Appropriation:

State Building Construction Account—State	<del>(\$400,000)</del>	<u>\$250,000</u>
Prior Biennia (Expenditures)	\$0	
Future Biennia (Projected Costs)	\$5,500,000	
TOTAL	<del>(\$5,900,000)</del>	<u>\$5,750,000</u>

NEW SECTION. **Sec. 3033.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Carpenter Creek Estuary Restoration (92000023)



The appropriation in this section is provided solely for estuary restoration in Carpenter Creek.

Appropriation:

State Building Construction Account—State . . . . .	\$2,784,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$2,784,000

NEW SECTION. Sec. 3034. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Puget Sound General Investigation for Nearshore Restoration (92000025)

Appropriation:

State Toxics Control Account—State . . . . .	\$1,030,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$1,030,000

NEW SECTION. Sec. 3035. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Puget Sound Flood Plain Restoration Projects (91000004)

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

- (1) \$185,000 of the appropriation is provided solely for the South Fork Nooksack River and tributaries restoration project.
- (2) \$381,000 of the appropriation is provided solely for the Nooksack Forks large woody debris placement project.

Appropriation:

State Building Construction Account—State . . . . .	\$566,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$566,000

**Sec. 3036.** 2009 c 497 s 3197 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Natural Resources Real Property Replacement (30000051)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for acquisition of working forest lands at risk of conversion to nonforest uses and working natural resource lands that will protect and enhance the value of trust land holdings. The legislature finds that the chronic loss of working forest lands threatens the long-term prospects of the timber products and other natural resource industries, which in turn threatens the long-term economic return for the beneficiaries of state trust lands. Acquisition of these lands is intended to help stabilize the primary source of revenue to trust land beneficiaries. The department shall

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submit a report to the appropriate committees of the legislature by October 1, 2010, and every two years thereafter, indicating the lands purchased under this section, showing the locations, acres, purchase price, and within that purchase price, the value of the property attributed to the future value of timber harvests given an expected rate of return for timber lands, and the value of the property attributed to future development of the property. It is the intent of the legislature to lease the development rights of these conversion lands and retain them as long-term working natural resource lands under the sustainable harvest plan. Working forest lands acquired under this section shall be managed at a level equal to or greater than seventy-five percent of the expected harvest under the sustainable harvest plan.

The department shall not proceed with the Ice Harbor land exchange prior to June 30, 2011.

**Appropriation:**

Natural Resources Real Property Replacement	
Account—State . . . . .	\$50,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$200,000,000
TOTAL . . . . .	\$250,000,000

**Sec. 3037.** 2009 c 497 s 3203 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Trust Land Transfer (30000066)

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

(1) The total appropriation is provided to the department solely to transfer from trust status, or enter into fifty year leases for, certain trust lands of statewide significance deemed appropriate for state park, fish and wildlife habitat, natural area preserve, natural resources conservation area, open space, housing and essential government services, or recreation purposes. The approved list of properties for lease or transfer is identified in the LEAP capital document No. 2009-2a, developed April 23, 2009.

(2) Property transferred under this section must be appraised and transferred at fair market value. The value of the timber transferred must be deposited by the department to the common school construction account in the same manner as timber revenues from other common school trust lands. No deduction may be made for the resource management cost account under RCW 79.64.040. The value of the land transferred must be deposited in the natural resources real property replacement account.

(3) Property subject to lease agreements under this section must be appraised at fair market value. Lease terms must be fifty years with options to renew for an additional fifty years. Lease payments must be lump sum payments for the entire term of the lease at the beginning of the lease. The department shall calculate such lump sum payments using professional appraisal standards. These lease payments may not exceed the fee simple purchase price based on current fair market value and must be deposited by the department to the common school construction account in the same manner as lease revenues from

other common school trust lands. No deduction may be made for the resource management cost account under RCW 79.64.040.

(4) All reasonable costs incurred by the department to implement this section are authorized to be paid out of the appropriations. Authorized costs include the actual cost of appraisals, staff time, environmental reviews, surveys, and other similar costs and shall not exceed ~~((one and nine tenths))~~ two and six-tenths percent of the appropriation.

(5) Intergrant exchanges between common school and other trust lands of equal value may occur if the exchange is in the interest of each trust, as determined by the board of natural resources.

(6) Prior to or concurrent with conveyance of these properties, the department, with full cooperation of the receiving agencies, shall execute and record a real property instrument that dedicates the transferred properties to the purposes identified in subsection (1) of this section. Transfer and lease agreements for properties identified in subsection (1) of this section must include terms that restrict the use of the property to the intended purpose. Transfer and lease agreements may include provisions for receiving agencies to request alternative uses of the property, provided the alternative uses are compatible with the original intended public purpose and the department and legislature approves such uses.

(7) The department and receiving agencies shall work in good faith to carry out the intent of this section. However, the department or receiving agencies may remove a property from the transfer list based on new, substantive information, if it is determined that transfer of the property is not in the statewide interest of either the common school trust or the receiving agency.

(8) The department shall execute trust land transfers that, after the deduction of reasonable costs as provided in subsection (4) of this section, eighty percent of the total value of transferred property is timber value and is deposited in the common school construction account. To achieve the eighty percent requirement, the department may choose to lease properties originally intended as transfers.

(9) \$4,189,000 of the amount appropriated is provided solely for fifty-year leases of development rights from timber lands at risk of conversion to non-timber land uses purchased from appropriations in the 2007-2009 fiscal period.

(10) ~~((On June 30, 2011,))~~ The state treasurer shall transfer all remaining uncommitted funds from this appropriation to the common school construction account and the appropriations in this section shall be reduced by an equivalent amount.

Appropriation:

State Building Construction Account—State . . . . .	\$100,133,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$400,000,000
TOTAL . . . . .	\$500,133,000

NEW SECTION. Sec. 3038. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Forest Hazard Reduction and Biomass Equipment (91000003)

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

(1) The natural resources equipment account appropriation in this section is provided solely for the purchase of forest biomass feedstock processing equipment appropriate for forest biomass-to-energy projects in eastern Washington in areas with a scarcity of primary wood processing facilities, or for making grants on a competitive basis to local governments or nonprofit entities in such local areas for purchase of such equipment. Equipment purchased, either by the department or a grantee, must be made available for lease, or other lawful means of conveyance, or be operated directly, for use in forest biomass-to-energy projects in an area of eastern Washington with a scarcity of primary wood processing facilities. In providing for the use of such equipment, consideration shall be given by the department or grantee in the opportunity for the forest biomass-to-energy project to promote forest treatments to improve forest health and/or remove hazardous buildup of forest fuels. Consideration may also be given to generating jobs in counties with high rates of unemployment.

(2) The state building construction account—state appropriation is provided solely for forest improvement treatments on forest lands of eastern Washington with the five highest priority fire and disease hazards in Stevens, Ferry, Lincoln, Pend Oreille, Okanogan, Yakima, Kittitas, and Spokane counties. Forest treatments on private lands funded by this appropriation require an agreement with the property owner that includes a commitment to maintain the improvements to forest health.

Appropriation:

Natural Resources Equipment Account . . . . .	\$750,000
State Building Construction Account—State . . . . .	\$2,000,000
Subtotal Appropriation . . . . .	\$2,750,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$2,750,000

NEW SECTION. Sec. 3039. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Removal/Cleanup of Asarco Docks in Ruston/Commencement Bay (91000004)

Appropriation:

Resource Management Cost Account—State . . . . .	\$2,050,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$2,050,000

NEW SECTION. Sec. 3040. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Puget Sound Cleanup and Recovery (92000003)

The appropriation in this section is subject to the following conditions and limitations: \$1,030,000 of the cleanup settlement account—state appropriation is provided solely for removal of contaminated pilings and habitat restoration in Commencement Bay. These funds are provided contingent upon receiving concurrence from the department of ecology that the project is aligned with the ten year plan for cleaning up Asarco-related contamination.

Appropriation:

Cleanup Settlement Account—State . . . . .	\$1,030,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$1,030,000

NEW SECTION. Sec. 3041. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Forest Riparian Easement Program (30000070)

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

(1) \$600,000 of the forest and fish support account appropriation is provided contingent upon the sale of the king air by the department. The office of financial management shall allot only an amount that is equivalent to the proceeds received from the sale of the king air and no more than \$600,000.

(2) If the appropriation in this section is less than the level demanded in submitted applications, the department of natural resources shall prioritize the use of the funds as follows:

(3) Highest priority shall be given to applications that include one or more of the following conditions, in the following priority order: (a) The greatest proportion of riparian buffer impacted in the related forest practices application; (b) lands in deferred tax status of classified timber land or classified open space as defined in RCW 84.34.020; (c) lands at greatest risk of conversion to other land uses as determined by county zoning and land classifications and proximity to urban growth areas or other areas of concentrated land development; (d) lands that are certified by a forest certification recognized by the department; (e) the applicant has not received a forestry riparian easement since July 1, 2007; (f) the applicant is not a nonprofit organization; (g) the applicant has been waiting three years or more for a forestry easement purchase; and (h) the application does not include any of the conditions specified in subsection (2) of this section.

(4) The lowest priority shall be given to applications that include any of the following conditions: (a) The forest management activities for the aggregated ownership of the landowner referenced in the application, his or her spouse, and his or her children exceed the small forest landowner definition in RCW 76.13.120(2)(c); (b) the applicant has had legal ownership for less than five years, except when the applicant is a lineal descendant of a landowner meeting this condition; (c) the applicant has an outstanding violation of the forest practices act under chapter 76.09 RCW; (d) the applicant is in default on a financial obligation to an agency of the state including noncompliance with a child support order under RCW 74.20A.320; (e) the application is for land on which other conservation easements have been executed and recorded on the

title; or (f) the land is owned by a nonprofit organization that does not have deferred tax designations of either classified timber land or classified open space as defined in RCW 84.34.020 and does not have a county-recognized forest management plan.

(5) The department of natural resources shall use legally binding affidavits to obtain from the applicants any supplemental information necessary to assist in prioritizing the use of the funds appropriated in this section. The department must verify the prioritized use of the funds appropriated in this section by: (a) Investigating a random subset of affidavits for easements purchased for an amount less than one hundred thousand dollars; and (b) investigating all easements purchased for an amount in excess of one hundred thousand dollars.

(6) The department shall work with interested stakeholders to develop recommendations for changes to the ongoing eligibility, prioritization, and policy provisions of the forestry riparian easement program specified in RCW 76.13.120. In developing these recommendations, the department and the interested stakeholders shall consider the inclusion of the conditions utilized in this section to establish eligibility and prioritization of funding. The department and the interested stakeholders shall submit final recommendations in the form of legislation to the office of financial management and the legislature by October 1, 2010.

Appropriation:

State Building Construction Account—State . . . . .	\$500,000
Forest and Fish Support Account—State. . . . .	\$600,000
Subtotal Appropriation . . . . .	\$1,100,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$1,100,000

NEW SECTION. Sec. 3042. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Elk River Estuarine Lands Acquisition (91000007)

Appropriation:

General Fund—Federal . . . . .	\$1,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$1,000,000

**PART 4  
TRANSPORTATION**

**Sec. 4001.** 2009 c 497 s 4008 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE DEPARTMENT OF  
TRANSPORTATION**

Commute Trip Reduction for Thurston County State Agencies (92000001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for implementation of chapter 427, Laws of 2009 (Substitute Senate Bill No. 6088 (commute trip reduction)).

Appropriation:

State Vehicle Parking Account—State .....	<del>(\$734,000)</del>
	<u>\$650,000</u>
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$734,000)</del>
	<u>\$650,000</u>

NEW SECTION. Sec. 4002. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION**

Freight Mobility Study - SR 12 & Schouweiler Road (91000001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the department of transportation to conduct a study on improving freight mobility on state route no. 12 in the vicinity of Elma. The study shall include a review of possible improvements to freight mobility at Schouweiler Road.

Appropriation:

State Building Construction Account—State .....	\$500,000
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$500,000

NEW SECTION. Sec. 4003. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE PATROL**

High Speed Driving Simulators (92000001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the purchase of two mobile high speed driving simulators. The Washington state patrol must assist in the purchase of the simulators and vehicles for transporting the simulators, and transfer ownership of the simulators and vehicles to the appropriate agency after consultation with stakeholders. The Washington state patrol must train the trainers on the use of the simulators. The simulators are intended to move among local police and sheriff departments in order to reduce the risks to officers and the public from high speed pursuits.

Appropriation:

State Building Construction Account—State .....	\$600,000
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$600,000

**PART 5  
EDUCATION**

**Sec. 5001.** 2009 c 497 s 5007 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**  
Vocational Skills Centers (20084300)

Reappropriation:

State Building Construction Account—State . . . . .	(\$58,546,000)
	<u>\$55,546,000</u>
Prior Biennia (Expenditures) . . . . .	\$15,161,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$73,707,000)
	<u>\$70,707,000</u>

**Sec. 5002.** 2009 c 497 s 5008 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**  
Northeast King County Skills Center (20084855)

Appropriation:

School Construction/Skills Center Building Account—State . . . . .	(\$9,049,000)
	<u>\$8,052,000</u>
Prior Biennia (Expenditures) . . . . .	\$550,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$9,599,000)
	<u>\$8,602,000</u>

**Sec. 5003.** 2009 c 497 s 5009 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**  
North Central Technical Skills Center (20084861)

Appropriation:

School Construction/Skills Center Building Account—State . . . . .	(\$4,007,000)
	<u>\$3,960,000</u>
Prior Biennia (Expenditures) . . . . .	\$50,000
Future Biennia (Projected Costs) . . . . .	\$18,500,000
TOTAL . . . . .	(\$22,557,000)
	<u>\$22,510,000</u>

**Sec. 5004.** 2009 c 497 s 5002 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**  
School Construction Assistance Grants (20084200)

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

For school construction projects funded through the school construction assistance grant program, the superintendent of public instruction shall require



mapping the design of new facilities and remapping the design of facilities to be remodeled.

Reappropriation:

Common School Construction Account—State . . . . . \$176,922,000

Appropriation:

State Building Construction Account—State . . . . . \$137,267,000

Prior Biennia (Expenditures) . . . . . \$477,570,000

Future Biennia (Projected Costs) . . . . . \$0

TOTAL . . . . . \$791,759,000

**Sec. 5005.** 2009 c 497 s 5013 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

Vocational Skills Center Minor Capital Projects (30000002)

Appropriation:

School Construction and Skill Centers Building  
Account—State . . . . . ~~(\$3,694,000)~~  
\$3,594,000

Prior Biennia (Expenditures) . . . . . \$0

Future Biennia (Projected Costs) . . . . . \$0

TOTAL . . . . . ~~(\$3,694,000)~~  
\$3,594,000

**Sec. 5006.** 2009 c 497 s 5014 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

2009-11 School Construction Assistance Grant Program (30000031)

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

~~(1) ((The office of the superintendent of public instruction shall develop a tracking system to increase accuracy in predicting the timing of school district claims for reimbursement for school construction assistance grants. The office of the superintendent of public instruction shall also improve its communication with school districts regarding the status of grant projects and create requirements regarding the timing of reimbursement claims. The office of the superintendent of public instruction shall submit a report on the progress of the new tracking and communication system to the appropriate committees of the legislature by November 15, 2009. The report must include a list of school district capital projects receiving state funding and each project's anticipated final reimbursement date.~~

~~(2))~~ In calculating square foot eligibility for state assistance grants, kindergarten student headcount shall not be reduced by fifty percent.

(2) For school construction projects funded through the school construction assistance grant program, the superintendent of public instruction shall require mapping the design of new facilities and remapping the design of facilities to be remodeled.

(3) Up to \$17,000,000 of the state building construction account—state appropriation in this section is for the Grand Coulee Dam school district school

project, contingent on the availability of sufficient contributions from federal, local, or private sources to make up the remainder of the total cost of the project. The Grand Coulee Dam school district is faced with a unique set of local funding barriers and federal funds may substitute as the usual requirement for school district participation. In the event sufficient matching contributions are not secured, these funds shall lapse.

(4) \$250,000 of the common school construction account—state appropriation is provided solely for the office of the superintendent of public instruction to develop a K-12 facility inventory and condition system based on option number 3, described in the joint legislative audit and review committee's January 2010 report, "K-12 Pilot Facility Inventory, Condition and Use System" as providing semi-customized information capabilities with complete state data. The office of the superintendent of public instruction must require school districts to submit any energy audits completed for K-12 public school buildings to be incorporated in the inventory system. It is the legislature's intent to improve the availability of information regarding the local use of state funds provided for school maintenance. Although school facilities are constructed by, and the property of, local jurisdictions, the legislature encourages school districts to invest in activities that extend the useful life of school district facilities. The state's general taxpayers have an interest in information regarding these local decisions since state policy has been to contribute funds in the biennial omnibus operating budget for facilities' maintenance and to contribute capital budget funds to eligible districts for renovation and replacement of buildings. In light of 2010 legislation enacting changes to RCW 28A.150.260 that increase state funding for school maintenance from \$73.27 per annual average full-time equivalent K-12 student to \$153.18 per student by the 2015-16 school year, with annual adjustments for inflation thereafter, it is the legislature's intent to facilitate development of an information system that will provide better data regarding school districts' use of any state funds provided to assist with maintenance and to monitor facilities' conditions.

Appropriation:

State Building Construction Account—State . . . . .	(\$369,920,000)
	<u>\$259,000,000</u>
Common School Construction Account—State . . . . .	(\$259,029,000)
	<u>\$200,826,000</u>
Common School Construction Account—Federal . . . . .	(\$2,500,000)
	<u>\$1,700,000</u>
School Construction and Skill Centers Building	
Account—Bond—State . . . . .	(\$58,284,000)
	<u>\$59,428,000</u>
Subtotal Appropriation . . . . .	(\$689,733,000)
	<u>\$520,954,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$3,921,000,000
TOTAL . . . . .	(\$4,610,733,000)
	<u>\$4,441,954,000</u>

Sec. 5007. 2009 c 497 s 5011 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

~~((Health, Safety,))~~ Energy Efficiency and Small Repair Grants (91000007)

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

(1) Up to \$3,000,000 of the appropriation is provided solely for nonrecurring costs associated with school facility repairs and renovations necessary for health and safety. The office of the superintendent of public instruction, after consulting with maintenance and operations administrators of school districts, shall develop criteria for providing funding for specific projects to stay within the appropriation level provided in this section. The criteria must include, but are not limited to, the following: (a) Limiting recipient district applications to one hundred thousand dollars per three-year period; (b) limiting districts eligible to receive the grant only once in any three-year period; and (c) requiring any district receiving funding provided in this section to demonstrate a consistent commitment to addressing school facilities needs.

(2) ~~((The))~~ \$50,000,000 of the new appropriation is provided solely for energy operational cost savings ~~((and safety and health infrastructure))~~ improvements to school facilities ~~((initiated after July 1, 2009))~~. The appropriation must be distributed using the performance-based contracting method of delivering energy operational cost savings ~~((and safety and health infrastructure))~~ improvements to public facilities~~((, unless the minimal cost or the immediacy of the project makes performance-based contracting impracticable. If the minimal cost or immediacy of the project makes performance-based contracting impracticable, the school district must receive a waiver from the office of the superintendent of public instruction in order to use the appropriation to address safety and health needs))~~.

(3) The superintendent of public instruction must report to the appropriate committees of the legislature and the office of financial management on the timing and use of the funds by the end of each fiscal year, until the funds are fully expended.

(4) \$100,000 of the appropriation is provided solely to the Monroe public schools for retrofitting the Frank Wagner Elementary chimney.

Appropriation:

State Building Construction Account—State .....	<del>(\$20,000,000)</del>
	<u>\$70,000,000</u>
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$20,000,000)</del>
	<u>\$70,000,000</u>

NEW SECTION. Sec. 5008. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE CENTER FOR CHILDHOOD DEAFNESS AND HEARING LOSS**

Lloyd Auditorium Emergency Repairs (30000012)

Appropriation:

**Ch. 36 WASHINGTON LAWS, 2010 Sp. Sess.**

State Building Construction Account—State . . . . .	\$2,500,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$2,500,000

**Sec. 5009.** 2009 c 497 s 5027 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**  
Balmer Hall Reconstruction (20081004)

The reappropriation in this section is subject to the following conditions and limitations: For construction of the facility identified in this section, the university is authorized to issue a bond or bonds financed from building fee and trust land revenue deposited into the university bond retirement account in accordance with RCW 28B.20.700 through 28B.20.740, provided that: (1) The total amount of debt to be serviced from the building account shall not exceed \$42,800,000; (2) if bonds for the project are issued as build America bonds, federal refunds on the bond interest cost shall be deposited into the University of Washington building account proportional to this project's share of the total bond issuance; and (3) for the portion of the project that is serviced by building fee and trust land revenues, the university shall select the financing method that results in the lowest cost to the University of Washington building account.

Reappropriation:

State Building Construction Account—State . . . . .	\$3,000,000
Prior Biennia (Expenditures) . . . . .	\$1,000,000
Future Biennia (Projected Costs) . . . . .	<del>(\$38,600,000)</del>
	\$0
TOTAL . . . . .	<del>(\$42,600,000)</del>
	\$4,000,000

**Sec. 5010.** 2009 c 497 s 5029 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**  
Interdisciplinary Academic Building (20082003)

The reappropriation in this section is subject to the following conditions and limitations: In conjunction with the reappropriation in this section, the University of Washington is authorized to issue a bond or bonds in an amount not to exceed \$53,554,000 in value for construction of the molecular engineering building identified in this section. The bond shall be financed from building fee and trust land revenues deposited into the university's bond retirement account, in accordance with RCW 28B.20.700 through 28B.20.740, provided that: (1) If bonds for the project are issued as build America bonds, federal refunds on the bond interest cost shall be deposited into the University of Washington building account proportional to this project's share of the total bond issuance; and (2) for the portion of the project that is serviced by building fee and trust land revenues, the university shall select the financing method that results in the lowest cost to the University of Washington building account.

Reappropriation:

State Building Construction Account—State . . . . .	\$1,000,000
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Prior Biennia (Expenditures) . . . . .	\$4,000,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$5,000,000

Sec. 5011. 2009 c 497 s 5024 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Clark Hall Renovation (20061007)

Reappropriation:

Education Construction Account—State . . . . .	<del>(\$2,000,000)</del>
	<u>\$967,000</u>

Appropriation:

State Building Construction Account—State . . . . .	\$183,000
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Prior Biennia (Expenditures) . . . . .	\$16,054,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$18,054,000)</del>
	<u>\$17,204,000</u>

Sec. 5012. 2009 c 497 s 5023 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Savery Hall Renovation (20061005)

Reappropriation:

Gardner-Evans Higher Education Construction Account—State . . . . .	<del>(\$11,000,000)</del>
	<u>\$10,822,000</u>

Prior Biennia (Expenditures) . . . . .	\$50,510,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$61,510,000)</del>
	<u>\$61,332,000</u>

Sec. 5013. 2009 c 497 s 5026 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Denny Hall Renovation (20081002)

Reappropriation:

State Building Construction Account—State . . . . .	<del>(\$1,700,000)</del>
	<u>\$0</u>

Prior Biennia (Expenditures) . . . . .	\$3,200,000
Future Biennia (Projected Costs) . . . . .	<del>(\$47,992,000)</del>
	<u>\$49,692,000</u>
TOTAL . . . . .	<del>(\$53,692,000)</del>
	<u>\$52,892,000</u>

Sec. 5014. 2009 c 497 s 5028 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Intermediate Student Service and Classroom Improvements (20081005)

Reappropriation:

Education Construction Account—State . . . . .	<del>(\$7,245,000)</del>
	<u>\$311,000</u>

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Appropriation:

State Building Construction Account—State .....	\$6,934,000
Prior Biennia (Expenditures) .....	\$6,036,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$13,281,000

**Sec. 5015.** 2009 c 497 s 5037 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Lewis Hall Renovation (20081003)

Reappropriation:

State Building Construction Account—State .....	(\$1,000,000)
	\$478,000
Prior Biennia (Expenditures) .....	\$1,000,000
Future Biennia (Projected Costs) .....	\$23,585,000
TOTAL .....	(\$25,585,000)
	\$25,063,000

**Sec. 5016.** 2009 c 497 s 5030 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

UW Tacoma (20082005)

The appropriations in this section are subject to the following conditions and limitations: For construction of the facility identified in this section, the university is authorized to issue a bond or bonds financed from building fee and trust land revenue deposited into the university bond retirement account in accordance with RCW 28B.20.700 through 28B.20.740, provided that: (1) The total amount of debt to be serviced for this project from the building account shall not exceed \$7,450,000; (2) if bonds for all or a portion of the project are issued as build America bonds, federal refunds on the bond interest cost shall be deposited into the University of Washington building account proportional to this project's share of the total bond issuance; and (3) for the portion of the project that is serviced by building fee and trust land revenues, the university shall select the financing method that results in the lowest cost to the University of Washington building account.

Reappropriation:

State Building Construction Account—State .....	\$4,000,000
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Appropriation:

State Building Construction Account—State .....	(\$34,000,000)
	\$16,768,000
University of Washington Building Account—State .....	\$14,007,000
Subtotal Appropriation .....	\$30,775,000
Prior Biennia (Expenditures) .....	\$2,150,000
Future Biennia (Projected Costs) .....	(\$17,044,000)
	\$0
TOTAL .....	(\$57,194,000)
	\$36,925,000

**Sec. 5017.** 2009 c 497 s 5041 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Preventative Facility Maintenance and Building System Repairs  
(30000287)

Appropriation:

University of Washington Building	
Account—State . . . . .	<del>(\$25,825,000)</del>
	<u>\$20,741,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$103,300,000
TOTAL . . . . .	<del>(\$129,125,000)</del>
	<u>\$124,041,000</u>

**Sec. 5018.** 2009 c 497 s 5035 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

UW Tacoma - Land Acquisition (20092003)

~~(Reappropriation:~~

Education Construction Account—State . . . . .	<del>\$469,000)</del>
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Appropriation:

University of Washington Building Account—State . . . . .	<u>\$2,469,000</u>
Prior Biennia (Expenditures) . . . . .	\$1,531,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$2,000,000)</del>
	<u>\$4,000,000</u>

**Sec. 5019.** 2009 c 497 s 5039 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Minor Works - Facility Preservation (30000027)

Appropriation:

State Building Construction Account—State . . . . .	<del>(\$26,000,000)</del>
	<u>\$19,135,000</u>
University of Washington Building	
Account—State . . . . .	<del>(\$8,175,000)</del>
	<u>\$15,040,000</u>
Subtotal Appropriation . . . . .	\$34,175,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$146,000,000
TOTAL . . . . .	\$180,175,000

**Sec. 5020.** 2009 c 497 s 5055 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE UNIVERSITY**

Minor Works - Preservation (30000065)

Appropriation:

State Building Construction Account—State . . . . .	<del>(\$16,128,000)</del>
	<u>\$23,903,000</u>

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Washington State University Building Account—	
State .....	(\$10,000,000)
	<u>\$2,225,000</u>
Subtotal Appropriation .....	\$26,128,000
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$26,128,000

**Sec. 5021.** 2009 c 497 s 5047 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE UNIVERSITY**

WSU Vancouver - Applied Technology and Classroom Building  
(20062950)

In conjunction with the appropriation in this section, Washington State University is authorized to issue a bond or bonds in an amount not to exceed \$10,000,000 in value for construction of the facility identified in this section. The bond must be financed from building fee and trust land revenues deposited into the university's bond retirement account in accordance with RCW 28B.30.700 through 28B.30.780.

Reappropriation:

State Building Construction Account—State .....	\$1,500,000
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Appropriation:

State Building Construction Account—State .....	(\$26,742,000)
	<u>\$23,593,000</u>
Prior Biennia (Expenditures) .....	\$3,420,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$31,662,000)
	<u>\$28,513,000</u>

**Sec. 5022.** 2009 c 497 s 5054 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE UNIVERSITY**

WSU Spokane - Riverpoint Biomedical & Health Sciences (20162953)

Appropriation:

State Building Construction Account—State .....	(\$4,340,000)
	<u>\$7,840,000</u>
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	(\$39,775,000)
	<u>\$70,775,000</u>
TOTAL .....	(\$44,115,000)
	<u>\$78,615,000</u>

**Sec. 5023.** 2009 c 497 s 5056 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE UNIVERSITY**

Minor Works - Program (30000066)

Appropriation:

State Building Construction Account—State .....	(\$7,042,000)
	<u>\$17,527,000</u>



~~((Washington State University Building Account—  
State ..... \$10,485,000  
Subtotal Appropriation ..... \$17,527,000))~~

Prior Biennia (Expenditures) ..... \$0  
Future Biennia (Projected Costs) ..... \$3,073,000  
TOTAL ..... \$20,600,000

Sec. 5024. 2009 c 497 s 5057 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE UNIVERSITY**

Preventative Facility Maintenance and Building System Repairs  
(30000287)

Appropriation:

Washington State University Building Account—  
State ..... ~~(\$10,115,000)~~  
\$28,375,000

Prior Biennia (Expenditures) ..... \$0  
Future Biennia (Projected Costs) ..... \$40,460,000  
TOTAL ..... ~~(\$50,575,000)~~  
\$68,835,000

Sec. 5025. 2009 c 497 s 5064 (uncodified) is amended to read as follows:

**FOR THE EASTERN WASHINGTON UNIVERSITY**

Patterson Hall Remodel (20062002)

Reappropriation:

State Building Construction Account—State ..... \$400,000

Appropriation:

State Building Construction Account—State ..... ~~(\$26,600,000)~~  
\$24,170,000

Prior Biennia (Expenditures) ..... \$1,734,000  
Future Biennia (Projected Costs) ..... \$34,416,000  
TOTAL ..... ~~(\$63,150,000)~~  
\$60,720,000

Sec. 5026. 2009 c 497 s 5061 (uncodified) is amended to read as follows:

**FOR THE EASTERN WASHINGTON UNIVERSITY**

Minor Works - Health, Safety, and Code Requirements (20081002)

Reappropriation:

Education Construction Account—State ..... ~~(\$1,500,000)~~  
\$157,000

Appropriation:

State Building Construction Account—State ..... \$1,343,000

Prior Biennia (Expenditures) ..... \$2,500,000  
Future Biennia (Projected Costs) ..... \$0  
TOTAL ..... \$4,000,000

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**Sec. 5027.** 2009 c 497 s 5065 (uncodified) is amended to read as follows:

**FOR THE EASTERN WASHINGTON UNIVERSITY**  
Preventive Maintenance and Building System Repairs (30000044)

Appropriation:

Eastern Washington University Capital Projects	
Account—State . . . . .	(\$2,217,000)
	<u>\$4,409,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$8,868,000
TOTAL . . . . .	(\$11,085,000)
	<u>\$13,277,000</u>

**Sec. 5028.** 2009 c 497 s 5068 (uncodified) is amended to read as follows:

**FOR THE EASTERN WASHINGTON UNIVERSITY**  
Minor Works - Facility Preservation (30000054)

Appropriation:

State Building Construction Account—State . . . . .	(\$3,000,000)
	<u>\$1,375,000</u>
<u>Eastern Washington University Capital Projects</u>	
<u>Account—State . . . . .</u>	<u>\$1,625,000</u>
<u>Subtotal Appropriation . . . . .</u>	<u>\$3,000,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$12,000,000
TOTAL . . . . .	\$15,000,000

**Sec. 5029.** 2009 c 497 s 5079 (uncodified) is amended to read as follows:

**FOR THE CENTRAL WASHINGTON UNIVERSITY**  
Minor Works - Infrastructure Preservation (30000009)

Appropriation:

State Building Construction Account—State . . . . .	(\$690,000)
	<u>\$601,000</u>
Central Washington University Capital Projects	
Account—State . . . . .	(\$2,050,000)
	<u>\$2,139,000</u>
Subtotal Appropriation . . . . .	\$2,740,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$12,000,000
TOTAL . . . . .	\$14,740,000

**Sec. 5030.** 2009 c 497 s 5080 (uncodified) is amended to read as follows:

**FOR THE CENTRAL WASHINGTON UNIVERSITY**  
Minor Works - Facility Preservation (30000016)

Appropriation:

<del>(State Building Construction Account—State)</del>	
<u>Central Washington University Capital Projects</u>	
<u>Account—State . . . . .</u>	<u>\$2,610,000</u>

Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$12,000,000
TOTAL . . . . .	\$14,610,000

Sec. 5031. 2009 c 497 s 5083 (uncodified) is amended to read as follows:

**FOR THE CENTRAL WASHINGTON UNIVERSITY**

Preventative Facility Maintenance and Building System Repairs  
(30000287)

Appropriation:

Central Washington University Capital Project Account—State . . . . .	<del>(\$2,422,000)</del>
	<u>\$4,407,000</u>

Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$9,688,000
TOTAL . . . . .	<del>(\$12,110,000)</del>
	<u>\$14,095,000</u>

Sec. 5032. 2009 c 497 s 5092 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

Minor Works - Preservation (30000003)

Appropriation:

State Building Construction Account—State . . . . .	<del>(\$760,000)</del>
	<u>\$4,007,000</u>
The Evergreen State College Capital Projects Account—State . . . . .	<del>(\$3,765,000)</del>
	<u>\$518,000</u>
Subtotal Appropriation . . . . .	\$4,525,000

Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$4,525,000

Sec. 5033. 2009 c 497 s 5094 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

Laboratory and Art Annex Building Renovation (30000026)

Appropriation:

<del>((State Building Construction Account—State))</del> <u>The Evergreen State College Capital Projects</u> Account—State . . . . .	\$4,849,000
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Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$4,849,000

Sec. 5034. 2009 c 497 s 5093 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

Minor Works - Health, Safety, Code Compliance (30000016)

**Ch. 36 WASHINGTON LAWS, 2010 Sp. Sess.**

**Appropriation:**

State Building Construction Account—State . . . . . ((~~\$2,515,000~~))  
\$1,953,000

The Evergreen State College Capital Projects

Account—State . . . . . \$562,000  
Subtotal Appropriation . . . . . \$2,515,000

Prior Biennia (Expenditures) . . . . . \$0  
 Future Biennia (Projected Costs) . . . . . \$0  
 TOTAL . . . . . \$2,515,000

**Sec. 5035.** 2009 c 497 s 5097 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

Preventative Facility Maintenance and Building System Repairs  
 (30000287)

**Appropriation:**

The Evergreen State College Capital Projects  
 Account—State . . . . . ((~~\$760,000~~))  
\$4,007,000

Prior Biennia (Expenditures) . . . . . \$0  
 Future Biennia (Projected Costs) . . . . . \$0  
 TOTAL . . . . . ((~~\$760,000~~))  
\$4,007,000

NEW SECTION. **Sec. 5036.** A new section is added to 2009 c 497  
 (uncodified) to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

Feasibility Study of Biomass Gasification Project (92000007)

**Appropriation:**

State Building Construction Account—State . . . . . \$125,000  
 Prior Biennia (Expenditures) . . . . . \$0  
 Future Biennia (Projected Costs) . . . . . \$0  
 TOTAL . . . . . \$125,000

**Sec. 5037.** 2009 c 497 s 5104 (uncodified) is amended to read as follows:

**FOR THE WESTERN WASHINGTON UNIVERSITY**

Minor Works - Program (20082093)

**Reappropriation:**

State Building Construction Account—State . . . . . \$1,500,000  
 Western Washington University Capital Projects  
 Account—State . . . . . ((~~\$2,500,000~~))  
\$587,000  
 Subtotal Reappropriation . . . . . ((~~\$4,000,000~~))  
\$2,087,000

Appropriation:

State Building Construction Account—State . . . . . \$1,913,000  
 Prior Biennia (Expenditures) . . . . . \$6,000,000

Future Biennia (Projected Costs) . . . . . \$0  
 TOTAL . . . . . \$10,000,000

**Sec. 5038.** 2009 c 497 s 5100 (uncodified) is amended to read as follows:

**FOR THE WESTERN WASHINGTON UNIVERSITY**

Miller Hall Renovation (20041953)

Reappropriation:

State Building Construction Account—State . . . . . \$2,000,000

Appropriation:

State Building Construction Account—State . . . . . ~~(\$54,625,000)~~  
\$45,744,000

Prior Biennia (Expenditures) . . . . . \$3,773,000

Future Biennia (Projected Costs) . . . . . \$0

TOTAL . . . . . ~~(\$60,398,000)~~  
\$51,517,000

**Sec. 5039.** 2009 c 497 s 5111 (uncodified) is amended to read as follows:

**FOR THE WESTERN WASHINGTON UNIVERSITY**

Preventative Facility Maintenance and Building System Repairs  
 (30000287)

Appropriation:

Western Washington University Capital Projects  
 Account—State . . . . . ~~(\$3,614,000)~~  
\$5,814,000

Prior Biennia (Expenditures) . . . . . \$0

Future Biennia (Projected Costs) . . . . . \$14,456,000

TOTAL . . . . . ~~(\$18,070,000)~~  
\$20,270,000

NEW SECTION. **Sec. 5040.** A new section is added to 2009 c 497  
 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

Vancouver National Historic Reserve West Barracks (91000002)

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

(1) Project funds are available on a reimbursement basis only, and shall not  
 be advanced under any circumstances.

(2)(a) The Washington state historical society shall include provisions in the  
 contract under this section that require that: (i) Capital improvements be held by  
 the grantee for a specified period of time that is appropriate to the amount of the  
 grant; and (ii) the facility be used to provide a public benefit.

(b) If the grantee is found to be out of compliance with provisions of the  
 contract, the grantee shall repay to the state general fund the principal amount of  
 the grant plus interest calculated at the rate of interest on state of Washington  
 general obligation bonds issued most closely to the date of authorization of the  
 grant.

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Appropriation:

State Building Construction Account—State . . . . .	\$1,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$1,000,000

NEW SECTION. Sec. 5041. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**  
Vancouver National Historic Reserve Visitors Center (91000001)

Appropriation:

State Building Construction Account . . . . .	\$750,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$750,000

**Sec. 5042.** 2009 c 497 s 5115 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**  
Washington Heritage Projects (20044004)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is adjusted for the termination of the Bigelow House preservation association project which is no longer viable.

Reappropriation:

State Building Construction Account—State . . . . .	<del>(\$690,000)</del>
	<u>\$657,000</u>
Prior Biennia (Expenditures) . . . . .	\$3,310,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$4,000,000)</del>
	<u>\$3,967,000</u>

**Sec. 5043.** 2009 c 497 s 5116 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**  
Statewide - Washington Heritage Project Grants (20064004)

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

(1) The reappropriation is subject to the provisions of section ~~((733))~~ 212, chapter ~~((488))~~ 371, Laws of ~~((2005))~~ 2006.

(2) The reappropriation is adjusted for the termination of the Village Theatre project which is no longer viable.

Reappropriation:

State Building Construction Account—State . . . . .	<del>(\$1,318,000)</del>
	<u>\$1,253,000</u>
Prior Biennia (Expenditures) . . . . .	\$3,346,000
Future Biennia (Projected Costs) . . . . .	\$0

TOTAL .....((~~\$4,664,000~~))  
\$4,599,000

**Sec. 5044.** 2009 c 497 s 5118 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

Washington Heritage Grants (20074004)

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

(1) The reappropriation is subject to the project list in section 5137, chapter 520, Laws of 2007.

(2) The reappropriation is adjusted for the termination of the Martin Luther King Ballet project which is no longer viable.

(3) The reappropriation for the historic Seattle PDA project is transferred to the Center for Wooden Boats.

Reappropriation:

State Building Construction Account—State .....((~~\$7,630,000~~))  
\$7,580,000

Prior Biennia (Expenditures) ..... \$2,370,000

Future Biennia (Projected Costs) ..... \$0

TOTAL .....((~~\$10,000,000~~))  
\$9,950,000

**Sec. 5045.** 2009 c 497 s 5120 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

Washington Heritage Project Capital Grants (30000011)

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

(1) The appropriation is subject to the provisions of RCW 27.34.330.

(2) The appropriation is provided solely for the following list of projects.

(3) The 2011-13 projects must be selected based on their readiness to proceed.

<b>Project</b>	<b>Recommended</b>
Wenatchee Valley Museum	\$150,000
West Point Light Station	\$300,000
Des Moines Field House	\$420,000
Washington Hall	\$381,000
Percival Landing	\$567,000
Roslyn City Hall & Library	\$194,000
<del>((Spokane County courthouse</del>	<del>\$500,000))</del>
Snoqualmie Chapel car #5	\$125,000
Edmonds Carnegie Library museum	\$48,000
Ilwaco museum collections	\$41,000
Minkler Mansion	\$200,000

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Cheney house for a museum	\$87,000
Longview Columbia theatre	\$1,000,000
Chinook School	\$350,000
Territorial Courthouse of 1858	\$167,000
Hanford Interpretive Center	\$147,000
Carnegie Library Museum	\$883,000
Dynamite Train Canopy	\$50,000
King Street Station	\$750,000
Lakewood Carriage House	\$110,000
Lincoln School	\$175,000
Quincy Pioneer Church	\$195,000
Ezra Meeker Mansion	\$100,000
Port Townsend Storage Facility	\$450,000
Puyallup Church Spire	\$17,000
Morris House and Washington Harbor School	\$27,000
Kalama Interpretive Center	\$212,000
Foss Waterway Seaport Building	\$750,000
Pioneer State Bank Building	\$201,000
Kirkman House	\$32,000
Malo Sawmill	\$70,000
Stimson-Green Mansion	\$23,000
Lightship #83	\$335,000
Masonic Temple Building	\$350,000
Wilkeson Centennial Monument	\$10,000
Eddon Boatyard ways and dock	\$243,000
Commencement Restoration	\$86,000
Vessel Shenandoah	\$179,000
<del>((Walt's Mill</del>	<del>\$75,000))</del>
TOTAL	<del>(((\$10,000,000))</del> <u>\$9,425,000</u>

Appropriation:

State Building Construction Account—State . . . . .	<del>(((\$10,000,000))</del> <u>\$9,425,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$40,000,000
TOTAL . . . . .	<del>(((\$50,000,000))</del> <u>\$49,425,000</u>



Sec. 5046. 2009 c 497 s 5174 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Seattle Central Community College: Wood Construction Center (20081216)

Reappropriation:

State Building Construction Account—State . . . . . \$2,000,000

Appropriation:

State Building Construction Account—State . . . . . ~~(\$24,645,000)~~  
\$19,760,000

Prior Biennia (Expenditures) . . . . . \$549,000  
Future Biennia (Projected Costs) . . . . . \$0  
TOTAL . . . . . ~~(\$27,194,000)~~  
\$22,309,000

Sec. 5047. 2009 c 497 s 5176 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Peninsula College: Business and Humanities Center (20081218)

Reappropriation:

State Building Construction Account—State . . . . . \$1,200,000

Appropriation:

State Building Construction Account—State . . . . . ~~(\$33,627,000)~~  
\$29,644,000

Prior Biennia (Expenditures) . . . . . \$1,100,000  
Future Biennia (Projected Costs) . . . . . \$0  
TOTAL . . . . . ~~(\$35,927,000)~~  
\$31,944,000

Sec. 5048. 2009 c 497 s 5127 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Tacoma Community College - Science Building (20012687)

Reappropriation:

State Building Construction Account—State . . . . . ~~(\$1,773,000)~~  
\$855,000

Prior Biennia (Expenditures) . . . . . \$30,123,000  
Future Biennia (Projected Costs) . . . . . \$0  
TOTAL . . . . . ~~(\$31,896,000)~~  
\$30,978,000

Sec. 5049. 2009 c 497 s 5180 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Green River Community College - Trades and Industry Building (20081222)

Reappropriation:

State Building Construction Account—State . . . . . \$11,000

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Appropriation:

State Building Construction Account—State	..(( <del>\$2,625,000</del> ))	<u>\$1,707,000</u>
Prior Biennia (Expenditures)	.....	\$127,000
Future Biennia (Projected Costs)	..(( <del>\$28,737,000</del> ))	<u>\$29,655,000</u>
TOTAL	.....	\$31,500,000

**Sec. 5050.** 2009 c 497 s 5171 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**  
 Minor Works - Facility Preservation - Roof Repairs (20081010)

Reappropriation:

Education Construction Account—State	..(( <del>\$2,500,000</del> ))	<u>\$392,000</u>
State Building Construction Account—State	.....	\$1,000,000
Subtotal Reappropriation	..(( <del>\$3,500,000</del> ))	<u>\$1,392,000</u>

Appropriation:

State Building Construction Account—State	.....	\$2,108,000
Prior Biennia (Expenditures)	.....	\$4,176,000
Future Biennia (Projected Costs)	.....	\$0
TOTAL	.....	\$7,676,000

**Sec. 5051.** 2009 c 497 s 5182 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**  
 Skagit Valley College - Academic and Student Services Building (20081224)

Reappropriation:

State Building Construction Account—State	.....	\$35,000
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Appropriation:

State Building Construction Account—State	..(( <del>\$2,116,000</del> ))	<u>\$1,730,000</u>
Prior Biennia (Expenditures)	.....	\$101,000
Future Biennia (Projected Costs)	..(( <del>\$28,949,000</del> ))	<u>\$29,335,000</u>
TOTAL	.....	\$31,201,000

**Sec. 5052.** 2009 c 497 s 5210 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**  
 Roof Repairs "A" (30000010)

Appropriation:

State Building Construction Account—State	..(( <del>\$8,493,000</del> ))	<u>\$2,627,000</u>
<u>Community/Technical College Capital Projects</u>		
Account—State	.....	\$6,854,000
Subtotal Appropriation	.....	<u>\$9,481,000</u>

Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	<del>(\$24,000,000)</del>
	<u>\$42,000,000</u>
TOTAL . . . . .	<del>(\$32,493,000)</del>
	<u>\$51,481,000</u>

**Sec. 5053.** 2009 c 497 s 5183 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Lower Columbia College - Health and Science Building (20081225)

Appropriation:

State Building Construction Account—State . . . . .	<del>(\$2,969,000)</del>
	<u>\$2,187,000</u>

Prior Biennia (Expenditures) . . . . .	\$2,500,000
Future Biennia (Projected Costs) . . . . .	<del>(\$36,405,000)</del>
	<u>\$37,187,000</u>

TOTAL . . . . .	\$41,874,000
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**Sec. 5054.** 2009 c 497 s 5184 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Grays Harbor College - Science and Math Building (20081226)

Reappropriation:

State Building Construction Account—State . . . . .	\$45,000
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Appropriation:

State Building Construction Account—State . . . . .	<del>(\$3,583,000)</del>
	<u>\$2,292,000</u>

Prior Biennia (Expenditures) . . . . .	\$231,000
Future Biennia (Projected Costs) . . . . .	<del>(\$40,478,000)</del>
	<u>\$41,769,000</u>

TOTAL . . . . .	\$44,337,000
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**Sec. 5055.** 2009 c 497 s 5217 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Seattle Central Community College - Seattle Maritime Academy (30000120)

Appropriation:

State Building Construction Account—State . . . . .	<del>(\$2,839,000)</del>
	<u>\$1,337,000</u>

Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	<del>(\$15,483,000)</del>
	<u>\$16,985,000</u>

TOTAL . . . . .	\$18,322,000
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**Sec. 5056.** 2009 c 497 s 5218 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Yakima Valley Community College - Palmer Martin Building (30000121)

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Appropriation:

State Building Construction Account—State	..(( <del>\$1,464,000</del> ))	
		<u>\$997,000</u>
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	..(( <del>\$13,509,000</del> ))	
		<u>\$13,976,000</u>
TOTAL	.....	\$14,973,000

**Sec. 5057.** 2009 c 497 s 5219 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

North Seattle Community College - Technology Building Renewal  
(30000129)

Appropriation:

State Building Construction Account—State	..(( <del>\$2,976,000</del> ))	
		<u>\$2,084,000</u>
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	..(( <del>\$22,337,000</del> ))	
		<u>\$23,229,000</u>
TOTAL	.....	\$25,313,000

**Sec. 5058.** 2009 c 497 s 5220 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Green River Community College - Science Math and Technology Building  
(30000130)

Appropriation:

State Building Construction Account—State	..(( <del>\$1,700,000</del> ))	
		<u>\$1,315,000</u>
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	..(( <del>\$15,545,000</del> ))	
		<u>\$15,930,000</u>
TOTAL	.....	\$17,245,000

**Sec. 5059.** 2009 c 497 s 5204 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Tacoma Community College - Health Careers Center (20082701)

Reappropriation:

State Building Construction Account—State	.....	\$15,000
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Appropriation:

State Building Construction Account—State	..(( <del>\$2,946,000</del> ))	
		<u>\$1,811,000</u>
Prior Biennia (Expenditures)	.....	\$240,000
Future Biennia (Projected Costs)	..(( <del>\$35,565,000</del> ))	
		<u>\$36,700,000</u>
TOTAL	.....	\$38,766,000

**Sec. 5060.** 2009 c 497 s 5205 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Bellevue Community College - Health Science Building (20082702)

Appropriation:

State Building Construction Account—State . . . . . ~~(\$4,350,000)~~  
\$2,910,000

Prior Biennia (Expenditures) . . . . . \$144,000

Future Biennia (Projected Costs) . . . . . ~~(\$36,506,000)~~  
\$37,946,000

TOTAL . . . . . \$41,000,000

*\*Sec. 5061. 2009 c 497 s 5206 (uncodified) is amended to read as follows:*

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

*Bates Technical College - Mohler Communications Technology Center (20082703)*

*Reappropriation:*

*State Building Construction Account—State. . . . . \$20,000*

*Appropriation:*

*State Building Construction Account—State. . . . . ~~(\$1,755,000)~~*  
*\$1,192,000*

*Prior Biennia (Expenditures) . . . . . \$153,000*

*Future Biennia (Projected Costs) . . . . . ~~(\$23,398,000)~~*  
*\$23,961,000*

*TOTAL . . . . . \$25,326,000*

*\*Sec. 5061 was vetoed. See message at end of chapter.*

**Sec. 5062.** 2009 c 497 s 5208 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Clark College - Health and Advanced Technologies Building (20082705)

Reappropriation:

State Building Construction Account—State . . . . . \$14,000

Appropriation:

State Building Construction Account—State . . . . . ~~(\$2,506,000)~~  
\$2,324,000

Prior Biennia (Expenditures) . . . . . \$236,000

Future Biennia (Projected Costs) . . . . . ~~(\$33,598,000)~~  
\$33,780,000

TOTAL . . . . . \$36,354,000

**Sec. 5063.** 2009 c 497 s 5165 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Lake Washington Technical College - Allied Health Building (20062697)

Reappropriation:

State Building Construction Account—State . . . . . \$900,000

Appropriation:

State Building Construction Account—State . . . . . ~~(\$25,986,000)~~  
\$23,876,000

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Prior Biennia (Expenditures) . . . . .	\$1,029,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$27,915,000)</u>
	<u>\$25,805,000</u>

**Sec. 5064.** 2009 c 497 s 5177 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Spokane Falls Community College - Chemistry and Life Science Building  
(20081219)

Reappropriation:

State Building Construction Account—State . . . . .	\$1,200,000
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Appropriation:

State Building Construction Account—State . . . . .	<u>(\$27,800,000)</u>
	<u>\$21,007,000</u>

Prior Biennia (Expenditures) . . . . .	\$1,320,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$30,320,000)</u>
	<u>\$23,527,000</u>

**Sec. 5065.** 2009 c 497 s 5178 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Spokane Community College - Technical Education Building (20081220)

Reappropriation:

State Building Construction Account—State . . . . .	\$1,600,000
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Appropriation:

State Building Construction Account—State . . . . .	<u>(\$30,718,000)</u>
	<u>\$24,037,000</u>

Prior Biennia (Expenditures) . . . . .	\$793,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$33,111,000)</u>
	<u>\$26,430,000</u>

**Sec. 5066.** 2009 c 497 s 5191 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Spokane Falls Community College - Music Building 15 Renovation  
(20081320)

Reappropriation:

State Building Construction Account—State . . . . .	\$475,000
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Appropriation:

State Building Construction Account—State . . . . .	<u>(\$13,806,000)</u>
	<u>\$10,459,000</u>

Prior Biennia (Expenditures) . . . . .	\$667,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$14,948,000)</u>
	<u>\$11,601,000</u>

**Sec. 5067.** 2009 c 497 s 5151 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Green River Community College - Humanities and Classroom Building  
Debt Service (20061205)

The appropriations in this section are subject to the following conditions and limitations: The community/technical college capital projects account appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for debt service on the capital project account certificate of participation issued for construction of this facility. The state board shall work with the office of the state treasurer to identify ways to expedite repayment of the debt incurred on this project that is in excess of actual project costs in order to minimize unnecessary demands upon building account revenue.

Reappropriation:

State Building Construction Account—State . . . . . \$1,054,000

Appropriation:

Community/Technical College Capital Projects

Account—State . . . . . \$4,044,000

Prior Biennia (Expenditures) . . . . . \$1,827,000

Future Biennia (Projected Costs) . . . . . (\$0)

\$36,432,000

TOTAL . . . . . (~~\$2,881,000~~)

\$43,357,000

**Sec. 5068.** 2009 c 497 s 5181 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Bellingham Technical College - Instructional Resource Center Debt Service  
(20081223)

The appropriations in this section are subject to the following conditions and limitations: The community/technical college capital projects account appropriation is provided solely for debt service on the capital project account certificate of participation issued for construction of this facility. The state board shall authorize only as much debt as is needed to complete the project, not to exceed a total of \$27,000,000.

Reappropriation:

State Building Construction Account—State . . . . . \$1,000,000

Appropriation:

Community/Technical College Capital Projects

Account—State . . . . . \$2,288,000

Prior Biennia (Expenditures) . . . . . (\$0)

\$824,000

Future Biennia (Projected Costs) . . . . . (\$0)

\$37,994,000

TOTAL . . . . . (~~\$1,000,000~~)

\$42,106,000

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**Sec. 5069.** 2009 c 497 s 5190 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**  
Spokane Community College - Building 7 Renovation (20081319)

Reappropriation:	
State Building Construction Account—State	\$986,000
Appropriation:	
State Building Construction Account—State	<del>(\$9,748,000)</del>
	<u>\$8,343,000</u>
Prior Biennia (Expenditures)	\$23,000
Future Biennia (Projected Costs)	\$0
TOTAL	<del>(\$10,757,000)</del>
	<u>\$9,352,000</u>

**Sec. 5070.** 2009 c 497 s 5192 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**  
Pierce College Fort Steilacoom - Cascade Core (20081321)

Reappropriation:	
State Building Construction Account—State	\$1,200,000
Appropriation:	
State Building Construction Account—State	<del>(\$15,000,000)</del>
	<u>\$13,099,000</u>
<u>Community/Technical College Capital Projects</u>	
Account—State	\$8,500,000
Subtotal Appropriation	<u>\$21,599,000</u>
Prior Biennia (Expenditures)	\$1,042,000
Future Biennia (Projected Costs)	\$0
TOTAL	<del>(\$17,242,000)</del>
	<u>\$23,841,000</u>

**Sec. 5071.** 2009 c 497 s 5168 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**  
North Seattle Community College - Employment Resource Center  
(20062851)

Reappropriation:	
State Building Construction Account—State	\$700,000
Appropriation:	
State Building Construction Account—State	<del>(\$5,000,000)</del>
	<u>\$7,676,000</u>
Prior Biennia (Expenditures)	\$1,790,000
Future Biennia (Projected Costs)	\$0
TOTAL	<del>(\$7,490,000)</del>
	<u>\$10,166,000</u>

**Sec. 5072.** 2009 c 497 s 5135 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**  
Clark College - East County Satellite (20041689)



Reappropriation:

Gardner-Evans Higher Education Construction	
Account—State . . . . .	<del>(\$5,000,000)</del>
	<u>\$4,780,000</u>
Prior Biennia (Expenditures) . . . . .	\$24,876,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$29,876,000)</del>
	<u>\$29,656,000</u>

Sec. 5073. 2009 c 497 s 5195 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Bellevue Community College - L Building Emergency Repairs (20081850)

Reappropriation:

State Building Construction Account—State . . . . .	<del>(\$1,460,000)</del>
	<u>\$387,000</u>
Prior Biennia (Expenditures) . . . . .	\$203,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$1,663,000)</del>
	<u>\$590,000</u>

Sec. 5074. 2009 c 497 s 5223 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Minor Works - Preservation (30000210)

Appropriation:

<del>(State Building Construction Account—State . . . . .</del>	<del>\$15,116,000)</del>
<u>Community/Technical College Capital Projects</u>	
Account—State . . . . .	<u>\$16,000,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$15,116,000)</del>
	<u>\$16,000,000</u>

Sec. 5075. 2009 c 497 s 5179 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Everett Community College - Index Hall Replacement (20081221)

Reappropriation:

State Building Construction Account—State . . . . .	\$1,150,000
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Appropriation:

State Building Construction Account—State . . . . .	<del>(\$2,301,000)</del>
	<u>\$2,157,000</u>
Prior Biennia (Expenditures) . . . . .	\$1,650,000
Future Biennia (Projected Costs) . . . . .	<del>(\$40,205,000)</del>
	<u>\$40,349,000</u>
TOTAL . . . . .	\$45,306,000

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**Sec. 5076.** 2009 c 497 s 5213 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Minor Works - Program (30000078)

Appropriation:

State Building Construction Account—State . . . . .	\$3,858,000
Community/Technical College Capital Projects Account—State. . . . .	(\$9,714,000)
	<u>\$12,227,000</u>
Subtotal Appropriation. . . . .	(\$13,572,000)
	<u>\$16,085,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$80,000,000
TOTAL . . . . .	(\$93,572,000)
	<u>\$96,085,000</u>

**Sec. 5077.** 2009 c 497 s 5164 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Spokane Falls Community College - Campus Classrooms (20062696)

Reappropriation:

State Building Construction Account—State . . . . .	(\$1,450,000)
	<u>\$883,000</u>
Prior Biennia (Expenditures) . . . . .	\$434,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$1,884,000)
	<u>\$1,317,000</u>

**NEW SECTION. Sec. 5078.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Construction Contingency Pool (92000007)

The appropriation in this section is provided solely for allocation by the state board for community and technical colleges for major construction and renovation projects that confront emergent and unavoidable costs in excess of the construction contingency and management reserves included in the project appropriation. The board shall report at least quarterly to the office of financial management and the legislative capital budget committees on requests for and allocations from the pool.

Appropriation:

State Building Construction Account—State . . . . .	\$3,076,000
Gardner-Evans Higher Education Construction Account—State. . . . .	\$263,000
Subtotal Appropriation. . . . .	\$3,339,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$3,339,000

Sec. 5079. 2009 c 497 s 5224 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Preventative Facility Maintenance and Building System Repairs  
(30000287)

Appropriation:

Community and Technical Colleges Capital Projects Account—State . . . . .	(( <u>\$22,800,000</u> ))
	<u>\$0</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$91,208,000
TOTAL . . . . .	(( <u>\$114,008,000</u> ))
	<u>\$91,208,000</u>

Sec. 5080. 2009 c 497 s 5143 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Centralia Community College - Science Building (20042850)

Reappropriation:

State Building Construction Account—State . . . . .	\$194,000
Gardner-Evans Higher Education Construction Account—State . . . . .	(( <u>\$3,000,000</u> ))
	<u>\$2,737,000</u>
Subtotal Reappropriation . . . . .	(( <u>\$3,194,000</u> ))
	<u>\$2,931,000</u>
Prior Biennia (Expenditures) . . . . .	\$28,919,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(( <u>\$32,113,000</u> ))
	<u>\$31,850,000</u>

Sec. 5081. 2009 c 497 s 5167 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Clover Park Technical College - Allied Health Care Facility (20062699)

Reappropriation:

State Building Construction Account—State . . . . .	(( <u>\$1,020,000</u> ))
	<u>\$323,000</u>
Prior Biennia (Expenditures) . . . . .	\$1,425,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(( <u>\$2,445,000</u> ))
	<u>\$1,748,000</u>

**PART 6**

**MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS**

Sec. 6001. 2009 c 497 s 6009 (uncodified) is amended to read as follows:

**ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS.** The following agencies may enter into financial contracts, paid from any funds of an agency, appropriated or nonappropriated,

for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements or financial contracts using certificates of participation. Expenditures made by an agency for one of the indicated purposes before the issue date of the authorized financial contract and any certificates of participation therein are intended to be reimbursed from proceeds of the financial contract and any certificates of participation therein to the extent provided in the agency's financing plan approved by the state finance committee.

State agencies may enter into agreements with the department of general administration and the state treasurer's office to develop requests to the legislature for acquisition of properties and facilities through financial contracts. The agreements may include charges for services rendered.

Those noninstructional facilities of higher education institutions authorized in this section to enter into financial contracts are not eligible for state funded maintenance and operations. Instructional space that is available for regularly scheduled classes for academic transfer, basic skills, and workforce training programs may be eligible for state funded maintenance and operations.

(1) Department of corrections: ~~((Enter into a financing contract for up to \$17,958,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase or build work release beds, violator beds, or other community-based re-entry facilities.))~~ Enter into a financing contract for up to \$12,400,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to move correctional industries facilities and operations from McNeil island corrections center to Stafford creek corrections center.

(2) Community and technical colleges:

(a) Enter into a financing contract on behalf of Walla Walla Community College for up to \$1,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase up to 40 acres of land.

(b) Enter into a financing contract on behalf of Bellingham Technical College for up to \$1,390,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop an instructional resource center.

(c) Enter into a financing contract on behalf of Bellingham Technical College for up to ~~(\$28,968,000)~~ \$27,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop an instructional resource center. The cost of this financing contract shall be paid from the community and technical colleges capital projects account. This facility shall be eligible for maintenance and operations funding on the same terms as if constructed with state general obligation bonds.

(d) Enter into a financing contract on behalf of Edmonds Community College for up to \$5,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to provide space for allied health and construction industry.

(e) Contingent upon the sale and purchase specified in section 5071 of this act, enter into a financing contract on behalf of Spokane Community College for up to \$3,400,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase the Riverpoint One building.

(f) Enter into a financing contract on behalf of North Seattle Community College for up to \$8,900,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop an employment resource center.

(g) Enter into a financing contract on behalf of Everett Community College for up to \$25,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop a student fitness and health center.

(h) Enter into a financing contract on behalf of Wenatchee Valley Community College for up to \$2,700,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase a music and art center.

(i) Enter into a financing contract on behalf of Green River Community College for up to \$20,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop a 40,000 square foot addition to Green River Kent station.

(j) Enter into a financing contract on behalf of Walla Walla Community College for up to \$1,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the water and environment center.

(k) Enter into a financing contract pursuant to chapter 39.94 RCW on behalf of Green River Community College for up to \$26,532,000 plus financing expenses and required reserves to construct a new classrooms facility as specified in project 20061205. The cost of this financing contract shall be paid from the community and technical colleges capital projects account. This facility shall be eligible for maintenance and operations funding on the same terms as if constructed with state general obligation bonds.

(3) Parks and recreation commission: Enter into a financing contract for up to \$2,500,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the Mount Spokane lodge. The parks and recreation commission shall use energy savings performance contracting if practicable. The lodge shall be operated by a private concessionaire under a contract with the parks and recreation commission that is a qualified management contract under the applicable internal revenue service guidelines.

(4) Department of general administration: Enter into a financing contract for up to \$27,144,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the rehabilitation of the John L. O'Brien building, subject to approval of the project scope by the speaker of the house of representatives and the chief clerk of the house of representatives.

(5) Department of ecology: Enter into a financing contract for up to \$11,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to rebuild the east wall of the department of ecology's headquarters building in Lacey, Washington.

(6) Washington State University: Enter into a financing contract for up to \$15,000,000 plus financing expenses and required reserve pursuant to chapter 39.94 RCW for a student information system.

(7) Department of social and health services: Enter into a financing contract for up to \$15,850,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct or renovate specialized housing and treatment facilities for youth committed to the juvenile rehabilitation administration. The debt service is to be paid with the savings associated with closure of the Maple Lane school.

NEW SECTION. Sec. 6002. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION—ENERGY SAVINGS PERFORMANCE CONTRACTING.** (1) The department of general administration, in fulfilling its requirement to maintain a registry of energy service contractors pursuant to RCW 39.35A.050, shall update the preapproved list of energy services companies that are qualified to provide services to public facilities in the state by June 30, 2010.

(2) The department of general administration must develop guidelines that are consistent with national and international energy savings performance standards for the implementation of energy savings performance contracting projects June 30, 2010.

\*NEW SECTION. Sec. 6003. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT.** *The office of financial management budget instructions, required by chapter 43.88 RCW, must instruct all agencies submitting budget requests for building renovations and improvements and operating budget requests for facility leases to conduct preliminary energy audits if proposed renovations or improvements involve building envelope, heating, ventilating, air conditioning, controls, and lighting. The budget instructions must also direct agencies to contact the department of general administration for assistance, if necessary.*

\*Sec. 6003 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 6004. A new section is added to 2009 c 497 (uncodified) to read as follows:

**DEBT AFFORDABILITY STUDY.** The office of the state treasurer shall prepare a debt affordability study by December 1, 2010, that provides an assessment of the state's current debt portfolio and an analysis of the impact of future debt issuance. The study must include but is not limited to: An overview of the state's outstanding and projected debt; the structure of the debt portfolio; the cost of existing debt; sources of funds for interest, principal, or lease payments; and the purposes for which debt instruments and financing contracts are issued. To assist with this work, the office of the state treasurer shall convene and staff a work group to include staff from the fiscal committees of the state house of representatives and state senate and the office of financial management.

NEW SECTION. Sec. 6005. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR SPOKANE COMMUNITY COLLEGE.** The Washington state military department shall transfer building 100 and 5.47 acres of associated land at Geiger field to Spokane community college for the development of a Spokane aerospace technology center.

**Sec. 6006.** 2008 c 5 s 1 (uncodified) is amended to read as follows:

Pursuant to chapter 43.155 RCW, the following project loans recommended by the public works board are authorized to be made with funds appropriated from the public works assistance account, and no loan authorized in this act shall bear an interest rate greater than one-half of one percent:

- (1) Arlington—sanitary sewer project—expand and upgrade the wastewater treatment plant and biosolids composting facility to meet new discharge limitations, produce a higher quality effluent, and accommodate future growth . . . . . \$10,000,000
- (2) Auburn—street project—reconstruct approximately 0.3 miles of roadway with four travel lanes to bring up to current arterial and truck route standards and modify intersection to optimize efficiency and level of service . . . . . \$1,800,000
- (3) Blaine—sanitary sewer project—construct a new wastewater treatment plant and section of outfall pipe to increase treatment capacity, produce reuse quality water, and improve Puget Sound water quality for shellfish . . . . . \$10,000,000
- (4) Bonney Lake—domestic water project—replace approximately 71,000 linear feet of leaky water mains to reduce current water loss by ten percent . . . . . \$5,352,000
- (5) Bonney Lake—sanitary sewer project—replace approximately 12,000 linear feet of failing interceptor sewer pipes. . . . . \$4,648,000
- (6) Buckley—sanitary sewer project—rebuild the wastewater treatment plant to provide nutrient removal and meet state and federal discharge regulations and the construction of an interceptor . . . . . \$5,000,000
- (7) Camas—sanitary sewer project—construct improvements to the wastewater treatment facilities to provide class A biosolids at the main sewage pump station . . . . . \$10,000,000
- (8) Clark county—road project—construct new road segments, widen roadways, improve and redesign intersections, and install and modify traffic signals necessary to improve a major interchange with two freeways . . . . . \$10,000,000
- (9) Clark regional wastewater district—sanitary sewer project—modify existing and construct new wastewater facilities to process approximately 4.65 million gallons more of wastewater per day and ensure treatment processes continue to be in compliance with current regulations. . . . . \$8,000,000
- (10) Coal creek utility district—sanitary sewer project—construct sewer lift station, approximately 1,250 lineal feet of gravity sewer main, and 500 feet of force main to provide public sewer to approximately 25 properties on a lake that have private septic systems that have failed or are in prefailure status . . . . . \$898,875
- (11) College Place—domestic water project—construct two steel tanks, a booster station, approximately 6,000 feet of transmission line, 3,400 feet of water mains, three pressure reducing valves, and associated telemetry to rectify a deficiency in fire flow and standby water storage protection. . . . . \$4,710,051
- (12) Cowlitz county public utility district No. 1—domestic water project—construction of approximately six new groundwater supply wells, 2,100 feet of raw water piping a new water treatment plant producing approximately 20 million gallons per day of potable water, and approximately 4,350 feet of transmission main to connect to the system to replace current water supply that is being impacted by increasing water sediment. . . . . \$3,213,000
- (13) Ephrata—domestic water project—replace approximately 68,000 feet of failing water mains, 50,000 feet of failing water service pipes, and the

resurfacing of 20 miles of overlaying roadway, including approximately 100 fire hydrants, 400 catch basins, 15 storm sewer drywells, 22,000 feet of curb and gutter, and 16,000 feet of storm sewer pipe . . . . . \$6,605,727

(14) Freeland water district—domestic water project—connect a new well and new reservoir to the existing system, rehabilitate the existing well, and install new equipment to increase system reliability, redundancy, and capacity. Install new chlorination equipment to improve water quality . . . . . \$347,516

(15) Gig Harbor—sanitary sewer project—improvements to the wastewater treatment plant including new equipment and electrical work, add a third clarifier, install ultraviolet disinfection, and extend and upsize the outfall . . . . . \$10,000,000

(16) Highline water district—domestic water project—construction of 11,350 feet of transmission main and looping of pipes to eliminate low pressures and fire flows and improve water quality, and create a new pressure zone to correct high pressures . . . . . \$5,390,418

(17) Karcher creek sewer district—sanitary sewer project—install a new sewer system, including a lift station and approximately 3,600 lineal feet of sewer main, in conjunction with a road project to service approximately 17 homes that will lose their septic systems due to the road project. . . . \$1,358,130

(18) Kennewick—sanitary sewer project—construct improvements to critical wastewater treatment plant processes to enhance reliability, improve energy efficiency and redundancy, as well as increase the capacity of the sludge pumping station. . . . . \$5,500,000

(19) Kent—street project—construct two bridges, one for the roadway over a set of railroad tracks, and one for railroad tracks over a lowered roadway. This will grade separate the tracks from the roadway to provide safe and reliable operations twenty-four hours a day. . . . . \$10,000,000

(20) King county—sanitary sewer project—construct 13,100 lineal feet of pipe to convey approximately 9 million gallons per day of reclaimed water to reduce withdrawals of 250-acre feet per year from the Sammamish river. . . . . \$7,000,000

(21) La Center—sanitary sewer project—upgrade wastewater treatment plant to reduce the levels of nitrogen discharged in the effluent and approximately doubling the operation of the plant and producing class A reuse water . . . . . \$10,000,000

(22) Lake Forest Park water district—domestic water project—replace approximately 6,915 lineal feet of undersized and corroded water pipes to improve safety and reliability of the system by reducing pipe failures and increasing fire flow . . . . . \$917,935

(23) Lake Stevens—sanitary sewer project—construct a new wastewater treatment plant, 9,500 feet of interceptor line, a pump station, and an outfall pipe in partnership with Lake Stevens sewer district . . . . . \$10,000,000

(24) Lake Stevens sewer district—sanitary sewer project—construct a new wastewater treatment plant, 9,500 feet of interceptor line, a pump station, and an outfall pipe in partnership with the city of Lake Stevens . . . . . \$10,000,000

(25) Lakewood—sanitary sewer project—construct 3 pump stations, approximately 17,200 linear feet of force mains, 13,500 linear feet of gravity collector pipe line, and 320 side sewer stubs to service two neighborhoods currently served exclusively by septic systems . . . . . \$1,840,000



- (26) LOTT alliance—sanitary sewer project—construct approximately 7,400 feet of force main and replace existing pump station with new 1,000 gallon per minute pump station . . . . . \$4,003,807
- (27) Mansfield—sanitary sewer project—expand and rehabilitate wastewater treatment lagoons and effluent spray irrigation system as well as remove the discharge of groundwater from basement sump pumps to the collection system. . . . . \$235,600
- (28) Midway sewer district—sanitary sewer project—replace approximately 16,500 lineal feet of sewer mains and 50 manholes to reduce infiltration and inflow . . . . . \$3,782,500
- (29) Mount Vernon—sanitary sewer project—upgrade existing wastewater treatment plant, including a new pretreatment facility, 4 additional clarifiers, upgrade aeration basins, installation of an ultraviolet disinfection system, and odor control system. . . . . \$10,000,000
- (30) Newcastle—road project—reconstruct, widen, and signalize approximately 5,200 linear feet of road to 2 lanes in each direction, add left turn lanes, sidewalks, bicycle lanes, install lighting systems, replace two-lane bridge with a four-lane bridge, and install new traffic signals. . . . . \$5,000,000
- (31) Olympia—sanitary sewer project—install approximately 6,500 linear feet of sewer mains and construct a lift station to serve 63 homes with failing on-site sewage systems . . . . . \$1,808,375
- (32) Olympus Terrace sewer district—sanitary sewer project—rehabilitate approximately 9,350 linear feet of sewer trunkline, construct approximately 9,800 linear feet of high-flow storm water bypass piping for excess flow, construct approximately 4,150 linear feet of road access, and restore creek habitat . . . . . \$8,000,000
- (33) Omak—sanitary sewer project(~~(—add 2 compost containers, convert storage tank to sludge holding tank, and install a second headworks screen to increase the wastewater treatment plant capacity by 35 percent)~~) . . . . . \$450,000
- (34) Port Angeles—sanitary sewer project—construct approximately 11,500 feet of sewer main, modify a storage tank, and modify the wastewater treatment plant . . . . . \$10,000,000
- (35) Regional board of mayors—solid waste project—close landfill site by capping and sealing with a soil cap . . . . . \$859,500
- (36) Regional board of mayors—solid waste project—construct a new solid waste transfer station, including structures and equipment . . . . . \$1,541,000
- (37) Ronald wastewater district—sanitary sewer project—rehabilitate 2 lift stations by replacing pumps, valves, fittings, piping, odor control systems, and electrical equipment . . . . . \$955,400
- (38) Seattle—domestic water project—replace floating pumps with land-based pump station with a maximum capacity of approximately 250 million gallons per day, including 8 pumps, concrete structure, a tunnel, approximately 4,000 feet of pipeline, and a standby generator. . . . . \$10,000,000
- (39) Sedro-Woolley—sanitary sewer project—rehabilitate or replace 4 interceptor segments totaling approximately 29,700 linear feet, install 2 pump stations, and upgrade the secondary clarifier in order to lift a building moratorium . . . . . \$6,023,491
- (40) Shelton—sanitary sewer project—construct a satellite reclamation plant with a capacity of approximately 0.4 million gallons per day to produce

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class A reclaimed water, approximately 22,000 linear feet of sewer pipelines, and approximately 25,000 linear feet of reclaimed water force main . . . . .	\$2,079,360
(41) Shelton—sanitary sewer project—replace approximately 38,480 linear feet of mainline sewers to reduce inflow and infiltration . . . . .	\$5,737,500
(42) Skagit county sewer district No. 2—sanitary sewer project—upgrade wastewater treatment plant to a water reclamation facility to provide class A reclaimed water with a capacity of approximately 0.35 million gallons per day . . . . .	\$10,000,000
(43) Snohomish—sanitary sewer project—construct approximately 1,900 feet of sewer pipe, a new pump station with a capacity of approximately 8,000 gallons per minute, and approximately 4,300 feet of force main to reduce overflows. . . . .	\$2,000,000
(44) Snohomish—sanitary sewer project( <del>—upgrade existing wastewater treatment plant including a new influent flow structure, screens, aerators, effluent filtration, ultraviolet disinfection, effluent pump station, improvements to the existing lagoons, and electrical improvements</del> ) . . . . .	\$4,500,000
(45) Snohomish county—road project—construct a new, approximately two-mile, two-lane truck route around the city of Granite Falls, including 3 roundabouts to improve safety and air quality in the downtown area . . . . .	\$10,000,000
(46) Southwest Suburban sewer district—sanitary sewer project—replace and/or slipline approximately 5,470 feet of trunk/interceptor sewer main and construct a new lift station to reduce overflows . . . . .	\$3,268,250
(47) Tacoma—domestic water project—replace 3 open-topped concrete reservoirs with 2 enclosed concrete reservoirs of approximately 33 million gallons each and related piping to comply with the safe drinking water act and a bilateral compliance agreement . . . . .	\$10,000,000
(48) Tekoa—sanitary sewer system—reconstruct approximately 1,000 feet of failing sewer line and manholes to reduce significant groundwater infiltration . . . . .	\$135,115
(49) Three rivers regional wastewater authority—sanitary sewer project—construct 2 clarifiers and associated piping to replace 2 failed clarifiers at the wastewater plant . . . . .	\$6,630,750
(50) Washougal—sanitary sewer project—construct a new wastewater treatment plant headworks, including a fine screen, grit removal, and replace approximately 150 linear feet of gravity sewer, and make improvements to the lagoons, including 450 linear feet of piping, modify overflow structures, and a new pump . . . . .	\$3,100,000
(51) Yakima—domestic water project—develop a new, approximately 3,000 gallon per minute, domestic water well, including drilling, placement of casing, a new pump house, and connection to the existing water distribution system in order to augment the water supply during drought conditions . . . . .	\$2,257,200
(52) Yakima—street project—construct 2 underpasses and reconstruct 3 lanes on each roadway under a railroad mainline to accommodate additional rail and reduce traffic and emergency response delays and air pollution . . . . .	\$3,000,000

**Sec. 6007.** RCW 43.155.050 and 2009 c 564 s 940 are each amended to read as follows:

(1) The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. During the 2009-2011 fiscal biennium, the legislature may transfer from the public works assistance account to the general fund and the city-county assistance account such amounts as reflect the excess fund balance of the account. During the 2009-2011 fiscal biennium, sums in the public works assistance account may be used for the water pollution control revolving fund program match in section 3013 of this act.

(2) The job development fund is hereby established in the state treasury. Moneys in the job development fund may be spent only after appropriation.

**Sec. 6008.** RCW 28B.20.725 and 1969 ex.s. c 223 s 28B.20.725 are each amended to read as follows:

The board is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the University of Washington building account to the bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds;

(5) To authorize the transfer to the University of Washington building account of any money on deposit in the bond retirement fund in excess of debt service for a period of three years from the date of such transfer on all outstanding bonds payable out of such fund. However, during the 2009-2011 fiscal biennium, the legislature may transfer to the University of Washington building account moneys that are in excess of the debt service due within one year of the date of transfer on all outstanding bonds payable out of the bond retirement fund.

**Sec. 6009.** RCW 28B.30.750 and 1969 ex.s. c 223 s 28B.30.750 are each amended to read as follows:

The board is hereby empowered:

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- (1) To reserve the right to issue bonds later on a parity with any bonds being issued;
- (2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;
- (3) To authorize the transfer of money from the Washington State University building account to the bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;
- (4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds;
- (5) To authorize the transfer to the Washington State University building account of any money on deposit in the bond retirement fund in excess of debt service for a period of three years from the date of such transfer on all outstanding bonds payable out of such fund. However, during the 2009-2011 fiscal biennium, the legislature may transfer to the Washington State University building account moneys that are in excess of the debt service due within one year of the date of transfer on all outstanding bonds payable out of the bond retirement fund.

NEW SECTION. Sec. 6010. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE STATE TREASURER—TRANSFERS**

University of Washington bond retirement fund:

For transfer to the University of Washington	
building account for fiscal year 2010 .....	\$14,000,000

**Sec. 6011.** RCW 43.160.080 and 2008 c 327 s 11 are each amended to read as follows:

There shall be a fund in the state treasury known as the public facilities construction loan revolving account, which shall consist of all moneys collected under this chapter and any moneys appropriated to it by law. Disbursements from the revolving account shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving account shall be subject in all respects to chapter 43.88 RCW. During the 2009-2011 biennium, sums in the public facilities construction loan revolving account may be used for community economic revitalization board export assistance grants and loans in section 1018 of this act and for matching funds for the federal energy regional innovation cluster in section 1017 of this act.

*\*Sec. 6012. 2009 c 497 s 6004 (uncodified) is amended to read as follows:*

*(1) The office of financial management may ~~((authorize a))~~ transfer ~~((of))~~ appropriation authority provided for a capital project that is in excess of the amount required for the completion of ~~((such))~~ the project ~~((to another capital project for which the appropriation is insufficient. No such transfer may be used to expand the capacity of any facility beyond that intended in making the appropriation. Such transfers may be effected only between capital appropriations to a specific department, commission, agency, or institution of higher education and only between capital projects that are funded from the same fund or account. No transfers may occur between projects to local government agencies except where the grants are provided within a single~~*

~~omnibus appropriation and where such transfers are specifically authorized by the implementing statutes that govern the grants.~~

~~(2) The office of financial management may find that an amount is in excess of the amount required for the completion of a project only if: (a) The project as defined in the notes to the budget document is substantially complete and there are funds remaining; or (b) bids have been let on a project and it appears to a substantial certainty that the project as defined in the notes to the budget document can be completed within the biennium for less than the amount appropriated in this act.~~

~~(3)), based on the authorized scope, to the risk pool in section 1021.~~

~~(2) For the purposes of this section, the intent is that each project be defined as proposed to the legislature in the governor's budget document, unless it clearly appears from the legislative history that the legislature intended to define the scope of a project in a different way.~~

~~((4) Transfers of funds to an agency's infrastructure savings appropriation are subject to review and approval by the office of financial management. Expenditures from an infrastructure savings appropriation are limited to projects that have a primary purpose to correct infrastructure deficiencies or conditions that: (a) Adversely affect the ability to utilize the infrastructure for its current programmatic use; (b) reduce the life expectancy of the infrastructure; or (c) increase the operating costs of the infrastructure for its current programmatic use. Eligible infrastructure projects may include structures and surface improvements, site amenities, utility systems outside building footprints and natural environmental changes or requirements as part of an environmental regulation, a declaration of emergency for an infrastructure issue in conformance with RCW 43.88.250, or infrastructure planning as part of a facility master plan.~~

~~(5) A report of any transfer effected under this section, except emergency projects or any transfer under \$250,000, shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management at least thirty days before the date the transfer is effected. The office of financial management shall report all emergency or smaller transfers within thirty days from the date of transfer.)~~

(3) The office of financial management shall not allot any portion of a capital budget appropriation for: (a) Contingencies above the amount required for completion of a project as described in budget documents submitted as part of the governor's capital budget request or consistent with legislative history; (b) proposed alternates submitted in bid documents if agencies cannot document a programmatic need and an operational budget savings resulting from the completion of the alternate project component that would pay for the cost of the alternate within eight years; or (c) for any equipment costs or project scope beyond what was described in the budget documents submitted as part of the governor's capital budget request.

(4) The office of financial management shall submit a monthly report of approved allotments, subject to this section, by project. The report shall include the accepted base bid and any approved alternates with the analysis demonstrating sufficient operational budget savings.

\*Sec. 6012 was vetoed. See message at end of chapter.

**Sec. 6013.** RCW 90.71.370 and 2009 c 479 s 74 are each amended to read as follows:

(1) By December 1, 2008, and by September 1st of each even-numbered year beginning in 2010, the council shall provide to the governor and the appropriate fiscal committees of the senate and house of representatives its recommendations for the funding necessary to implement the action agenda in the succeeding biennium. The recommendations shall:

- (a) Identify the funding needed by action agenda element;
- (b) Address funding responsibilities among local, state, and federal governments, as well as nongovernmental funding; and
- (c) Address funding needed to support the work of the partnership, the panel, the ecosystem work group, and entities assisting in coordinating local efforts to implement the plan.

(2) In the 2008 report required under subsection (1) of this section, the council shall include recommendations for projected funding needed through 2020 to implement the action agenda; funding needs for science panel staff; identify methods to secure stable and sufficient funding to meet these needs; and include proposals for new sources of funding to be dedicated to Puget Sound protection and recovery. In preparing the science panel staffing proposal, the council shall consult with the panel.

(3) By November 1st of each odd-numbered year beginning in 2009, the council shall produce a state of the Sound report that includes, at a minimum:

- (a) An assessment of progress by state and nonstate entities in implementing the action agenda, including accomplishments in the use of state funds for action agenda implementation;
- (b) A description of actions by implementing entities that are inconsistent with the action agenda and steps taken to remedy the inconsistency;
- (c) The comments by the panel on progress in implementing the plan, as well as findings arising from the assessment and monitoring program;
- (d) A review of citizen concerns provided to the partnership and the disposition of those concerns;
- (e) A review of the expenditures of funds to state agencies for the implementation of programs affecting the protection and recovery of Puget Sound, and an assessment of whether the use of the funds is consistent with the action agenda; and
- (f) An identification of all funds provided to the partnership, and recommendations as to how future state expenditures for all entities, including the partnership, could better match the priorities of the action agenda.

(4)(a) The council shall review state programs that fund facilities and activities that may contribute to action agenda implementation. By November 1, 2009, the council shall provide initial recommendations regarding program changes to the governor and appropriate fiscal and policy committees of the senate and house of representatives. By November 1, 2010, the council shall provide final recommendations regarding program changes, including proposed legislation to implement the recommendation, to the governor and appropriate fiscal and policy committees of the senate and house of representatives.

(b) The review in this subsection shall be conducted with the active assistance and collaboration of the agencies administering these programs, and

in consultation with local governments and other entities receiving funding from these programs:

- (i) Water pollution control facilities financing, chapter 70.146 RCW;
- (ii) The water pollution control revolving fund, chapter 90.50A RCW;
- (iii) The public works assistance account, chapter 43.155 RCW;
- (iv) The aquatic lands enhancement account, RCW 79.105.150;
- (v) The state toxics control account and local toxics control account and clean-up program, chapter 70.105D RCW;
- (vi) The acquisition of habitat conservation and outdoor recreation land, chapter 79A.15 RCW;
- (vii) The salmon recovery funding board, RCW 77.85.110 through 77.85.150;
- (viii) The community economic revitalization board, chapter 43.160 RCW;
- (ix) Other state financial assistance to water quality-related projects and activities; and
- (x) Water quality financial assistance from federal programs administered through state programs or provided directly to local governments in the Puget Sound basin.

(c) The council's review shall include but not be limited to:

- (i) Determining the level of funding and types of projects and activities funded through the programs that contribute to implementation of the action agenda;
- (ii) Evaluating the procedures and criteria in each program for determining which projects and activities to fund, and their relationship to the goals and priorities of the action agenda;
- (iii) Assessing methods for ensuring that the goals and priorities of the action agenda are given priority when program funding decisions are made regarding water quality-related projects and activities in the Puget Sound basin and habitat-related projects and activities in the Puget Sound basin;
- (iv) Modifying funding criteria so that projects, programs, and activities that are inconsistent with the action agenda are ineligible for funding;
- (v) Assessing ways to incorporate a strategic funding approach for the action agenda within the outcome-focused performance measures required by RCW 43.41.270 in administering natural resource-related and environmentally based grant and loan programs.

(5) During the 2009-11 fiscal biennium, the council's review must result in a ranking of projects affecting the protection and recovery of the Puget Sound basin that are proposed in the governor's capital budget submitted under RCW 43.88.060. The ranking shall include recommendations for reallocation of total requested funds for Puget Sound basin projects to achieve the greatest positive outcomes for protection and recovery of Puget Sound and shall be submitted to the appropriate fiscal committees of the legislature no later than February 1, 2011.

**Sec. 6014.** RCW 39.10.210 and 2007 c 494 s 101 are each amended to read as follows:

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

(1) "Alternative public works contracting procedure" means the design-build, general contractor/construction manager, and job order contracting

procedures authorized in RCW 39.10.300, 39.10.340, and 39.10.420, respectively.

(2) "Board" means the capital projects advisory review board.

(3) "Committee" means the project review committee.

(4) "Design-build procedure" means a contract between a public body and another party in which the party agrees to both design and build the facility, portion of the facility, or other item specified in the contract.

(5) "Total contract cost" means the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, and the percent fee on the negotiated maximum allowable construction cost.

(6) "General contractor/construction manager" means a firm with which a public body has selected and negotiated a maximum allowable construction cost to provide services during the design phase and to act as construction manager and general contractor during the construction phase.

(7) "Job order contract" means a contract in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which provides for the use of negotiated, definitive work orders for public works as defined in RCW 39.04.010.

(8) "Job order contractor" means a registered or licensed contractor awarded a job order contract.

(9) "Maximum allowable construction cost" means the maximum cost of the work to construct the project including a percentage for risk contingency, negotiated support services, and approved change orders.

(10) "Negotiated support services" means items a general contractor would normally manage or perform on a construction project including, but not limited to surveying, hoisting, safety enforcement, provision of toilet facilities, temporary heat, cleanup, and trash removal.

(11) "Percent fee" means the percentage amount to be earned by the general contractor/construction manager as overhead and profit.

(12) "Public body" means any general or special purpose government, including but not limited to state agencies, institutions of higher education, counties, cities, towns, ports, school districts, and special purpose districts, provided that for the 2009-2011 fiscal biennium, the definition of public body for this chapter does not include public bodies funded in section 1012 of this act if alternative requirements or procedures of federal law or regulations are authorized.

(13) "Certified public body" means a public body certified to use design-build or general contractor/construction manager contracting procedures, or both, under RCW 39.10.270.

(14) "Public works project" means any work for a public body within the definition of "public work" in RCW 39.04.010.

(15) "Total project cost" means the cost of the project less financing and land acquisition costs.

(16) "Unit price book" means a book containing specific prices, based on generally accepted industry standards and information, where available, for various items of work to be performed by the job order contractor. The prices may include: All the costs of materials; labor; equipment; overhead, including bonding costs; and profit for performing the items of work. The unit prices for labor must be at the rates in effect at the time the individual work order is issued.



(17) "Work order" means an order issued for a definite scope of work to be performed pursuant to a job order contract.

**Sec. 6015.** RCW 39.94.040 and 2003 c 6 s 2 are each amended to read as follows:

(1) Except as provided in RCW 28B.10.022, the state may not enter into any financing contract for itself if the aggregate principal amount payable thereunder is greater than an amount to be established from time to time by the state finance committee or participate in a program providing for the issuance of certificates of participation, including any contract for credit enhancement, without the prior approval of the state finance committee. Except as provided in RCW 28B.10.022, the state finance committee shall approve the form of all financing contracts or a standard format for all financing contracts. The state finance committee also may:

(a) Consolidate existing or potential financing contracts into master financing contracts with respect to property acquired by one or more agencies, departments, instrumentalities of the state, the state board for community and technical colleges, or a state institution of higher learning; or to be acquired by an other agency;

(b) Approve programs providing for the issuance of certificates of participation in master financing contracts for the state or for other agencies;

(c) Enter into agreements with trustees relating to master financing contracts; and

(d) Make appropriate rules for the performance of its duties under this chapter.

(2) In the performance of its duties under this chapter, the state finance committee may consult with representatives from the department of general administration, the office of financial management, and the department of information services.

(3) With the approval of the state finance committee, the state also may enter into agreements with trustees relating to financing contracts and the issuance of certificates of participation.

(4) Except for financing contracts for real property used for the purposes described under chapter 28B.140 RCW, the state may not enter into any financing contract for real property of the state without prior approval of the legislature. For the purposes of this requirement, a financing contract must be treated as used for real property if it is being entered into by the state for the acquisition of land; the acquisition of an existing building; the construction of a new building; or a major remodeling, renovation, rehabilitation, or rebuilding of an existing building. Prior approval of the legislature is not required under this chapter for a financing contract entered into by the state under this chapter for energy conservation improvements to existing buildings where such improvements include: (a) Fixtures and equipment that are not part of a major remodeling, renovation, rehabilitation, or rebuilding of the building, or (b) other improvements to the building that are being performed for the primary purpose of energy conservation. Such energy conservation improvements must be determined eligible for financing under this chapter by the office of financial management in accordance with financing guidelines established by the state treasurer, and are to be treated as personal property for the purposes of this chapter.

(5) The state may not enter into any financing contract on behalf of an other agency without the approval of such a financing contract by the governing body of the other agency.

NEW SECTION. Sec. 6016. The following acts or parts of acts are each repealed:

- (1) 2009 c 497 s 1089 (uncodified);
- (2) 2009 c 497 s 2030 (uncodified);
- (3) 2009 c 497 s 2079 (uncodified);
- (4) 2009 c 497 s 3098 (uncodified);
- (5) 2009 c 497 s 4009 (uncodified);
- (6) 2009 c 497 s 5043 (uncodified);
- (7) 2009 c 497 s 5059 (uncodified);
- (8) 2009 c 497 s 5072 (uncodified);
- (9) 2009 c 497 s 5084 (uncodified);
- (10) 2009 c 497 s 5098 (uncodified);
- (11) 2009 c 497 s 5112 (uncodified); and
- (12) RCW 39.86.200 (Ratification) and 1987 c 297 s 11.

NEW SECTION. Sec. 6017. 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. 6018. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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Passed by the House April 12, 2010.

Passed by the Senate April 12, 2010.

Approved by the Governor May 4, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 5, 2010.

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

"I am returning, without my approval as to Sections 5061, 6003 and 6012, Engrossed Substitute House Bill 2836 entitled:

"AN ACT Relating to the capital budget."

**Section 5061, page 98, Community and Technical College System, Bates Technical College Mohler Communications Technology Center**

Design funding for the Mohler Communications Technology Center at Bates Technical College was reduced by \$563,000 from the budget approved by the 2009 Legislature. This reduced budget amount would not be sufficient to pay for currently executed contracts, and the costs cannot be deferred until the next biennium. Therefore, I am vetoing Section 5061.

**Section 6003, page 111, Office of Financial Management Budget Instructions**

With this proviso, the Office of Financial Management must require that preliminary energy audits be conducted on project requests that involve significant renovations or improvements in owned or leased facilities. Reducing energy consumption is a high priority, but requiring energy audits before funding decisions are made will be burdensome and costly. I am directing the Office of Financial Management to develop instructions to state agencies that will serve the goal of reducing energy costs without requiring formal audits for every project. Therefore, I am vetoing Section 6003.

**Section 6012, page 121-122, Project Transfer Authority**

This proviso eliminates existing authorization for the Office of Financial Management to approve the transfer of funds from one capital project to another within the same state agency. It also places limitations on approving spending plans for construction contingencies, bid alternates, and equipment costs for capital budget projects already approved by the Legislature. These limitations are too stringent for state agencies and may cause unintended cost increases and schedule delays. I am directing the Office of Financial Management to continue to scrutinize capital project spending plans to identify additional savings that can be directed to new projects in the 2011-13 Biennium. Therefore, I am vetoing Section 6012.

For these reasons, I have vetoed Sections 5061, 6003 and 6012 of Engrossed Substitute House Bill 2836.

With the exception of Sections 5061, 6003 and 6012, Engrossed Substitute House Bill 2836 is approved."

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**CHAPTER 37**

[Engrossed Substitute Senate Bill 6444]

**SUPPLEMENTAL OPERATING BUDGET**

AN ACT Relating to fiscal matters; amending RCW 13.06.050, 15.76.115, 28A.300.380, 28B.50.837, 28B.76.565, 28B.76.610, 28B.102.080, 38.52.105, 43.17.390, 43.20A.725, 43.43.839,

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43.43.944, 43.60A.185, 43.131.406, 43.70.110, 43.78.030, 43.79.460, 43.79.465, 43.89.010, 43.105.080, 43.155.050, 43.320.110, 43.320.165, 48.02.190, 66.08.170, 67.70.044, 67.70.230, 70.105D.070, 74.31.030, 74.31.060, 70.93.180, 70.105D.130, 70.146.100, 79.105.150, 80.01.080, 80.36.430, 82.14.495, and 83.100.230; amending 2010 c 3 ss 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 301, 302, 303, 304, 305, 306, 401, 402, 501, and 601; amending 2009 c 564 ss 101, 102, 103, 104, 105, 106, 107, 108, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 121, 122, 123, 124, 131, 132, 133, 134, 135, 136, 138, 140, 141, 142, 144, 145, 147, 148, 150, 149, 152, 155, 201, 213, 214, 216, 217, 218, 220, 224, 226, 221, 301, 304, 305, 308, 310, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 514, 515, 516, 518, 601, 602, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 701, 703, 704, 708, 710, 717, 720, 801, 805, and 914; amending 2010 c 247 ss 502, 407, and 503; reenacting and amending RCW 28B.105.110, 46.09.170, and 67.40.040; adding a new section to chapter 43.215 RCW; adding a new section to chapter 43.79 RCW; adding new sections to 2009 c 564 (uncodified); making appropriations; providing expiration dates; and declaring an emergency.

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

**PART I  
GENERAL GOVERNMENT**

**Sec. 101.** 2009 c 564 s 101 (uncodified) is amended to read as follows:

**FOR THE HOUSE OF REPRESENTATIVES**

General Fund—State Appropriation (FY 2010) . . . . .	..(( <del>\$33,500,000</del> ))
	<u>\$33,505,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	..(( <del>\$33,379,000</del> ))
	<u>\$32,146,000</u>
TOTAL APPROPRIATION . . . . .	..(( <del>\$66,879,000</del> ))
	<u>\$65,651,000</u>

**Sec. 102.** 2009 c 564 s 102 (uncodified) is amended to read as follows:

**FOR THE SENATE**

General Fund—State Appropriation (FY 2010) . . . . .	..(( <del>\$24,957,000</del> ))
	<u>\$24,960,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	..(( <del>\$27,182,000</del> ))
	<u>\$25,631,000</u>
TOTAL APPROPRIATION . . . . .	..(( <del>\$52,139,000</del> ))
	<u>\$50,591,000</u>

**Sec. 103.** 2009 c 564 s 103 (uncodified) is amended to read as follows:

**FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE**

General Fund—State Appropriation (FY 2010) . . . . .	\$2,874,000
General Fund—State Appropriation (FY 2011) . . . . .	..(( <del>\$2,884,000</del> ))
	<u>\$3,152,000</u>
TOTAL APPROPRIATION . . . . .	..(( <del>\$5,758,000</del> ))
	<u>\$6,026,000</u>

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

(1) Notwithstanding the provisions of this section, the joint legislative audit and review committee may adjust the due dates for projects included on the committee's 2009-11 work plan as necessary to efficiently manage workload.

(2) Within the amounts appropriated in this section, the committee shall conduct a review of the effect of risk management practices on tort payouts.

This review shall include an analysis of the state's laws, policies, procedures, and practices as they relate to the conduct of post-incident reviews and the impact of such reviews on the state's conduct and liability.

(3) Within the amounts appropriated in this section, the committee shall conduct a review of the state's workplace safety and health program. The review shall examine workplace safety inspection, enforcement, training, and outreach efforts compared to other states and federal programs; analyze workplace injury and illness rates and trends in Washington; identify factors that may influence workplace safety and health; and identify practices that may improve workplace safety and health and/or impact insurance costs.

(4) Within the amounts appropriated in this section, the committee shall prepare an evaluation of the implementation of legislation designed to improve communication, collaboration, and expedited medicaid attainment with regard to persons released from confinement who have mental health or chemical dependency disorders. The review shall evaluate the implementation of: (a) Chapter 166, Laws of 2004 (E2SSB 6358); (b) sections 507 and 508 of chapter 504, Laws of 2005 (E2SSB 5763); (c) sections 12 and 13 of chapter 503, Laws of 2005 (E2SHB 1290); and (d) section 8 of chapter 359, Laws of 2007 (2SHB 1088). The departments of corrections and social and health services, the administrative office of the courts, institutions for mental disease, city and county jails, city and county courts, county clerks, and mental health and chemical dependency treatment providers shall provide the committee with information necessary for the study.

(5) Within the amount appropriated in this section, the joint legislative audit and review committee shall conduct a review of the state's recreational boating programs. This review shall include examination of the following:

- (a) Revenue sources for state recreational boating programs;
- (b) Expenditures for state boating programs;
- (c) Methods of administrating state recreational boating programs, including the roles of both state and local government entities; and
- (d) Approaches other states have taken to funding and administering their recreational boating programs.

The committee shall complete the review by October 31, 2010.

~~((7))~~ (6) Within the amount appropriated in this section, the joint legislative audit and review committee shall examine the operations of employment and day services as provided by the department of social and health services, division of developmental disabilities and administered by the counties. The examination shall include a thorough review of the contracts for all services including, but not limited to, employment services, day services, child development services and other uses of state dollars for county administration of services to the developmentally disabled. In its final report, due to the legislature by September 1, 2010, the joint legislative audit and review committee shall provide: A description of how funds are used and the rates paid to vendors, and a recommendation on best practices the agency may use for the development of a consistent, outcome-based contract for services provided under contract with the counties.

~~((8))~~ (7) Within the amount appropriated in this section, the joint legislative audit and review committee shall conduct a study of the relationship

between the cost of school districts and their enrollment size. The study shall be completed by June 2010 and shall include:

(a) An analysis of how categories of costs vary related to size, including but not limited to facility costs, transportation costs, educational costs, and administrative costs;

(b) A review of other factors that may impact costs, such as revenues available from local levies and other sources, geographic dispersion, demographics, level of services received from educational service districts, and whether districts operate a high school;

(c) Case studies on the change in cost patterns occurring after school district consolidations and for school districts operating under state oversight condition specified in RCW 28A.505.110; and

(d) A review of available research on nonfinancial benefits and impacts associated with school and school district size.

(8) \$200,000 of the general fund—state appropriation for fiscal year 2011 is provided for the committee to contract with a consultant specializing in medicaid programs nationwide to review Washington state's medicaid program and report on cost containment strategies for the 2011-13 biennial budget. The report is due to the fiscal committees of the legislature by June 1, 2011.

(9) \$50,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the joint legislative audit and review committee to complete a report that includes the following: (a) An analysis of the availability within eastern Washington of helicopters that are privately owned or owned by nonstate governmental entities that are sufficiently outfitted to participate in wildfire suppression efforts of the department of natural resources; (b) a comparison of the costs to the department of natural resources for maintaining the existing helicopter fleet versus entering into exclusive use contracts with the helicopters noted in (a) of this subsection; and (c) an analysis that compares the use and funding of helicopters utilized for wildfire suppression in the states of California, Oregon, Idaho, and Montana. The committee shall submit the report to the appropriate fiscal committees of the legislature and the office of financial management no later than December 1, 2010.

(10)(a) The task force for reform of executive and legislative procedures dealing with tax preferences is hereby established. The task force must:

(i) Review current executive and legislative budget and policy practices and procedures associated with the recommendation, development, and consideration of tax preferences, assess the effectiveness of budgeting requirements and practices, the general rigor of justifications and evaluations typically provided during legislative consideration of tax preferences, and the role and value of methodologies currently used to measure the public benefits and costs, including opportunity costs, of tax preferences, as defined in RCW 43.136.021.

(ii) Consider but not be limited to, the factors listed in RCW 43.136.055.

(b) The task force may make recommendations to improve the effectiveness of the review process conducted by the citizen commission on performance measurement of tax preferences process as described in chapter 43.136 RCW. The task force may also recommend changes or improvements in the manner in which both the executive branch and legislative branch of state government address tax preferences generally, including those in effect as well as those that

may be hereafter proposed, in order to protect the public interest and assure transparency, fairness, and equity in the state tax code.

(c) The task force may recommend structural or procedural changes that it feels will enhance both executive and legislative procedures and ensure consistent and rigorous examination of such preferences.

(d) The task force must report its recommendations to the governor and legislative fiscal committees by November 15, 2010.

(e) The task force has eleven voting members as follows:

(i) One member is the state treasurer;

(ii) One member is the chair of the joint legislative audit and review committee;

(iii) One member is the director of financial management;

(iv) A member, four in all, of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives, appointed by the chair of each caucus; and

(v) An appointee who is not a legislator, four in all, of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives, appointed by the chair of each caucus.

(f) Persons appointed by the caucus chairs under (e)(v) of this subsection should be individuals who have a basic understanding of state tax policy, government operations, and public services.

(g) The task force must elect a chair from among its members. Decisions of the task force must be made using the sufficient consensus model. For the purposes of this subsection, "sufficient consensus" means the point at which the substantial majority of the commission favors taking a particular action. The chair may determine when a vote must be taken. The task force must allow a minority report to be included with a decision of the task force if requested by a member of the task force.

(h) The joint legislative audit and review committee must provide clerical, technical, and management personnel to the task force to serve as the task force's staff. The staff of the legislative fiscal committees, legislative counsel, and the office of financial management must also provide technical assistance to the task force. The department of revenue must provide necessary support and information to the joint task force.

(i) The task force must meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the task force. The members of the task force must be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 104.** 2009 c 564 s 104 (uncodified) is amended to read as follows:

**FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE**

General Fund—State Appropriation (FY 2010) . . . . .	\$1,748,000
General Fund—State Appropriation (FY 2011) . . . . .	(\$1,927,000)
	<u>\$1,916,000</u>
TOTAL APPROPRIATION . . . . .	(\$3,675,000)
	<u>\$3,664,000</u>

Sec. 105. 2009 c 564 s 105 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF THE STATE ACTUARY**

General Fund—State Appropriation (FY 2010)	\$200,000
General Fund—State Appropriation (FY 2011)	<del>(\$25,000)</del>
	<u>\$20,000</u>
<del>((Health Care Authority Administrative Account—State</del>	
<del>Appropriation</del>	<del>.....\$735,000))</del>
Department of Retirement Systems Expense	
Account—State Appropriation	<del>.....(\$3,309,000)</del>
	<u>\$3,305,000</u>
TOTAL APPROPRIATION	<del>.....(\$4,269,000)</del>
	<u>\$3,525,000</u>

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

(1) \$25,000 of the department of retirement systems—state appropriation is provided solely for the continued study of local government liabilities for postretirement medical benefits for members of plan 1 of the law enforcement officers' and firefighters' retirement system.

(2) \$51,000 of the department of retirement systems expense account—state appropriation is provided solely for the state actuary to contract with the Washington state institute for public policy for a study of the disability benefits provided to the plan 2 and plan 3 members of the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system. Among the options the institute shall examine include statutory changes to the retirement systems and insurance products. The institute shall report its findings and recommendations to the select committee on pension policy by November 1, 2009.

(3) \$30,000 of the department of retirement systems expense account—state appropriation is provided solely for the state actuary to contract with the Washington state institute for public policy to continue the study of long-term disability benefits for public employees as authorized by subsection (2) of this section during the 2010 legislative interim. The purpose of the study is to develop the options identified in the 2009 legislative interim disability benefit study, including options related to the public employees' benefits board programs, other long-term disability insurance programs, and public employee retirement system benefits. The institute shall report no later than November 17, 2010, new findings and any additional recommendations on the options to the select committee on pension policy, the senate committee on ways and means, and the house committee on ways and means. The Washington state institute for public policy shall work with the health care authority to coordinate analysis and recommendations with its contracted disability vendor and appropriate stakeholders.

(4) \$175,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for the office of the state actuary to conduct an independent assessment of alternatives for assuring the long-term financial solvency of the guaranteed education tuition program including suspension of the program. In conducting this review, the office may contract for assistance, and shall consult with the higher education coordinating board, the operating budget committees



of the legislature, the office of financial management, and the state's public colleges and universities. The office shall report findings, an assessment of the major alternatives, and suggested actions to the governor and to the relevant legislative committees by November 15, 2009.

**Sec. 106.** 2009 c 564 s 106 (uncodified) is amended to read as follows:

**FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$8,651,000)</del>
	<u>\$8,652,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$8,519,000)</del>
	<u>\$8,506,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$17,170,000)</del>
	<u>\$17,158,000</u>

**Sec. 107.** 2009 c 564 s 107 (uncodified) is amended to read as follows:

**FOR THE STATUTE LAW COMMITTEE**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$4,610,000)</del>
	<u>\$4,611,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$5,029,000)</del>
	<u>\$4,864,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$9,639,000)</del>
	<u>\$9,475,000</u>

**Sec. 108.** 2009 c 564 s 108 (uncodified) is amended to read as follows:

**FOR THE REDISTRICTING COMMISSION**

General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$610,000)</del>
	<u>\$1,115,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$505,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the support of legislative redistricting efforts. Prior to the appointment of the redistricting commission, the secretary of the senate and chief clerk of the house of representatives may jointly authorize the expenditure of these funds to facilitate preparations for the 2012 redistricting effort. Following the appointment of the commission, the house of representatives and senate shall enter into an interagency agreement with the commission authorizing the continued expenditure of these funds for legislative redistricting support.

*\*Sec. 109. 2009 c 564 s 110 (uncodified) is amended to read as follows:*

**FOR THE SUPREME COURT**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$6,912,000)</del>
	<u>\$6,891,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$6,948,000)</del>
	<u>\$6,795,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$13,860,000)</del>
	<u>\$13,686,000</u>

*The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect*

*direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.*

\*Sec. 109 was vetoed. See message at end of chapter.

Sec. 110. 2009 c 564 s 111 (uncodified) is amended to read as follows:

**FOR THE LAW LIBRARY**

General Fund—State Appropriation (FY 2010) . . . . .	(\$1,924,000)
	<u>\$1,925,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$1,922,000)
	<u>\$1,659,000</u>
TOTAL APPROPRIATION . . . . .	(\$3,846,000)
	<u>\$3,584,000</u>

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

Sec. 111. 2009 c 564 s 112 (uncodified) is amended to read as follows:

**FOR THE COURT OF APPEALS**

General Fund—State Appropriation (FY 2010) . . . . .	(\$15,793,000)
	<u>\$15,632,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$15,895,000)
	<u>\$15,969,000</u>
TOTAL APPROPRIATION . . . . .	(\$31,688,000)
	<u>\$31,601,000</u>

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

Sec. 112. 2009 c 564 s 113 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON JUDICIAL CONDUCT**

General Fund—State Appropriation (FY 2010) . . . . .	(\$1,032,000)
	<u>\$1,043,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$1,082,000)
	<u>\$1,064,000</u>
TOTAL APPROPRIATION . . . . .	(\$2,114,000)
	<u>\$2,107,000</u>

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct

client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

**Sec. 113.** 2009 c 564 s 114 (uncodified) is amended to read as follows:

**FOR THE ADMINISTRATOR FOR THE COURTS**

General Fund—State Appropriation (FY 2010) . . . . .	(\$53,607,000)
	<u>\$52,644,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$51,812,000)
	<u>\$52,562,000</u>
<u>General Fund—Federal Appropriation . . . . .</u>	<u>\$979,000</u>
Judicial Information Systems Account—State	
Appropriation . . . . .	(\$29,676,000)
	<u>\$33,406,000</u>
Judicial Stabilization Trust Account—State	
Appropriation . . . . .	\$6,598,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>(\$141,693,000)</b>
	<u>\$146,189,000</u>

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

(1) \$1,800,000 of the general fund—state appropriation for fiscal year 2010 and \$1,800,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for school districts for petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. The office of the administrator for the courts shall develop an interagency agreement with the superintendent of public instruction to allocate the funding provided in this subsection. Allocation of this money to school districts shall be based on the number of petitions filed. This funding includes amounts school districts may expend on the cost of serving petitions filed under RCW 28A.225.030 by certified mail or by personal service or for the performance of service of process for any hearing associated with RCW 28A.225.030.

(2)(a) \$8,252,000 of the general fund—state appropriation for fiscal year 2010 and \$8,253,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The administrator for the courts, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per-petition processing costs nor shall it penalize counties with lower than average per-petition processing costs.

(b) Each fiscal year during the 2009-11 fiscal biennium, each county shall report the number of petitions processed and the total actual costs of processing truancy, children in need of services, and at-risk youth petitions. Counties shall submit the reports to the administrator for the courts no later than 45 days after the end of the fiscal year. The administrator for the courts shall electronically transmit this information to the chairs and ranking minority members of the house of representatives appropriations committee and the senate ways and means committee no later than 60 days after a fiscal year ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

(3) The distributions made under this subsection and distributions from the county criminal justice assistance account made pursuant to section 801 of this act constitute appropriate reimbursement for costs for any new programs or increased level of service for purposes of RCW 43.135.060.

(4) \$5,700,000 of the judicial information systems account—state appropriation is provided solely for modernization and integration of the judicial information system.

(a) Of this amount, \$1,700,000 is for the development of a comprehensive enterprise-level information technology strategy and detailed business and operational plans in support of that strategy, and \$4,000,000 is to continue to modernize and integrate current systems and enhance case management functionality on an incremental basis.

(b) The amount provided in this subsection may not be expended without prior approval by the judicial information system committee (~~in consultation with the information services board~~). The administrator shall regularly submit project plan updates for approval to the judicial information system committee (~~and the information services board~~).

(c) The judicial information system committee (~~and the information services board~~) shall review project progress on a regular basis and may require quality assurance plans. The judicial information systems committee (~~and the information services board~~) shall provide a report to the appropriate committees of the legislature no later than November 1, 2011, on the status of the judicial information system modernization and integration, and the consistency of the project with the state's architecture, infrastructure and statewide enterprise view of service delivery.

(d) \$100,000 of the judicial information systems account—state appropriation is provided solely for the administrative office of the courts, in coordination with the judicial information system committee, to conduct an independent third-party executive-level review of the judicial information system. This review shall examine, at a minimum, the scope of the current project plan, governance structure, and organizational change management procedures. The review will also benchmark the system plans against similarly sized projects in other states or localities, review the large scale program risks, and estimate life cycle costs, including capital and on-going operational expenditures.

(5) \$3,000,000 of the judicial information systems account—state appropriation is provided solely for replacing computer equipment at state courts, and at state judicial agencies. The administrator for the courts shall prioritize equipment replacement purchasing and shall fund those items that are most essential or critical. By October 1, 2010, the administrative office of the courts shall report to the appropriate legislative fiscal committees on expenditures for equipment under this subsection.

(6) \$12,000 of the judicial information systems account—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1954 (sealing juvenile records). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(7) \$106,000 of the general fund—state appropriation for fiscal year 2010 and \$106,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the twenty-third superior court judge position in Pierce

county. The funds appropriated in this subsection shall be expended only if the judge is appointed and serving on the bench.

(8) It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

(9) \$44,000 of the judicial information systems account—state appropriation is provided solely to implement chapter 272, Laws of 2010 (SHB 2680; guardianship).

(10) \$274,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the office of public guardianship to provide guardianship services for low-income incapacitated persons.

(11) \$3,797,000 of the judicial information systems account—state appropriation is provided solely for continued planning and implementation of improvements to the court case management system.

**Sec. 114.** 2009 c 564 s 115 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF PUBLIC DEFENSE**

General Fund—State Appropriation (FY 2010) . . . . .	\$25,385,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$24,592,000)</del>
	<u>\$24,591,000</u>
Judicial Stabilization Trust Account—State	
Appropriation . . . . .	\$2,923,000
TOTAL APPROPRIATION . . . . .	<del>(\$52,900,000)</del>
	<u>\$52,899,000</u>

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

(1) It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

(2) The amounts provided include funding for expert and investigative services in death penalty personal restraint petitions.

**Sec. 115.** 2009 c 564 s 116 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF CIVIL LEGAL AID**

General Fund—State Appropriation (FY 2010) . . . . .	\$11,175,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$11,105,000)</del>
	<u>\$10,984,000</u>
Judicial Stabilization Trust Account—State	
Appropriation . . . . .	<del>(\$1,160,000)</del>
	<u>\$1,155,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$23,440,000)</del>
	<u>\$23,314,000</u>

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

(1) An amount not to exceed \$40,000 of the general fund—state appropriation for fiscal year 2010 and an amount not to exceed \$40,000 of the general fund—state appropriation for fiscal year 2011 may be used to provide telephonic legal advice and assistance to otherwise eligible persons who are sixty years of age or older on matters authorized by RCW 2.53.030(2) (a) through (k) regardless of household income or asset level.

(2) It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

**Sec. 116.** 2009 c 564 s 117 (uncodified) is amended to read as follows:

<b>FOR THE OFFICE OF THE GOVERNOR</b>	
General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$5,880,000)</del>
	<u>\$5,836,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$5,876,000)</del>
	<u>\$5,705,000</u>
Economic Development Strategic Reserve Account—State Appropriation . . . . .	\$1,500,000
TOTAL APPROPRIATION . . . . .	<del>(\$13,256,000)</del>
	<u>\$13,041,000</u>

The appropriations in this section are subject to the following conditions and limitations: ((+)) \$1,500,000 of the economic development strategic reserve account appropriation is provided solely for efforts to assist with currently active industrial recruitment efforts that will bring new jobs to the state or will retain headquarter locations of major companies currently housed in the state.

**\*Sec. 117.** 2009 c 564 s 118 (uncodified) is amended to read as follows:

<b>FOR THE LIEUTENANT GOVERNOR</b>	
General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$770,000)</del>
	<u>\$752,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$788,000)</del>
	<u>\$765,000</u>
<b>General Fund—Private/Local Appropriation.</b> . . . . .	<del>(\$90,000)</del>
	<u>\$88,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$1,648,000)</del>
	<u>\$1,605,000</u>

\*Sec. 117 was partially vetoed. See message at end of chapter.

**Sec. 118.** 2009 c 564 s 119 (uncodified) is amended to read as follows:

<b>FOR THE PUBLIC DISCLOSURE COMMISSION</b>	
General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$2,267,000)</del>
	<u>\$2,249,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$2,264,000)</del>
	<u>\$2,212,000</u>

TOTAL APPROPRIATION . . . . . ~~(\$4,531,000)~~  
\$4,461,000

**Sec. 119.** 2010 c 3 s 101 (uncodified) is amended to read as follows:

**FOR THE SECRETARY OF STATE**

General Fund—State Appropriation (FY 2010) . . . . . ~~(\$20,649,000)~~  
\$21,105,000  
 General Fund—State Appropriation (FY 2011) . . . . . ~~(\$17,733,000)~~  
\$14,869,000  
 General Fund—Federal Appropriation . . . . . ~~(\$8,121,000)~~  
\$8,082,000  
 Archives and Records Management Account—State  
 Appropriation . . . . . ~~(\$8,863,000)~~  
\$8,990,000  
Charitable Organization Education Account—State  
Appropriation . . . . . \$76,000  
 Department of Personnel Service Account—State  
 Appropriation . . . . . ~~(\$760,000)~~  
\$757,000  
Election Account—State Appropriation . . . . . \$77,000  
 Local Government Archives Account—State  
 Appropriation . . . . . ~~(\$11,777,000)~~  
\$11,515,000  
 Election Account—Federal Appropriation . . . . . ~~(\$29,715,000)~~  
\$31,163,000  
 TOTAL APPROPRIATION . . . . . ~~(\$97,618,000)~~  
\$96,634,000

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

(1) \$4,101,000 of the general fund—state appropriation for fiscal year 2010 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures. Counties shall be reimbursed only for those odd-year election costs that the secretary of state validates as eligible for reimbursement.

(2)(a) \$1,897,000 of the general fund—state appropriation for fiscal year 2010 and \$2,076,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television coverage of state government deliberations and other events of statewide significance during the 2009-2011 biennium. The funding level for each year of the contract shall be based on the amount provided in this subsection. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an amount equal to forty percent of the state contribution. The office of the secretary of state may make full or partial payment once all criteria in this subsection have been satisfactorily documented.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the secretary of state shall enter into a contract with the nonprofit organization to provide public affairs coverage.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(3) The appropriations in this section are based upon savings assumed from the implementation of Senate Bill No. 6122 (election costs).

~~(4) ((The secretary of state shall not reduce the services provided by the talking book and Braille library below the service level provided in fiscal year 2008.~~

~~(5))~~ In implementing budget reductions, the office of the secretary of state must make its first priority to maintain funding for the elections division.

~~(5) \$76,000 of the charitable organization education account—state appropriation for fiscal year 2011 is provided solely to implement Second Substitute House Bill No. 2576 (corporation and charity fees). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.~~

~~(6) \$77,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for deposit to the election account.~~

Sec. 120. 2009 c 564 s 121 (uncodified) is amended to read as follows:

**FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS**

General Fund—State Appropriation (FY 2010) . . . . .	(( <del>\$266,000</del> ))
	<u>\$275,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(( <del>\$276,000</del> ))
	<u>\$262,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$542,000</del> ))
	<u>\$537,000</u>

The appropriations in this section are subject to the following conditions and limitations: The office shall assist the department of personnel on providing the government-to-government training sessions for federal, state, local, and tribal government employees. The training sessions shall cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee charged to the participants of each session. The department of personnel shall be responsible for all of the administrative aspects of the training, including the billing and collection of the fees for the training.

Sec. 121. 2009 c 564 s 122 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON ASIAN PACIFIC AMERICAN AFFAIRS**

General Fund—State Appropriation (FY 2010) . . . . .	(( <del>\$236,000</del> ))
	<u>\$216,000</u>



General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$224,000)</del>
	<u>\$236,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$460,000)</del>
	<u>\$452,000</u>

Sec. 122. 2009 c 564 s 123 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER**

State Treasurer's Service Account—State	
Appropriation. . . . .	<del>(\$14,802,000)</del>
	<u>\$14,686,000</u>

Sec. 123. 2009 c 564 s 124 (uncodified) is amended to read as follows:

**FOR THE STATE AUDITOR**

General Fund—State Appropriation (FY 2010) . . . . .	\$722,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$729,000)</del>
	<u>\$717,000</u>
State Auditing Services Revolving	
Account—State Appropriation . . . . .	<del>(\$12,061,000)</del>
	<u>\$10,749,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$13,512,000)</del>
	<u>\$12,188,000</u>

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

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) \$722,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$729,000)~~ \$717,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for staff and related costs to verify the accuracy of reported school district data submitted for state funding purposes; conduct school district program audits of state funded public school programs; establish the specific amount of state funding adjustments whenever audit exceptions occur and the amount is not firmly established in the course of regular public school audits; and to assist the state special education safety net committee when requested.

(3) Within the amounts appropriated in this section, the state auditor shall continue to complete the annual audit of the state's comprehensive annual financial report and the annual federal single audit consistent with the auditing standards generally accepted in the United States and the standards applicable to financial audits contained in government auditing standards, issued by the comptroller general of the United States, and OMB circular A-133, audits of states, local governments, and nonprofit organizations.

(4) The legislature finds that the major changes in personnel funding in this budget and the long term effects of the ongoing economic recession combine with structural changes in the nature of work and employment in many state agencies to require a continuing review of the workforce examination begun under chapter 534, Laws of 2009 (exempt employment practices). The

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legislature notes the ongoing management reforms of the Washington management service being undertaken by the department of personnel, and anticipates a continuing legislative committee examination of the architecture and cost of the state's career and executive workforce. To that end, the office of state auditor is invited to provide by September 1, 2010, a general survey of new and best practices for executive and career workforce management now in use by other states and relevant industries.

**Sec. 124.** 2010 c 3 s 102 (uncodified) is amended to read as follows:

**FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS**

General Fund—State Appropriation (FY 2010) . . . . .	\$168,000
General Fund—State Appropriation (FY 2011) . . . . .	(\$209,000)
	<u>\$206,000</u>
TOTAL APPROPRIATION . . . . .	(\$377,000)
	<u>\$374,000</u>

**Sec. 125.** 2010 c 3 s 103 (uncodified) is amended to read as follows:

**FOR THE ATTORNEY GENERAL**

General Fund—State Appropriation (FY 2010) . . . . .	(\$5,285,000)
	<u>\$5,732,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$5,614,000)
	<u>\$5,848,000</u>
General Fund—Federal Appropriation . . . . .	\$4,026,000
New Motor Vehicle Arbitration Account—State Appropriation . . . . .	(\$1,346,000)
	<u>\$1,350,000</u>
Legal Services Revolving Account—State Appropriation . . . . .	(\$221,515,000)
	<u>\$220,909,000</u>
Tobacco Prevention and Control Account—State Appropriation . . . . .	\$270,000
TOTAL APPROPRIATION . . . . .	(\$238,056,000)
	<u>\$238,135,000</u>

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

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year. As part of its by agency report to the legislative fiscal committees and the office of financial management, the office of the attorney general shall include information detailing the agency's expenditures for its agency-wide overhead and a breakdown by division of division administration expenses.

(2) Prior to entering into any negotiated settlement of a claim against the state that exceeds five million dollars, the attorney general shall notify the director of financial management and the chairs of the senate committee on ways and means and the house of representatives committee on ways and means.

(3) The office of the attorney general is authorized to expend \$2,100,000 from the Zyprexa and other cy pres awards towards consumer protection costs in accordance with uses authorized in the court orders.

(4) The attorney general shall annually report to the fiscal committees of the legislature all new cy pres awards and settlements and all new accounts, disclosing their intended uses, balances, the nature of the claim or account, proposals, and intended timeframes for the expenditure of each amount. The report shall be distributed electronically and posted on the attorney general's web site. The report shall not be printed on paper or distributed physically.

(5) The executive ethics board must produce a report by the end of the calendar year for the legislature regarding performance measures on the efficiency and effectiveness of the board, as well as on performance measures to measure and monitor the ethics and integrity of all state agencies.

(6) \$53,000 of the legal services revolving account—state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 3026 (school district compliance with state and federal civil rights laws).

**Sec. 126.** 2010 c 3 s 104 (uncodified) is amended to read as follows:

**FOR THE CASELOAD FORECAST COUNCIL**

General Fund—State Appropriation (FY 2010) . . . . .	\$766,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$759,000)</del>
	<u>\$742,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$1,525,000)</del>
	<u>\$1,508,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$13,000 of the general fund—state appropriation for fiscal year 2010 and \$7,000 of the general fund—state appropriation for fiscal year 2011 are for the implementation of Second Substitute House Bill No. 2106 (improving child welfare outcomes through the phased implementation of strategic and proven reforms). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

**\*Sec. 127.** 2010 c 3 s 105 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMERCE**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$51,015,000)</del>
	<u>\$49,670,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$51,813,000)</del>
	<u>\$40,577,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$384,540,000)</del>
	<u>\$381,918,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$16,266,000)</del>
	<u>\$10,622,000</u>
Public Works Assistance Account—State Appropriation . . . . .	<del>(\$2,990,000)</del>
	<u>\$2,974,000</u>
Tourism Development and Promotion Account—State Appropriation . . . . .	\$1,003,000
Drinking Water Assistance Administrative Account—State Appropriation . . . . .	<del>(\$439,000)</del>
	<u>\$433,000</u>

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Lead Paint Account—State Appropriation . . . . .	<del>(\$18,000)</del>
	<u>\$35,000</u>
Building Code Council Account—State Appropriation . . . . .	<del>(\$1,286,000)</del>
	<u>\$688,000</u>
Home Security Fund Account—State Appropriation . . . . .	<del>(\$23,498,000)</del>
	<u>\$25,486,000</u>
Affordable Housing for All Account—State Appropriation . . . . .	<del>(\$11,900,000)</del>
	<u>\$11,896,000</u>
Washington Auto Theft Prevention Authority Account—State Appropriation . . . . .	\$300,000
Independent Youth Housing Account—State Appropriation . . . . .	<del>(\$80,000)</del>
	<u>\$220,000</u>
<u>County Research Services Account—State Appropriation . . . . .</u>	<u>\$469,000</u>
Community Preservation and Development Authority Account—State Appropriation . . . . .	\$350,000
Financial Fraud and Identity Theft Crimes Investigation and Prosecution Account—State Appropriation . . . . .	\$1,166,000
Low-Income Weatherization Assistance Account—State Appropriation . . . . .	<del>(\$8,382,000)</del>
	<u>\$6,882,000</u>
<u>City and Town Research Services Account—State Appropriation . . . . .</u>	<u>\$2,246,000</u>
Manufacturing Innovation and Modernization Account—State Appropriation . . . . .	<del>(\$246,000)</del>
	<u>\$230,000</u>
Community and Economic Development Fee Account—State Appropriation . . . . .	<del>(\$1,833,000)</del>
	<u>\$6,922,000</u>
Washington Housing Trust Account—State Appropriation . . . . .	<del>(\$15,372,000)</del>
	<u>\$15,348,000</u>
<u>Prostitution Prevention and Intervention Account— State Appropriation . . . . .</u>	<u>\$125,000</u>
Public Facility Construction Loan Revolving Account—State Appropriation . . . . .	<del>(\$755,000)</del>
	<u>\$754,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$573,252,000)</del>
	<u>\$560,314,000</u>

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

(1) ~~(\$2,520,000)~~ \$2,378,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$2,521,000)~~ \$2,379,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for a contract with the Washington technology center for work essential to the mission of the Washington technology center and conducted in partnership with universities.

(2) Repayments of outstanding loans granted under RCW 43.63A.600, the mortgage and rental assistance program, shall be remitted to the department, including any current revolving account balances. The department shall collect payments on outstanding loans, and deposit them into the state general fund. Repayments of funds owed under the program shall be remitted to the department according to the terms included in the original loan agreements.

(3) \$100,000 of the general fund—state appropriation for fiscal year 2010 and \$100,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to implement section 2(7) of Engrossed Substitute House Bill No. 1959 (land use and transportation planning for marine container ports).

(4) \$102,000 of the building code council account—state appropriation is provided solely for the implementation of sections 3 and 7 of Engrossed Second Substitute Senate Bill No. 5854 (built environment pollution). If sections 3 and 7 of the bill are not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(5)(a) \$10,500,000 of the general fund—federal appropriation is provided for training and technical assistance associated with low income weatherization programs. Subject to federal requirements, the department shall provide: (i) Up to \$4,000,000 to the state board for community and technical colleges to provide workforce training related to weatherization and energy efficiency; (ii) up to \$3,000,000 to the Bellingham opportunity council to provide workforce training related to energy efficiency and weatherization; and (iii) up to \$3,500,000 to community-based organizations and to community action agencies consistent with the provisions of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). Any funding remaining shall be expended in project 91000013, weatherization, in the omnibus capital appropriations act, Substitute House Bill No. 1216 (capital budget).

(b) \$6,787,000 of the general fund—federal appropriation is provided solely for the state energy program, including not less than \$5,000,000 to provide credit enhancements consistent with the provisions of Engrossed Second Substitute Senate Bill No. 5649 (energy efficiency in buildings).

(c) Of the general fund—federal appropriation the department shall provide: \$14,500,000 to the Washington State University for the purpose of making grants for pilot projects providing community-wide urban, residential, and commercial energy efficiency upgrades consistent with the provisions of Engrossed Second Substitute Senate Bill No. 5649 (energy efficiency in buildings); \$500,000 to Washington State University to conduct farm energy assessments. In contracting with the Washington State University for the provision of these services, the total administration of Washington State University and the department shall not exceed 3 percent of the amounts provided.

(d) \$38,500,000 of the general fund—federal appropriation is provided for deposit in the energy recovery act account to establish a revolving loan program, consistent with the provisions of Engrossed Substitute House Bill No. 2289 (expanding energy freedom program).

(e) \$10,646,000 of the general fund—federal appropriation is provided pursuant to the energy efficiency and conservation block grant under the American reinvestment and recovery act. The department may use up to \$3,000,000 of the amount provided in this subsection to provide technical

assistance for energy programs administered by the agency under the American reinvestment and recovery act.

(6) \$14,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5560 (state agency climate leadership). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(7) \$22,400,000 of the general fund—federal appropriation is provided solely for the justice assistance grant program and is contingent upon the department transferring: \$1,200,000 to the department of corrections for security threat mitigation, \$2,336,000 to the department of corrections for offender reentry, \$1,960,000 to the Washington state patrol for law enforcement activities, \$2,087,000 to the department of social and health services, division of alcohol and substance abuse for drug courts, and \$428,000 to the department of social and health services for sex abuse recognition training. The remaining funds shall be distributed by the department to local jurisdictions.

(8) \$20,000 of the general fund—state appropriation for fiscal year 2010 and \$20,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for a grant to KCTS public television to support Spanish language programming and the V-me Spanish language channel.

(9) \$500,000 of the general fund—state appropriation for fiscal year 2010 and \$500,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for a grant to resolution Washington to building statewide capacity for alternative dispute resolution centers and dispute resolution programs that guarantee that citizens have access to low-cost resolution as an alternative to litigation.

(10) \$30,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6015 (commercialization of technology). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(11) By June 30, 2011, the department shall request information that describes what jurisdictions have adopted, or are in the process of adopting, plans that address RCW 36.70A.020 and helps achieve the greenhouse gas emission reductions established in RCW 70.235.020. This information request in this subsection applies to jurisdictions that are required to review and if necessary revise their comprehensive plans ((by December 1, 2011,)) in accordance with RCW 36.70A.130.

(12) During the 2009-11 fiscal biennium, the department shall allot all of its appropriations subject to allotment by object, account, and expenditure authority code to conform with the office of financial management's definition of an option 2 allotment. For those funds subject to allotment but not appropriation, the agency shall submit option 2 allotments to the office of financial management.

(13) \$50,000 of the general fund—state appropriation for fiscal year 2010 and \$50,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for a grant for the state's participation in the Pacific Northwest economic region.

(14) \$712,000 of the general fund—state appropriation for fiscal year 2010 and \$712,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to the office of crime victims advocacy. These funds shall be

contracted with the 39 county prosecuting attorneys' offices to support victim-witness services. The funds must be prioritized to ensure a full-time victim-witness coordinator in each county. The office may retain only the amount currently allocated for this activity for administrative costs.

(15) \$306,000 of the general fund—state appropriation for fiscal year 2010 and \$306,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for a grant to the retired senior volunteer program.

(16) \$65,000 of the general fund—state appropriation for fiscal year 2010 ~~((and \$65,000 of the general fund—state appropriation for fiscal year 2011 are))~~ is provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to the funds provided in this subsection.

(17) \$371,000 of the general fund—state appropriation for fiscal year 2010 and \$371,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to the northwest agriculture business center.

(18) The department shall administer its growth management act technical assistance so that smaller cities receive proportionately more assistance than larger cities or counties. ~~((Pass through grants shall continue to be funded under 2007-09 policy.))~~

(19) \$212,000 of the general fund—federal appropriation is provided solely for implementation of Second Substitute House Bill No. 1172 (development rights transfer). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(20) \$69,000 of the general fund—state appropriation for fiscal year 2010 and \$66,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(21) \$350,000 of the community development and preservation authority account—state appropriation is provided solely for a grant to a community development authority established under chapter 43.167 RCW. The community preservation and development's board of directors may contract with nonprofit community organizations to aid in mitigating the effects of increased public impact on urban neighborhoods due to events in stadia that have a capacity of over 50,000 spectators.

(22) \$300,000 of the Washington auto theft prevention authority account—state appropriation is provided solely for a contract with a community group to build local community capacity and economic development within the state by strengthening political relationships between economically distressed communities and governmental institutions. The community group shall identify opportunities for collaboration and initiate activities and events that bring community organizations, local governments, and state agencies together to address the impacts of poverty, political disenfranchisement, and economic inequality on communities of color. These funds must be matched by other nonstate sources on an equal basis.

(23) \$1,800,000 of the home security fund—state appropriation is provided for transitional housing assistance or partial payments for rental assistance under the independent youth housing program.

(24) \$5,000,000 of the home security fund—state appropriation is provided solely for the operation, repair, and staffing of shelters in the homeless family shelter program.

(25) \$253,000 of the general fund—state appropriation for fiscal year 2010 and \$283,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the Washington new Americans program.

(26) \$438,000 of the general fund—state appropriation for fiscal year 2010 and \$438,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the Washington asset building coalitions.

(27) Funding provided to microenterprise development organizations for fiscal year 2011 shall not be reduced by more than ten percent from funding levels in the 2009-11 operating budget.

(28) Within existing resources, the department of commerce shall convene a work group that includes a representative designated by each of the following: The department, the economic development commission, the Washington technology center, the Spokane intercollegiate research and technology institute, the University of Washington center for commercialization and Washington State University's office of economic development and global engagement. To better align the missions of state supported entities conducting commercialization, the work group shall prepare and submit a report to the legislature no later than December 1, 2010, that identifies gaps and overlaps in programs, evaluates strategies to reduce administrative overhead expenses, and recommends changes which would amplify and accelerate innovation-driver job creation in the state.

(29) \$3,231,000 of the general fund—state appropriation for fiscal year 2010 and \$3,231,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for associate development organizations.

(30) \$5,400,000 of the community and economic development fee account is provided as follows: \$1,000,000 is provided solely for the department of commerce for services for homeless families through the Washington families fund; \$2,600,000 is provided solely for housing trust fund operations and maintenance; \$800,000 is provided solely for housing trust fund portfolio management; \$500,000 is provided solely for foreclosure counseling and support; and \$500,000 is provided solely for use as a reserve in the account.

(31)(a) The economic development commission must develop a biennial budget request for approval by the office of financial management. The commission must adopt an annual budget and work plan in accordance with the omnibus appropriations bill approved by the legislature.

(b) Of state appropriated funds for the operation of the commission, the state agency serving as the commission's fiscal agent may use no more than ten percent of funds appropriated for commission personnel costs and no more than three percent of funds in the Washington state economic development commission account to cover administrative expenses.

(c) The commission may accept gifts, grants, donations, sponsorships, or contributions from any federal, state, or local governmental agency or



program, or any private source, and expend the same for any purpose consistent with this chapter.

(d) The Washington state economic development commission account is created in the custody of the state treasurer. All receipts from gifts, grants, donations, sponsorships, or contributions must be deposited into the account. State appropriated funds may not be deposited into the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used only for purposes related to carrying out the mission, roles, and responsibilities of the commission. Only the commission, or the commission's designee, may authorize expenditures from the account.

(32) \$250,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the department to administer a competitive grant program to fund economic development activities designed to further regional cluster growth and to integrate its sector-based and cluster-based strategies with its support for the development of innovation partnership zones. Grant recipients must provide matching funds equal to the size of the grant. Grants may be awarded to support the formation of sector associations or cluster associations, the identification of the technology and commercialization needs of a sector or cluster, facilitating working relationships between a sector association or cluster association and an innovation partnership zone, expanding the operations of an innovation partnership zone, and developing and implementing plans to meet the technology development and commercialization needs of industry sectors, industry clusters, and innovation partnership zones. The projects receiving grants must not duplicate the purpose or efforts of industry skill panels but priority must be given to applicants that complement industry skill panels and will use the grant funds to build linkages and joint projects.

(33) \$100,000 of the general fund—state appropriation for fiscal year 2011 is provided solely to:

(a) Develop a rural manufacturer export outreach program in conjunction with impact Washington. The program must provide outreach services to rural manufacturers in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters; and

(b) Develop export loan or loan guarantee programs in conjunction with the Washington economic development finance authority and the appropriate federal and private entities.

(34) \$1,000,000 of the general fund—state appropriation for fiscal year 2011 is provided solely to implement the provisions of chapter 13, Laws of 2010 (global health program).

(35) \$50,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the creation of the Washington entrepreneurial development and small business reference service in the department of commerce.

(a) The department must:

(i) In conjunction with and drawing on information compiled by the work force training and education coordinating board and the Washington economic development commission:

(A) Establish and maintain an inventory of the public and private entrepreneurial training and technical assistance services, programs, and resources available in the state;

(B) Disseminate information about available entrepreneurial development and small business assistance services, programs, and resources via in-person presentations and electronic and printed materials and undertake other activities to raise awareness of entrepreneurial training and small business assistance offerings; and

(C) Evaluate the extent to which existing entrepreneurial training and technical assistance programs in the state are effective and represent a consistent, integrated approach to meeting the needs of start-up and existing entrepreneurs;

(ii) Assist providers of entrepreneurial development and small business assistance services in applying for federal and private funding to support the entrepreneurial development and small business assistance activities in the state;

(iii) Distribute awards for excellence in entrepreneurial training and small business assistance; and

(iv) Report to the governor, the economic development commission, the work force training and education coordinating board, and the appropriate legislative committees its recommendations for statutory changes necessary to enhance operational efficiencies or enhance coordination related to entrepreneurial development and small business assistance.

(b) In carrying out the duties under this section, the department must seek the advice of small business owners and advocates, the Washington economic development commission, the work force training and education coordinating board, the state board for community and technical colleges, the employment security department, the Washington state microenterprise association, associate development organizations, impact Washington, the Washington quality award council, the Washington technology center, the small business export finance assistance center, the Spokane intercollegiate research and technology institute, representatives of the University of Washington business school and the Washington State University college of business and economics, the office of minority and women's business enterprises, the Washington economic development finance authority, and staff from small business development centers.

(c) The director may appoint an advisory board or convene such other individuals or groups as he or she deems appropriate to assist in carrying out the department's duties under this section.

**(36) The investing in innovation account is created in the custody of the state treasurer. Funds may be directed to the account from federal, state, and private sources. Expenditures from the account may be used only to carry out the investing in innovation grants program established under RCW 70.210.030, and other innovation and commercialization purposes consistent with the federal, state, or private and other funding guidelines that apply to the funds deposited in the account. Only the executive director of the Washington technology center or the executive director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.**

(37) \$50,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for a grant to HistoryLink.

(38) \$50,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the Washington quality award council created in RCW 43.06.335 to provide training to small manufacturers and other businesses as well as to technical assistance providers from the department of commerce, impact Washington, small business development centers, associate development organizations, and other organizations. The training shall be in continuous quality improvement, performance measurement, strategic planning, and other approaches designed to reduce operating costs, improve effectiveness, and increase productivity in businesses receiving assistance.

(39) \$50,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the manufacturing innovation and modernization account created in RCW 43.338.030.

\*Sec. 127 was partially vetoed. See message at end of chapter.

Sec. 128. 2010 c 3 s 106 (uncodified) is amended to read as follows:

**FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL**

General Fund—State Appropriation (FY 2010) . . . . .	\$711,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$785,000)</del>
	<u>\$772,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$1,496,000)</del>
	<u>\$1,483,000</u>

The appropriations in this section are subject to the following conditions and limitations: The economic and revenue forecast council, in its quarterly revenue forecasts, shall forecast the total revenue for the state lottery.

\*Sec. 129. 2010 c 3 s 107 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$21,599,000)</del>
	<u>\$21,189,000</u>
<i>General Fund—State Appropriation (FY 2011) . . . . .</i>	<del><i>(\$20,670,000)</i></del>
	<u><i>\$20,152,000</i></u>
General Fund—Federal Appropriation . . . . .	<del>(\$23,597,000)</del>
	<u>\$27,103,000</u>
General Fund—Private/Local Appropriation . . . . .	\$1,270,000
State Auditing Services Revolving	
Account—State Appropriation . . . . .	\$25,000
Economic Development Strategic Reserve Account—	
State Appropriation . . . . .	<del>(\$280,000)</del>
	<u>\$278,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$67,441,000)</del>
	<u>\$70,017,000</u>

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

(1) \$188,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for the implementation of Second Substitute Senate Bill No. 5945 (Washington health partnership plan). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(2) The office of financial management shall conduct a study on alternatives for consolidating or transferring activities and responsibilities of the state lottery commission, state horse racing commission, state liquor control board, and the state gambling commission to achieve cost savings and regulatory efficiencies. In conducting the study, the office of financial management shall consult with the legislative fiscal committees. Further, the office of financial management shall establish an advisory group to include, but not be limited to, representatives of affected businesses, state agencies or entities, local governments, and stakeholder groups. The office of financial management shall submit a final report to the governor and the legislative fiscal committees by November 15, 2009.

~~(3) ((\$500,000 of the general fund state appropriation for fiscal year 2010 is provided solely for a study of the feasibility of closing state institutional facilities and a plan on eliminating beds in the state institutional facility inventory. The office of financial management shall contract with consultants with expertise related to the subject matters included in this study. The office of financial management and the consultants shall consult with the department of social and health services, the department of corrections, stakeholder groups that represent the people served in these institutions, labor organizations that represent employees who work in these institutions and other persons or entities with expertise in the areas being studied.~~

~~(a) For the purposes of this study, "state institutional facilities" means facilities operated by the department of corrections to house persons convicted of a criminal offense, Green Hill school and Maple Lane school operated by the department of social and health services juvenile rehabilitation administration, and residential habilitation centers operated by the department of social and health services.~~

~~(b) In conducting this study, the consultants shall consider the following factors as appropriate:~~

~~(i) The availability of alternate facilities including alternatives and opportunities for consolidation with other facilities, impacts on those alternate facilities, and any related capital costs;~~

~~(ii) The cost of operating the facility, including the cost of providing services and the cost of maintaining or improving the physical plant of the facility;~~

~~(iii) The geographic factors associated with the facility, including the impact of the facility on the local economy and the economic impact of its closure, and alternative uses for a facility recommended for closure;~~

~~(iv) The costs associated with closing the facility, including the continuing costs following the closure of the facility;~~

~~(v) Number and type of staff and the impact on the facility staff including other employment opportunities if the facility is closed;~~

~~(vi) The savings that will accrue to the state from closure or consolidation of a facility and the impact any closure would have on funding the associated services; and~~

~~(vii) For the residential habilitation centers, the impact on clients in the facility being recommended for closure and their families, including ability to get alternate services and impact on being moved to another facility.~~

~~(c) The office of financial management shall submit a final report to the governor and the ways and means committees of the house of representatives and senate by November 1, 2009. The report shall provide a recommendation and a plan to eliminate 1,580 beds in the department of corrections facilities, 235 beds from juvenile rehabilitation facilities, and 250 funded beds in the residential habilitation centers through closure or consolidation of facilities. The report shall include an assessment of each facility studied, where and how the services should be provided, and any costs or savings associated with each recommendation. In considering the recommendations of the report, the governor and the legislature shall not consider closure of any state institutional facility unless the report recommended the facility for closure.)~~ ~~\$25,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the office to contract with the Washington state quality award program to provide training for state managers and employees.~~

(4) \$110,000 of the general fund—state appropriation for fiscal year 2011 is provided solely to implement Second Substitute Senate Bill No. 6578 (multiagency permitting teams). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(5) The office of financial management shall, with the assistance of the natural resources cabinet as created in executive order 09-07, reduce the number of facilities being leased by the state by consolidating, wherever possible, regional offices and storage facilities of the natural resource agencies. The office of financial management and the natural resources cabinet shall submit a report on the progress of this effort and the associated savings to the appropriate fiscal committees of the legislature no later than December 1, 2010.

~~(6) \$100,000 of the general fund—state appropriation for fiscal year 2010 and \$100,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the office of financial management to hire an independent consultant to conduct an assessment. The consultant shall be agreed upon by a wide range of interested stakeholders including organization leaders representing residents of residential habilitation centers. The assessment shall include interviews with all residential habilitation center residents or guardians of residents to determine the optimum setting for these individuals and shall include the option and choice to remain in a residential habilitation center. The assessment shall note when the recommendation of the consultant differs from the choice of the individual. The assessment shall also determine service and placements that are underfunded or underserved in community settings and determine resources and options for funding sources necessary to adequately fund community-based services for people with developmental disabilities. The resulting report will be due to the legislature on December 1, 2010.~~

(7)(a) \$50,000 of the general fund—state appropriation for fiscal year 2010 and \$150,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the purposes of the office of financial management:

(i) Conducting a technical and financial analysis of the state's plan for the consolidated state data center and office building; and

(ii) Developing a strategic business plan outlining the various options for use of the site that maximize taxpayer value consistent with the terms of the finance lease and related agreements.

(b) The analysis required in (a)(i) of this subsection must consist of, at a minimum, an assessment of the following issues:

(i) The total capital and operational costs for the proposed data center and office building;

(ii) The occupancy rate for the consolidated state data center, as compared to total capacity, that will result in revenue exceeding total capital and operating expenses;

(iii) The potential reallocation of resources that could result from the consolidation of state data centers and office space; and

(iv) The potential return on investment for the consolidated state data center and office building that may be realized without impairing any existing contractual rights under the terms of the financing lease and related agreements.

(c) This review must build upon the analysis and migration strategy for the consolidated state data center being prepared for the department of information services.

(d) The strategic plan must be submitted to the governor and the legislature by December 1, 2010.

(8) Appropriations in this section include amounts sufficient to implement Engrossed Substitute House Bill No. 3178 (technology efficiencies).

\*Sec. 129 was partially vetoed. See message at end of chapter.

Sec. 130. 2009 c 564 s 131 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF ADMINISTRATIVE HEARINGS**

Administrative Hearings Revolving

Account—State Appropriation . . . . .((~~\$33,473,000~~))  
\$33,978,000

The appropriation in this section is subject to the following conditions and limitations: \$725,000 of the administrative hearings revolving account—state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

\*Sec. 131. 2009 c 564 s 132 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF PERSONNEL**

Department of Personnel Service Account—State

Appropriation . . . . .((~~\$22,025,000~~))  
\$20,057,000

Higher Education Personnel Services Account—State

Appropriation . . . . .((~~\$1,716,000~~))  
\$1,578,000

TOTAL APPROPRIATION . . . . .((~~\$23,741,000~~))  
\$21,635,000

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

(1) The department shall coordinate with the governor's office of Indian affairs on providing the government-to-government training sessions for federal, state, local, and tribal government employees. The training sessions shall cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee

charged to the participants of each session. The department shall be responsible for all of the administrative aspects of the training, including the billing and collection of the fees for the training.

(2) In coordination with efforts under section 119(4) of this act, the department of personnel shall provide, by September 1, 2010, a synopsis of current and recent survey data regarding employee satisfaction and the department's overall assessment of career and executive workforce management concerns.

\*Sec. 131 was partially vetoed. See message at end of chapter.

Sec. 132. 2009 c 564 s 133 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE LOTTERY**

Lottery Administrative Account—State

Appropriation . . . . . ((~~\$27,776,000~~))  
\$26,777,000

Sec. 133. 2009 c 564 s 134 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON HISPANIC AFFAIRS**

General Fund—State Appropriation (FY 2010) . . . . . ((~~\$253,000~~))  
\$250,000

General Fund—State Appropriation (FY 2011) . . . . . ((~~\$260,000~~))  
\$255,000

TOTAL APPROPRIATION . . . . . ((~~\$513,000~~))  
\$505,000

Sec. 134. 2009 c 564 s 135 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS**

General Fund—State Appropriation (FY 2010) . . . . . \$243,000  
General Fund—State Appropriation (FY 2011) . . . . . ((~~\$244,000~~))

\$236,000  
TOTAL APPROPRIATION . . . . . ((~~\$487,000~~))  
\$479,000

Sec. 135. 2009 c 564 s 136 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—OPERATIONS**

Department of Retirement Systems Expense

Account—State Appropriation . . . . . ((~~\$49,504,000~~))  
\$48,332,000

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

(1) \$148,000 of the department of retirement systems—state appropriation is provided solely for the administrative costs associated with implementation of Senate Bill No. 5303 (transferring members of retirement systems). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(2) \$66,000 of the department of retirement systems expense account—state appropriation is provided for the department of retirement systems to make revisions to various administrative processes as necessary to implement Engrossed Second Substitute Senate Bill No. 5688 (registered domestic

partners). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(3) \$12,000 of the department of retirement systems—state appropriation is provided solely for the administrative costs associated with implementation of Senate Bill No. 5542 or House Bill No. 1678 (minimum disability benefits). If neither bill is enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$45,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1445 (Washington state patrol retirement system domestic partners). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(5) \$45,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Engrossed House Bill No. 1616 (law enforcement officers' and firefighters' retirement system plan 2 domestic partners). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(6) \$56,000 of the department of retirement systems expense account—state appropriation is provided solely to implement House Bill No. 1548 (military service credit purchases). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(7) \$35,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Substitute House Bill No. 1953 (department of fish and wildlife enforcement officers' past service credit). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(8) \$58,000 of the department of retirement systems expense account—state appropriation is provided solely to implement House Bill No. 1541 (plan 2/3 half-time educational employee service credit). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(9) \$31,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Engrossed House Bill No. 2519 (public safety death benefits). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 136.** 2010 c 3 s 108 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF REVENUE**

General Fund—State Appropriation (FY 2010) . . . . .	(\$108,215,000)
	\$109,472,000
General Fund—State Appropriation (FY 2011) . . . . .	(\$106,995,000)
	\$112,319,000
Timber Tax Distribution Account—State Appropriation . . . . .	(\$5,904,000)
	\$5,933,000
Waste Reduction/Recycling/Litter Control—State Appropriation . . . . .	\$130,000
Waste Tire Removal Account—State Appropriation . . . . .	\$2,000
Real Estate Excise Tax Grant Account—State Appropriation . . . . .	(\$1,050,000)
	\$3,429,000



State Toxics Control Account—State Appropriation . . . . .	\$87,000
Oil Spill Prevention Account—State Appropriation . . . . .	\$19,000
TOTAL APPROPRIATION . . . . .	<del>(\$222,402,000)</del>
	<u>\$231,391,000</u>

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

(1) \$469,000 of the general fund—state appropriation for fiscal year 2010 and \$374,000 of the general fund—state appropriation for fiscal year 2011 are for the implementation of Substitute Senate Bill No. 5368 (annual property revaluation). If the bill is not enacted by June 30, 2009, the amounts in this subsection shall lapse.

(2) \$4,653,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$4,424,000)~~ \$4,242,000 of the general fund—state appropriation for fiscal year 2011 are for the implementation of revenue enhancement strategies. The strategies must include increased out-of-state auditing and compliance, the purchase of third party data sources for enhanced audit selection, and increased traditional auditing and compliance efforts.

(3) \$3,127,000 of the general fund—state appropriation for fiscal year 2010 and \$1,737,000 of the general fund—state appropriation for fiscal year 2011 are for the implementation of Senate Bill No. 6173 (sales tax compliance). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(4) \$1,294,000 of the general fund—state appropriation for fiscal year 2010 and \$3,085,000 of the general fund—state appropriation for fiscal year 2011 are for the implementation of Second Engrossed Substitute Senate Bill No. 6143 (excise tax law modifications). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(5) \$163,000 of the general fund—state appropriation for fiscal year 2011 is provided solely to implement Substitute Senate Bill No. 6846 (enhanced 911 services). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(6) \$1,200,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for making the necessary preparations for implementation of the working families tax exemption pursuant to RCW 82.08.0206 in 2012.

**Sec. 137.** 2009 c 564 s 138 (uncodified) is amended to read as follows:

**FOR THE STATE INVESTMENT BOARD**

State Investment Board Expense Account—State Appropriation. . . . .	<del>(\$29,581,000)</del>
	<u>\$29,352,000</u>

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

(1) \$2,471,000 of the state investment board expense account—state appropriation is provided solely for development of a risk management information system, with the intent that further expenditures for this project be made only by appropriation.

(2) The state investment board shall include funding for any future salary increases authorized under RCW 43.33A.100 in the agency's budget request

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submitted in accordance with chapter 43.88 RCW in advance of granting related salary increases. The biennial salary survey required under RCW 43.33A.100 shall also be provided to the office of financial management and to the fiscal committees of the legislature as part of the state investment board's biennial budget submittal, and shall include the total amount of compensation increases proposed, as well as recommended salary ranges.

**Sec. 138.** 2010 c 3 s 109 (uncodified) is amended to read as follows:

**FOR THE BOARD OF TAX APPEALS**

General Fund—State Appropriation (FY 2010) . . . . .	(\$1,342,000)
	<u>\$1,346,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$1,346,000)
	<u>\$1,318,000</u>
TOTAL APPROPRIATION . . . . .	(\$2,688,000)
	<u>\$2,664,000</u>

**Sec. 139.** 2009 c 564 s 140 (uncodified) is amended to read as follows:

**FOR THE MUNICIPAL RESEARCH COUNCIL**

County Research Services Account—State Appropriation . . . . .	(\$940,000)
	<u>\$471,000</u>
City and Town Research Services—State Appropriation. . . . .	(\$4,515,000)
	<u>\$2,258,000</u>
TOTAL APPROPRIATION . . . . .	(\$5,455,000)
	<u>\$2,729,000</u>

**Sec. 140.** 2009 c 564 s 141 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

OMWBE Enterprises Account—State Appropriation . . . . .	(\$3,622,000)
	<u>\$3,674,000</u>

**Sec. 141.** 2009 c 564 s 142 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

General Fund—State Appropriation (FY 2010) . . . . .	\$815,000
General Fund—State Appropriation (FY 2011) . . . . .	(\$811,000)
	<u>\$3,963,000</u>
General Fund—Federal Appropriation . . . . .	(\$5,738,000)
	<u>\$2,956,000</u>
<u>Building Code Council Account—State</u> <u>Appropriation. . . . .</u>	<u>\$593,000</u>
<u>General Fund—Private/Local Appropriation . . . . .</u>	<u>\$84,000</u>
General Administration Service Account—State Appropriation. . . . .	(\$35,044,000)
	<u>\$31,748,000</u>
TOTAL APPROPRIATION . . . . .	(\$42,408,000)
	<u>\$40,159,000</u>

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

(1) \$28,000 of the general fund—state appropriation for fiscal year 2010 and \$28,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the purposes of section 8 of Engrossed Second Substitute Senate Bill No. 5854 (built environment pollution). If section 8 of the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) \$3,545,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the payment of facilities and services charges, utilities and contracts charges, public and historic facilities charges, and capital projects surcharges allocable to the senate, house of representatives, statute law committee, and joint legislative systems committee. The department shall allocate charges attributable to these agencies among the affected revolving funds. The department shall enter into an interagency agreement with these agencies by July 1, 2010, to establish performance standards, prioritization of preservation and capital improvement projects, and quality assurance provisions for the delivery of services under this subsection. The agencies named in this subsection shall continue to enjoy all of the same rights of occupancy, support, and space use on the capitol campus as historically established.

(3) \$84,000 of the general fund—private/local appropriation and \$593,000 of the building code council account—state appropriation are provided solely to implement Engrossed Second Substitute House Bill No. 2658 (refocusing the department of commerce, including transferring programs). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

**Sec. 142.** 2010 c 3 s 110 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF INFORMATION SERVICES**

General Fund—State Appropriation (FY 2010) . . . . .	\$1,086,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$1,086,000)</del>
	<u>\$1,080,000</u>
General Fund—Federal Appropriation . . . . .	\$701,000
<u>General Fund—Private/Local Appropriation . . . . .</u>	<u>\$178,000</u>
Data Processing Revolving Account—State Appropriation . . . . .	<del>(\$7,824,000)</del>
	<u>\$7,601,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$10,697,000)</del>
	<u>\$10,646,000</u>

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

(1) \$100,000 of the general fund—state appropriation for fiscal year 2010 and \$100,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the purposes of Engrossed Second Substitute House Bill No. 1701 (high-speed internet), including expenditure for deposit to the community technology opportunity account. If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) The department shall implement some or all of the following strategies to achieve savings on information technology expenditures through: (a) Holistic virtualization strategies; (b) wide-area network optimization strategies; (c) replacement of traditional telephone communications systems with alternatives; and (d) migration of external voice mail systems to internal voice mail systems coordinated by the department. The department shall report to the office of

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financial management and the fiscal committees of the legislature semiannually on progress made towards the implementation of savings strategies and the savings realized to date. No later than June 30, 2011, the department shall submit a final report on its findings and savings realized to the office of financial management and the fiscal committees of the legislature.

(3) \$178,000 of the general fund—private/local appropriation is provided solely for the implementation of the opportunity portal under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(4) Appropriations in this section include amounts sufficient to implement Engrossed Substitute House Bill No. 3178 (technology efficiencies).

**Sec. 143.** 2009 c 564 s 144 (uncodified) is amended to read as follows:

**FOR THE INSURANCE COMMISSIONER**

General Fund—Federal Appropriation . . . . .	(\$1,943,000)
	<u>\$1,939,000</u>
Insurance Commissioners Regulatory Account—State Appropriation . . . . .	(\$47,978,000)
	<u>\$48,452,000</u>
TOTAL APPROPRIATION . . . . .	(\$49,921,000)
	<u>\$50,391,000</u>

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

(1) \$410,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement Substitute Senate Bill No. 5480 (discount health plans). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(2) \$598,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement Substitute Senate Bill No. 5195 (life settlements model act). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(3) \$551,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement Second Substitute Senate Bill No. 5346 (health care administration simplification). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$40,000 of the insurance commissioner's regulatory account appropriation is to implement Engrossed Substitute House Bill No. 2560 (joint underwriting associations).

(5) \$227,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement Engrossed Substitute House Bill No. 1714 (association health plans).

**Sec. 144.** 2009 c 564 s 145 (uncodified) is amended to read as follows:

**FOR THE BOARD OF ACCOUNTANCY**

Certified Public Accountants' Account—State Appropriation . . . . .	(\$3,016,000)
	<u>\$3,649,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$150,000 of the certified public accountants' account appropriation

is provided solely for the board to contract with a consultant or consultants to conduct an independent investigation. Each consultant must be a governmental entity or an independent firm of legal consultants. Each consultant must be familiar with the administrative procedure act, chapter 34.05 RCW. The consultant or consultants shall produce a report that includes, but is not limited to, an evaluation of the efficiency and effectiveness of the board's practices, policies, and procedures, and an evaluation of the efficacy, economy, and accountability of merging the board into the department of licensing. The consultant or consultants shall deliver a report to the appropriate committees of the legislature on or before December 1, 2010.

Sec. 145. 2009 c 564 s 147 (uncodified) is amended to read as follows:

**FOR THE HORSE RACING COMMISSION**

Horse Racing Commission Operating Account—State

Appropriation . . . . . ((~~\$5,123,000~~))  
\$4,830,000

The appropriation in this section is subject to the following conditions and limitations: Pursuant to RCW 43.135.055, the commission is authorized to increase licensing fees during the 2009-2011 fiscal biennium as necessary to support the appropriation in this section.

Sec. 146. 2009 c 564 s 148 (uncodified) is amended to read as follows:

**FOR THE LIQUOR CONTROL BOARD**

Liquor Control Board Construction and Maintenance

Account—State Appropriation . . . . . \$8,817,000  
Liquor Revolving Account—State Appropriation . . . . . ((~~\$200,506,000~~))  
\$156,580,000  
TOTAL APPROPRIATION . . . . . ((~~\$209,323,000~~))  
\$165,397,000

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

(1) \$1,306,000 of the liquor revolving account—state appropriation is provided solely for the liquor control board to open five new state stores.

(2) \$40,000 of the liquor revolving account—state appropriation is provided solely for the liquor control board to open ten new contract stores.

(3) \$3,059,000 of the liquor revolving account—state appropriation is provided solely for the liquor control board to increase state and local revenues from new retail strategies including opening nine state stores on Sunday, opening state liquor stores on seven holidays, opening six mall locations during the holiday season, and increasing lottery sales.

(4) \$173,000 of the liquor revolving account—state appropriation is provided solely for the Engrossed House Bill No. 2040 (beer and wine regulation commission). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(5) \$130,000 of the liquor revolving account appropriation is provided to implement chapter 141, Laws of 2010 (SSB 6329).

(6) Within the amounts appropriated in this section, the liquor control board shall monitor the tasting endorsement authorized by chapter 141, Laws of 2010 (SSB 6329) and report to the appropriate committees of the legislature by June

30, 2011, on the enforcement of the endorsement. The report must include the number of compliance checks conducted by the liquor board during tasting activities, whether the checks were conducted with the knowledge of the licensee, the number of compliance checks passed, the number and type of notices of violation issued, the penalties imposed for the violations, the number of complaints received about tasting activities, and other information related to the enforcement of the endorsement. If the bill is not enacted by June 30, 2010, the requirements of this subsection shall be null and void.

(7) The board shall prepare a plan to transition selected state liquor stores to contract stores. The plan must identify stores for transition that the board determines will result in the greatest efficiency and cost-effectiveness for the state. The plan must provide for the conversion of at least twenty state liquor stores to contract liquor stores and for that conversion to occur between July 1, 2011, and July 1, 2013. The plan must also include an analysis of the revenue generating capacity and costs for the stores before and after the conversion as well as an analysis of access to liquor by intoxicated and underage persons. The board shall submit the plan to the appropriate policy and fiscal committees of the legislature by November 1, 2010.

Sec. 147. 2009 c 564 s 150 (uncodified) is amended to read as follows:

**FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

General Fund—Federal Appropriation	\$267,000
General Fund—Private/Local Appropriation	\$5,547,000
Public Service Revolving Account—State	
Appropriation	(\$31,306,000)
	\$31,200,000
Pipeline Safety Account—State Appropriation	(\$3,194,000)
	\$3,187,000
Pipeline Safety Account—Federal Appropriation	(\$1,536,000)
	\$1,518,000
TOTAL APPROPRIATION	(\$36,036,000)
	\$41,719,000

The appropriations in this section are subject to the following conditions and limitations: Pursuant to RCW 43.135.055, the commission is authorized to increase solid waste regulatory fees to the extent necessary to raise \$100,000 in fiscal year 2011 for enforcement activities under RCW 81.77.080.

Sec. 148. 2010 c 3 s 111 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

General Fund—State Appropriation (FY 2010)	(\$10,084,000)
	\$9,350,000
General Fund—State Appropriation (FY 2011)	(\$10,190,000)
	\$8,874,000
General Fund—Federal Appropriation	(\$149,101,000)
	\$168,599,000
Enhanced 911 Account—State Appropriation	(\$39,598,000)
	\$44,508,000
Disaster Response Account—State Appropriation	(\$28,194,000)
	\$28,350,000

Disaster Response Account—Federal Appropriation . . . . .	<del>(\$91,263,000)</del>
	<u>\$114,496,000</u>
Military Department Rent and Lease Account—State Appropriation . . . . .	<del>(\$615,000)</del>
	<u>\$612,000</u>
Military Department Active State Service Account—Federal Appropriation . . . . .	<del>(\$200,000)</del>
	<u>\$592,000</u>
Worker and Community Right-to-Know Account—State Appropriation . . . . .	\$341,000
Nisqually Earthquake Account—State Appropriation . . . . .	<del>(\$144,000)</del>
	<u>\$307,000</u>
Nisqually Earthquake Account—Federal Appropriation . . . . .	<del>(\$856,000)</del>
	<u>\$1,067,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$330,586,000)</del>
	<u>\$377,096,000</u>

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

(1) ~~(\$28,194,000)~~ \$28,326,000 of the disaster response account—state appropriation and ~~(\$91,263,000)~~ \$114,496,000 of the disaster response account—federal appropriation may be spent only on disasters declared by the governor and with the approval of the office of financial management. The military department shall submit a report ~~(quarterly)~~ to the office of financial management and the legislative fiscal committees on October 1st and February 1st of each year detailing information on the disaster response account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2009-2011 biennium based on current revenue and expenditure patterns.

(2) ~~(\$144,000)~~ \$307,000 of the Nisqually earthquake account—state appropriation and ~~(\$856,000)~~ \$1,067,000 of the Nisqually earthquake account—federal appropriation are provided solely for response and recovery costs associated with the February 28, 2001, earthquake. The military department shall submit a report ~~(quarterly)~~ to the office of financial management and the legislative fiscal committees on October 1st and February 1st of each year detailing earthquake recovery costs, including: (a) Estimates of total costs; (b) incremental changes from the previous estimate; (c) actual expenditures; (d) estimates of total remaining costs to be paid; and (e) estimates of future payments by biennium. This information shall be displayed by fund, by type of assistance, and by amount paid on behalf of state agencies or local organizations. The military department shall also submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on the Nisqually earthquake account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2009-2011 biennium based on current revenue and expenditure patterns.

(3) \$85,000,000 of the general fund—federal appropriation is provided solely for homeland security, subject to the following conditions:

(a) Any communications equipment purchased by local jurisdictions or state agencies shall be consistent with standards set by the Washington state interoperability executive committee; and

(b) The department shall submit ~~((a quarterly))~~ an annual report to the office of financial management and the legislative fiscal committees detailing the governor's domestic security advisory group recommendations; homeland security revenues and expenditures, including estimates of total federal funding for the state; and incremental changes from the previous estimate ~~((, planned and actual homeland security expenditures by the state and local governments with this federal funding; and matching or accompanying state or local expenditures; and~~

~~(c) The department shall submit a report by December 1st of each year to the office of financial management and the legislative fiscal committees detailing homeland security revenues and expenditures for the previous fiscal year by county and legislative district).~~

(4) \$500,000 of the general fund—state appropriation for fiscal year 2010 ~~((and \$500,000 of the general fund—state appropriation for fiscal year 2011 are))~~ is provided solely for the military department to contract with the Washington information network 2-1-1 to operate a statewide 2-1-1 system. The department shall provide the entire amount for 2-1-1 and ~~((shall))~~ may not use any of the funds for administrative purposes.

**Sec. 149.** 2009 c 564 s 149 (uncodified) is amended to read as follows:

**FOR THE BOARD FOR VOLUNTEER FIREFIGHTERS**

Volunteer Firefighters' and Reserve Officers'

Administrative Account—State Appropriation . . . . . ~~(\$1,044,000)~~  
\$1,052,000

**Sec. 150.** 2009 c 564 s 152 (uncodified) is amended to read as follows:

**FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION**

General Fund—State Appropriation (FY 2010) . . . . . ~~(\$3,128,000)~~

\$2,667,000

General Fund—State Appropriation (FY 2011) . . . . . ~~(\$3,130,000)~~

\$2,635,000

Higher Education Personnel Services Account—State

Appropriation . . . . . \$250,000

Department of Personnel Service Account—State

Appropriation . . . . . ~~(\$3,290,000)~~

\$3,263,000

TOTAL APPROPRIATION . . . . . ~~(\$9,548,000)~~

\$8,815,000

The appropriations in this section are subject to the following conditions and limitations: \$50,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for implementation of Engrossed Substitute Senate Bill No. 6726 (language access provider bargaining).

**Sec. 151.** 2010 c 3 s 112 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION**

General Fund—State Appropriation (FY 2010) . . . . . \$1,371,000



General Fund—State Appropriation (FY 2011) . . . . .	(\$1,349,000)
	\$1,382,000
General Fund—Federal Appropriation . . . . .	(\$1,653,000)
	\$2,293,000
General Fund—Private/Local Appropriation . . . . .	\$14,000
TOTAL APPROPRIATION . . . . .	(\$4,387,000)
	\$5,060,000

The appropriations in this section are subject to the following conditions and limitations: \$44,000 of the general fund—state appropriation for fiscal year 2011 is provided for implementation of Substitute House Bill No. 2704 (Washington main street program). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 152.** 2010 c 3 s 113 (uncodified) is amended to read as follows:

**FOR THE GROWTH MANAGEMENT HEARINGS BOARD**

General Fund—State Appropriation (FY 2010) . . . . .	(\$1,623,000)
	\$1,642,000
General Fund—State Appropriation (FY 2011) . . . . .	(\$1,549,000)
	\$1,424,000
TOTAL APPROPRIATION . . . . .	(\$3,172,000)
	\$3,066,000

The appropriations in this section are subject to the following conditions and limitations: \$13,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for Substitute House Bill No. 2935 (hearings boards/ environment and land use). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 153.** 2009 c 564 s 155 (uncodified) is amended to read as follows:

**FOR THE STATE CONVENTION AND TRADE CENTER**

State Convention and Trade Center Account—State	
Appropriation . . . . .	\$60,127,000
State Convention and Trade Center Operating	
Account—State Appropriation . . . . .	(\$56,995,000)
	\$56,694,000
TOTAL APPROPRIATION . . . . .	(\$117,122,000)
	\$116,821,000

**PART II  
HUMAN SERVICES**

**\*Sec. 201.** 2009 c 564 s 201 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES.**

(1) Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in this act, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act.

(4) The department is authorized to develop an integrated health care program designed to slow the progression of illness and disability and better manage medicaid expenditures for the aged and disabled population. Under this Washington medicaid integration partnership (WMIP), the department may combine and transfer such medicaid funds appropriated under sections 204, 206, 208, and 209 of this act as may be necessary to finance a unified health care plan for the WMIP program enrollment. The WMIP pilot projects shall not exceed a daily enrollment of 6,000 persons, nor expand beyond one county, during the 2009-2011 biennium. The amount of funding assigned to the pilot projects from each program may not exceed the average per capita cost assumed in this act for individuals covered by that program, actuarially adjusted for the health condition of persons enrolled in the pilot project, times the number of clients enrolled in the pilot project. In implementing the WMIP pilot projects, the department may: (a) Withhold from calculations of "available resources" as set forth in RCW 71.24.025 a sum equal to the capitated rate for individuals enrolled in the pilots; and (b) employ capitation financing and risk-sharing arrangements in collaboration with health care service contractors licensed by the office of the insurance commissioner and qualified to participate in both the medicaid and medicare programs. The department shall conduct an evaluation of the WMIP, measuring changes in participant health outcomes, changes in patterns of service utilization, participant satisfaction, participant access to services, and the state fiscal impact.

(5)(a) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act. However, after May 1, 2010, unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 2010 among programs after approval by the director of financial management. However, the department shall not transfer state moneys that are provided solely for a specified purpose except as expressly provided in (b) of this subsection.

(b) To the extent that transfers under (a) of this subsection are insufficient to fund actual expenditures in excess of fiscal year 2010 caseload forecasts and utilization assumptions in the medical assistance, long-term care, foster care, adoptions support, and child support programs, the department may transfer state

moneys that are provided solely for a specified purpose. The department shall not transfer funds, and the director of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing seven days prior to approving any allotment modifications or transfers under this subsection. The written notification shall include a narrative explanation and justification of the changes, along with expenditures and allotments by budget unit and appropriation, both before and after any allotment modifications or transfers.

(6) The legislature finds that medicaid payment rates, as calculated by the department pursuant to the appropriations in this act, bear a reasonable relationship to the costs incurred by efficiently and economically operated facilities for providing quality services and will be sufficient to enlist enough providers so that care and services are available to the extent that such care and services are available to the general population in the geographic area. The legislature finds that cost reports, payment data from the federal government, historical utilization, economic data, and clinical input constitute reliable data upon which to determine the payment rates.

(7) With the objective of improving and enhancing the efficiency and effectiveness of the audit and oversight program, the department shall identify streamlining opportunities in the areas described in (a) through (d) of this subsection. The goals of these activities are to leverage department resources to better fulfill the obligations of all aspects of audit and oversight programs in an era of resource constraints and to assure that the burden of audits and other oversight activities on the state's businesses, organizations, and individuals is as minimal as practical.

(a) The department shall complete an assessment of expanding the use of technology and automated data matches for identification and recovery of third party resources, including data matches with pharmacy benefit managers (PBM). The department shall submit a report to the governor and the relevant fiscal and policy committees of the legislature by September 1, 2010, that identifies resources needed to implement the enhanced data matching capability and the actions and timelines necessary for implementation of automated production data matching capability.

(b) The department shall complete a comprehensive review of multiple licensing and certification reviews, onsite surveys, and contract oversight obligations that require provider site visits or require provider response. The department shall identify all related oversight and review activities and identify opportunities for consolidation of multiple clinical and business management review activities as appropriate with a view to minimizing the cost of both conducting and receiving the audits or other review or oversight activities.

(c) The department shall expand its provider audit capacity through its provider one payment system. The department shall identify medicaid payment system enhancements that will maximize new technical capabilities. The department shall explore new technical capabilities of its fraud and abuse detection system to identify more efficient ways to correlate audit efforts to the levels of risk and materiality. Results of focused audits must be used to

enhance educational materials. The department shall report to the governor and legislature by December 1, 2010, on the status of developing this audit capacity.

(d) The department shall conduct a review and assessment of audit processes and timeframes. The department shall review audit outcomes from the past three fiscal years and will concentrate on identifying opportunities to shorten timeframes between the various stages of an audit, including the letter of intent to audit, records collection to issuance of the draft audit, dispute resolution activities, issuance of the final audit, and administrative hearings. The department shall initiate a provider outreach and education program to include communication materials that clearly identify expectations of the department and the provider being audited. The department must develop and publish an orientation to medicaid audits publication by October 1, 2010, that includes audit requirements, expectations of providers and the department, and associated timelines. The department shall report to the governor and relevant policy and fiscal committees of the legislature by December 1, 2010, on the status of these activities.

\*Sec. 201 was partially vetoed. See message at end of chapter.

Sec. 202. 2010 c 3 s 201 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
CHILDREN AND FAMILY SERVICES PROGRAM**

General Fund—State Appropriation (FY 2010) . . . . .	(\$314,698,000)	
		\$315,002,000
General Fund—State Appropriation (FY 2011) . . . . .	(\$316,181,000)	
		\$306,947,000
General Fund—Federal Appropriation . . . . .	(\$494,889,000)	
		\$506,248,000
General Fund—Private/Local Appropriation . . . . .	(\$828,000)	
		\$3,320,000
Home Security Fund Appropriation . . . . .	(\$8,389,000)	
		\$10,183,000
Domestic Violence Prevention Account—State Appropriation . . . . .		\$1,154,000
Education Legacy Trust Account—State Appropriation . . . . .		\$725,000
TOTAL APPROPRIATION . . . . .	(\$1,136,864,000)	\$1,143,579,000

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

(1) ~~(\$5,563,000 of the general fund—state appropriation for fiscal year 2010 and \$5,563,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for intensive family preservation services as defined in RCW 74.14C.010 and for evidence based services that prevent out of home placement and reduce length of stay in the child welfare system.~~

(2) ~~(\$993,000)~~ \$937,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$993,000)~~ \$742,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to ~~(seventeen)~~ thirteen children through two years of age. Seventy-five percent of

the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility shall also provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

~~((3))~~ ~~\$375,000~~) (2) \$369,000 of the general fund—state appropriation for fiscal year 2010, ~~((375,000))~~ \$366,000 of the general fund—state appropriation for fiscal year 2011, and ~~((322,000))~~ \$316,000 of the general fund—federal appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

~~((4))~~ (3) \$2,500,000 of the general fund—state appropriation for fiscal year 2010 and ~~((2,500,000))~~ \$93,000 of the general fund—state appropriation for fiscal year 2011, and \$2,407,000 of the home security fund—state appropriation are provided solely for secure crisis residential centers. Within appropriated amounts, the department shall collaborate with providers to maintain no less than forty-five beds that are geographically representative of the state. The department shall examine current secure crisis residential staffing requirements, flexible payment options, center specific waivers, and other appropriate methods to accomplish this outcome.

~~((5))~~ (4) A maximum of ~~((76,831,000))~~ \$73,209,000 of the general fund—state appropriations and ~~((56,901,000))~~ \$54,596,000 of the general fund—federal appropriations for the 2009-11 biennium shall be expended for behavioral rehabilitative services and these amounts are provided solely for this purpose. The department shall work with behavioral rehabilitative service providers to safely keep youth with emotional, behavioral, or medical needs at home, with relatives, or with other permanent placement resources and decrease the length of ~~((stay))~~ service through improved emotional, behavioral, or medical outcomes for children in behavioral rehabilitative services in order to achieve the appropriated levels.

(a) Contracted providers shall act in good faith and accept the hardest to ~~((place))~~ serve children, to the greatest extent possible, in order to improve their emotional, behavioral, or medical conditions.

(b) The department and the contracted provider shall mutually agree and establish an exit date for when the child is to exit the behavioral rehabilitative service provider. The department and the contracted provider should mutually agree, to the greatest extent possible, on a viable placement for the child to go to once the child's treatment process has been completed. The child shall exit only when the emotional, behavioral, or medical condition has improved or if the provider has not shown progress toward the outcomes specified in the signed contract at the time of exit. This subsection (b) does not prevent or eliminate the

department's responsibility for removing the child from the provider if the child's emotional, behavioral, or medical condition worsens or is threatened.

(c) The department is encouraged to use performance-based contracts with incentives directly tied to outcomes described in this section. The contracts should incentivize contracted providers to accept the hardest to ~~((place))~~ serve children and incentivize improvement in children's emotional, mental, and medical well-being within the established exit date. The department is further encouraged to increase the use of behavioral rehabilitative service group homes, wrap around services to facilitate and support placement of youth at home with relatives, or other permanent resources, and other means to control expenditures.

(d) The total foster care per capita amount shall not increase more than four percent in the 2009-11 biennium and shall not include behavioral rehabilitative service.

~~((6))~~ (5) Within amounts provided for the foster care and adoption support programs, the department shall control reimbursement decisions for foster care and adoption support cases such that the aggregate average cost per case for foster care and for adoption support does not exceed the amounts assumed in the projected caseload expenditures.

~~((7) Within amounts appropriated in this section.)~~ (6) \$14,460,000 of the general fund—state appropriation for fiscal year 2011 and \$6,231,000 of the general fund—federal appropriation are provided solely for the department to provide contracted prevention and early intervention services. The legislature recognizes the need for flexibility as the department transitions to performance-based contracts. The following services are included in the prevention and early intervention block grant: Crisis family intervention services, family preservation services, intensive family preservation services, evidence-based programs, public health nurses, and early family support services. The legislature intends for the department to maintain and build on existing evidence-based and research-based programs with the goal of utilizing contracted prevention and intervention services to keep children safe at home and to safely reunify families. Priority shall be given to proven intervention models, including evidence-based prevention and early intervention programs identified by the Washington state institute for public policy and the department. The department shall include information on the number, type, and outcomes of the evidence-based programs being implemented in its reports on child welfare reform efforts and shall provide the legislature and governor a report regarding the allocation of resources in this subsection by September 30, 2010. The department shall expend federal funds under this subsection in compliance with federal regulations.

~~((8) \$37,000)~~ (7) \$36,000 of the general fund—state appropriation for fiscal year 2010, ~~((37,000))~~ \$36,000 of the general fund—state appropriation for fiscal year 2011, and ~~((32,000))~~ \$31,000 of the general fund—federal appropriation are provided solely for the implementation of chapter 465, Laws of 2007 (child welfare).

~~((9))~~ (8) \$125,000 of the general fund—state appropriation for fiscal year 2010 and \$125,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for continuum of care services. \$100,000 of this amount is for Casey family partners and \$25,000 of this amount is for volunteers of America crosswalk in fiscal year 2010. \$100,000 of this amount is for Casey

family partners and \$25,000 of this amount is for volunteers of America crosswalk in fiscal year 2011.

~~((+10) \$616,000))~~ (9) \$1,904,000 of the general fund—state appropriation for fiscal year 2010, ~~((+616,000))~~ \$1,832,000 of the general fund—state appropriation for fiscal year 2011, and ~~((+368,000))~~ \$357,000 of the general fund—federal appropriation are provided solely to contract with medical professionals for comprehensive safety assessments of high-risk families and for foster care assessments. The safety assessments will use validated assessment tools to guide intervention decisions through the identification of additional safety and risk factors. ~~((+800,000 of this amount is for))~~ The department will maintain the availability of comprehensive foster care assessments and follow up services for children in out-of-home care who do not have permanent plans, comprehensive safety assessments for families receiving in-home child protective services or family voluntary services ~~((+800,000 of this amount is for))~~, and comprehensive safety assessments ~~((+))~~ for families with an infant age birth to fifteen days where the infant was, at birth, diagnosed as substance exposed and the department received an intake referral related to the infant due to the substance exposure. The department must consolidate contracts, streamline administration, and explore efficiencies to achieve savings.

~~((+11) \$7,970,000))~~ (10) \$7,679,000 of the general fund—state appropriation for fiscal year 2010, ~~((+7,711,000))~~ \$6,643,000 of the general fund—state appropriation for fiscal year 2011, and ~~((+5,177,000))~~ \$4,971,000 of the general fund—federal appropriation are provided solely for court-ordered supervised visits between parents and dependent children and for sibling visits. The department shall work collaboratively with the juvenile dependency courts and revise the supervised visit reimbursement procedures to stay within appropriations without impeding reunification outcomes between parents and dependent children. The department shall report to the legislative fiscal committees ~~((quarterly))~~ on September 30, 2010, and December 30, 2010, the number of children in foster care who receive supervised visits, their frequency, length of time of each visit, and whether reunification is attained.

~~((+12) \$1,789,000))~~ (11) \$145,000 of the general fund—state appropriation for fiscal year 2010, \$871,000 of the general fund—state appropriation for fiscal year 2011, and \$773,000 of the home security fund—state appropriation is provided solely for street youth program services.

~~((+13) \$1,584,000))~~ (12) \$1,522,000 of the general fund—state appropriation for fiscal year 2010, ~~((+1,584,000))~~ \$1,340,000 of the general fund—state appropriation for fiscal year 2011, and ~~((+1,586,000))~~ \$1,464,000 of the general fund—federal appropriation are provided solely for the department to recruit foster parents. The recruitment efforts shall include collaborating with community-based organizations and current or former foster parents to recruit foster parents.

~~((+14))~~ (13) \$493,000 of the general fund—state appropriation for fiscal year 2010, \$303,000 of the general fund—state appropriation for fiscal year 2011, \$466,000 of the general fund—private/local appropriation, and \$725,000 of the education legacy trust account—state appropriation ~~((is))~~ are provided solely for children's administration to contract with an educational advocacy provider with expertise in foster care educational outreach. Funding is provided solely for contracted education coordinators to assist foster children in

succeeding in K-12 and higher education systems. Funding shall be prioritized to regions with high numbers of foster care youth and/or regions where backlogs of youth that have formerly requested educational outreach services exist. The department shall utilize private matching funds to maintain educational advocacy services.

~~((15) \$1,300,000)~~ (14) \$1,677,000 of the home security fund account—state appropriation is provided solely for HOPE beds.

~~((16) \$5,300,000)~~ (15) \$5,193,000 of the home security fund account—state appropriation is provided solely for the crisis residential centers.

~~((17))~~ (16) The appropriations in this section reflect reductions in the appropriations for the children's administration administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

~~((18))~~ (17) Within the amounts appropriated in this section, the department shall contract for a pilot project with family and community networks in Whatcom county and up to four additional counties to provide services. The pilot project shall be designed to provide a continuum of services that reduce out-of-home placements and the lengths of stay for children in out-of-home placement. The department and the community networks shall collaboratively select the additional counties for the pilot project and shall collaboratively design the contract. Within the framework of the pilot project, the contract shall seek to maximize federal funds. The pilot project in each county shall include the creation of advisory and management teams which include members from neighborhood-based family advisory committees, residents, parents, youth, providers, and local and regional department staff. The Whatcom county team shall facilitate the development of outcome-based protocols and policies for the pilot project and develop a structure to oversee, monitor, and evaluate the results of the pilot projects. The department shall report the costs and savings of the pilot project to the appropriate committees of the legislature by November 1 of each year.

~~((19))~~ (18) \$157,000 of the general fund—state appropriation for fiscal year 2010 and \$157,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the department to contract with a nonprofit entity for a reunification pilot project in Whatcom and Skagit counties. The contract for the reunification pilot project shall include a rate of \$46.16 per hour for evidence-based interventions, in combination with supervised visits, to provide 3,564 hours of services to reduce the length of stay for children in the child welfare system. The contract shall also include evidence-based intensive parenting skills building services and family support case management services for 38 families participating in the reunification pilot project. The contract shall include the flexibility for the nonprofit entity to subcontract with trained providers.

~~((20))~~ (19) \$303,000 of the general fund—state appropriation for fiscal year 2010, \$418,000 of the general fund—state appropriation for fiscal year 2011, and \$257,000 of the general fund—federal appropriation are provided solely to implement Engrossed Substitute House Bill No. 1961 (increasing adoptions act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.



~~((21) \$100,000)~~ (20) \$98,000 of the general fund—state appropriation for fiscal year 2010 and ~~((100,000))~~ \$98,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the department to contract with an agency that is working in partnership with, and has been evaluated by, the University of Washington school of social work to implement promising practice constellation hub models of foster care support.

~~((22))~~ (21) The legislature intends for the department to reduce the time a child remains in the child welfare system. The department shall establish a measurable goal and report progress toward meeting that goal to the legislature by January 15 of each fiscal year of the 2009-11 fiscal biennium. To the extent that actual caseloads exceed those assumed in this section, it is the intent of the legislature to address those issues in a manner similar to all other caseload programs.

(22) \$715,000 of the general fund—state appropriation for fiscal year 2010 and \$715,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for services provided through children's advocacy centers.

(23) \$11,000 of the general fund—state appropriation for fiscal year 2011 and \$3,000 of the general fund—federal appropriation are provided solely for implementation of chapter 224, Laws of 2010 (confinement alternatives). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(24) \$1,867,000 of the general fund—state appropriation for fiscal year 2010, \$1,790,000 of the general fund—state appropriation for fiscal year 2011, and \$4,673,000 of the general fund—federal appropriation are provided solely for the department to contract for medicaid treatment child care (MTCC) services. Children's administration case workers, local public health nurses and case workers from the temporary assistance for needy families program shall refer children to MTCC services, as long as the children meet the eligibility requirements as outlined in the Washington state plan for the MTCC services.

(25) The department shall contract for at least one pilot project with adolescent services providers to deliver a continuum of short-term crisis stabilization services. The pilot project shall include adolescent services provided through secure crisis residential centers, crisis residential centers, and hope beds. The department shall work with adolescent service providers to maintain availability of adolescent services and maintain the delivery of services in a geographically representative manner. The department shall examine current staffing requirements, flexible payment options, center-specific licensing waivers, and other appropriate methods to achieve savings and streamline the delivery of services. The legislature intends for the pilot project to provide flexibility to the department to improve outcomes and to achieve more efficient utilization of existing resources, while meeting the statutory goals of the adolescent services programs. The department shall provide an update to the appropriate legislative committees and governor on the status of the pilot project implementation by December 1, 2010.

(26) To ensure expenditures remain within available funds appropriated in this section as required by RCW 74.13A.005 and 74.13A.020, the secretary shall not set the amount of any adoption assistance payment or payments, made pursuant to RCW 26.33.320 and 74.13A.005 through 74.13A.080, to more than ninety percent of the foster care maintenance payment for that child had he or

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she remained in a foster family home during the same period. This subsection does not apply to adoption assistance agreements in existence on the effective date of this section.

(27) Receipts from fees per chapter 289, Laws of 2010, as deposited into the prostitution prevention and intervention account for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs shall be used to expand capacity for secure crisis residential centers and not supplant existing funding.

**Sec. 203.** 2010 c 3 s 202 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
JUVENILE REHABILITATION PROGRAM**

General Fund—State Appropriation (FY 2010) . . . . .	(\$104,185,000)
	<u>\$103,437,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$92,392,000)
	<u>\$97,761,000</u>
General Fund—Federal Appropriation . . . . .	(\$6,565,000)
	<u>\$1,715,000</u>
General Fund—Private/Local Appropriation . . . . .	(\$1,900,000)
	<u>\$1,899,000</u>
Washington Auto Theft Prevention Authority Account—	
State Appropriation . . . . .	\$3,896,000
Juvenile Accountability Incentive Account—Federal	
Appropriation . . . . .	(\$2,801,000)
	<u>\$2,805,000</u>
<u>State Efficiency and Restructuring Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$4,958,000</u>
TOTAL APPROPRIATION . . . . .	(\$211,739,000)
	<u>\$216,471,000</u>

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

(1) \$353,000 of the general fund—state appropriation for fiscal year 2010 and \$353,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for deposit in the county criminal justice assistance account for costs to the criminal justice system associated with the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county adult court costs associated with the implementation of chapter 338, Laws of 1997 and shall be distributed in accordance with RCW 82.14.310.

(2) (~~(\$3,578,000)~~) \$3,408,000 of the general fund—state appropriation for fiscal year 2010 and (~~(\$3,578,000)~~) \$2,898,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 338, Laws of 1997 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

(3) \$3,716,000 of the general fund—state appropriation for fiscal year 2010 and \$3,716,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile code revisions). Funds provided in this subsection may be used solely for community juvenile accountability grants, administration of the grants, and evaluations of programs funded by the grants.

(4) ~~(\$1,506,000)~~ \$1,427,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$1,506,000)~~ \$1,206,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to implement alcohol and substance abuse treatment programs for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that submitted a plan for the provision of services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

(5) \$3,066,000 of the general fund—state appropriation for fiscal year 2010 and \$3,066,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for grants to county juvenile courts for the following programs identified by the Washington state institute for public policy (institute) in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Functional family therapy, multi-systemic therapy, aggression replacement training and interagency coordination programs, or other programs with a positive benefit-cost finding in the institute's report. County juvenile courts shall apply to the juvenile rehabilitation administration for funding for program-specific participation and the administration shall provide grants to the courts consistent with the per-participant treatment costs identified by the institute.

(6) \$1,287,000 of the general fund—state appropriation for fiscal year 2010 and \$1,287,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for expansion of the following treatments and therapies in juvenile rehabilitation administration programs identified by the Washington state institute for public policy in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Multidimensional treatment foster care, family integrated transitions, and aggression replacement training. The administration may concentrate delivery of these treatments and therapies at a limited number of programs to deliver the treatments in a cost-effective manner.

(7)(a) ~~(For the fiscal year ending June 30, 2010, the juvenile rehabilitation administration shall administer a block grant, rather than categorical funding, of consolidated juvenile service funds, community juvenile accountability act grants, the chemical dependency disposition alternative funds, the special sex offender disposition alternative funds, the mental health disposition alternative, sentencing disposition alternative, and evidence-based program expansion grants to juvenile courts for the purpose of serving youth adjudicated in the juvenile justice system. Evidence-based programs, based on the criteria established by the Washington state institute for public policy, and disposition alternatives will be funding priorities. Funds may be used for promising practices when approved by juvenile rehabilitation administration, based on~~

~~criteria established in consultation with Washington state institute for public policy and the juvenile courts.~~

~~By September 1, 2009, a committee with four members, in consultation with Washington state institute for public policy, shall develop a funding formula that takes into account the juvenile courts average daily population of program eligible youth in conjunction with the number of youth served in each approved evidence-based program or disposition alternative. The committee shall have one representative from the juvenile rehabilitation administration, one representative from the office of financial management, one representative from the office of the administrator of the courts, and one representative from the juvenile courts. Decision making will be by majority rule.~~

~~By September 1, 2010, the Washington state institute for public policy shall provide a report to the office of financial management and the legislature on the administration of the block grant authorized in this subsection. The report shall include the criteria used for allocating the funding as a block grant and the participation targets and actual participation in the programs subject to the block grant.~~

~~(b) By December 1, 2009, the committee established in (a) of this subsection, in consultation with Washington state institute for public policy, shall propose to the office of financial management and the legislature changes in the process of funding and managing, including accountability and information collection and dissemination, grants to juvenile courts for serving youth adjudicated in the juvenile court system use in the fiscal year ending June 30, 2011. The proposal shall include, but is not limited to: A process of making a block grant of funds consistent with (a) of this subsection; a program of data collection and measurement criteria for receiving the funds which will include targets of the number of youth served in identified evidence-based programs and disposition alternatives in which the juvenile courts and office of the administrator of the courts will have responsibility for collecting and distributing information and providing access to the data systems to the juvenile rehabilitation administration and the Washington state institute for public policy related to program and outcome data; and necessary changes to the Washington administrative code.~~

~~(c) Within the funds provided for criminal justice analysis in section 610(4) of this act, the Washington state institute for public policy shall conduct an analysis of the costs per participant of evidence-based programs by the juvenile courts and by December 1, 2009, shall report the results of this analysis to the juvenile rehabilitation administration, the juvenile courts, office of the administrator of the courts, the office of financial management, and the fiscal committees of the legislature)) For the fiscal year ending June 30, 2011, the juvenile rehabilitation administration shall administer a block grant, rather than categorical funding, of consolidated juvenile service funds, community juvenile accountability act grants, the chemical dependency disposition alternative funds, the mental health disposition alternative, and the sentencing disposition alternative for the purpose of serving youth adjudicated in the juvenile justice system. In making the block grant, the juvenile rehabilitation administration shall follow the following formula and will prioritize evidence-based programs and disposition alternatives and take into account juvenile courts program-eligible youth in conjunction with the number of youth served in each approved~~

evidence-based program or disposition alternative: (i) Thirty-seven and one-half percent for the at-risk population of youth ten to seventeen years old; (ii) fifteen percent for moderate and high-risk youth; (iii) twenty-five percent for evidence-based program participation; (iv) seventeen and one-half percent for minority populations; (v) three percent for the chemical dependency disposition alternative; and (vi) two percent for the mental health and sentencing dispositional alternatives. Funding for the special sex offender disposition alternative (SSODA) shall not be included in the block grant, but allocated on the average daily population in juvenile courts. Funding for the evidence-based expansion grants shall be excluded from the block grant formula. Funds may be used for promising practices when approved by the juvenile rehabilitation administration and juvenile courts, through the community juvenile accountability act committee, based on the criteria established in consultation with Washington state institute for public policy and the juvenile courts.

(b) It is the intent of the legislature that the juvenile rehabilitation administration phase the implementation of the formula provided in subsection (1) of this section by including a stop-loss formula of three percent in fiscal year 2011, five percent in fiscal year 2012, and five percent in fiscal year 2013. It is further the intent of the legislature that the evidence-based expansion grants be incorporated into the block grant formula by fiscal year 2013 and SSODA remain separate unless changes would result in increasing the cost benefit savings to the state as identified in (c) of this subsection.

(c) The juvenile rehabilitation administration and the juvenile courts shall establish a block grant funding formula oversight committee with equal representation from the juvenile rehabilitation administration and the juvenile courts. The purpose of this committee is to assess the ongoing implementation of the block grant funding formula, utilizing data-driven decision making and the most current available information. The committee will be cochaired by the juvenile rehabilitation administration and the juvenile courts, who will also have the ability to change members of the committee as needed to achieve its purpose. Initial members will include one juvenile court representative from the finance committee, the community juvenile accountability act committee, the risk assessment quality assurance committee, the executive board of the Washington association of juvenile court administrators, the Washington state center for court research, and a representative of the superior court judges association; two representatives from the juvenile rehabilitation administration headquarters program oversight staff, two representatives of the juvenile rehabilitation administration regional office staff, one representative of the juvenile rehabilitation administration fiscal staff and a juvenile rehabilitation administration division director. The committee may make changes to the formula categories other than the evidence-based program and disposition alternative categories if it is determined the changes will increase statewide service delivery or effectiveness of evidence-based program or disposition alternative resulting in increased cost benefit savings to the state. Long-term cost benefit must be considered. Percentage changes may occur in the evidence-based program or disposition alternative categories of the formula should it be determined the changes will increase evidence-based program or disposition alternative delivery and increase the cost benefit to the state. These outcomes will also be considered in determining when evidence-based expansion or

special sex offender disposition alternative funds should be included in the block grant or left separate.

(d) The juvenile courts and administrative office of the courts shall be responsible for collecting and distributing information and providing access to the data systems to the juvenile rehabilitation administration and the Washington state institute for public policy related to program and outcome data. The juvenile rehabilitation administration and the juvenile courts will work collaboratively to develop program outcomes that reinforce the greatest cost benefit to the state in the implementation of evidence-based practices and disposition alternatives.

(e) By December 1, 2010, the Washington state institute for public policy shall report to the office of financial management and appropriate committees of the legislature on the administration of the block grant authorized in this subsection. The report shall include the criteria used for allocating the funding as a block grant and the participation targets and actual participation in the programs subject to the block grant.

(8) \$3,700,000 of the Washington auto theft prevention authority account—state appropriation is provided solely for competitive grants to community-based organizations to provide at-risk youth intervention services, including but not limited to, case management, employment services, educational services, and street outreach intervention programs. Projects funded should focus on preventing, intervening, and suppressing behavioral problems and violence while linking at-risk youth to pro-social activities. The department may not expend more than \$1,850,000 per fiscal year. The costs of administration must not exceed four percent of appropriated funding for each grant recipient. Each entity receiving funds must report to the juvenile rehabilitation administration on the number and types of youth served, the services provided, and the impact of those services upon the youth and the community.

(9) The appropriations in this section assume savings associated with the transfer of youthful offenders age eighteen or older whose sentences extend beyond age twenty-one to the department of corrections to complete their sentences. Prior to transferring an offender to the department of corrections, the juvenile rehabilitation administration shall evaluate the offender to determine the offender's physical and emotional suitability for transfer.

\*Sec. 204. 2010 c 3 s 203 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
MENTAL HEALTH PROGRAM**

(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

General Fund—State Appropriation (FY 2010) . . . . .	(\$266,677,000)	
		\$273,648,000
General Fund—State Appropriation (FY 2011) . . . . .	(\$296,619,000)	
		\$278,530,000
General Fund—Federal Appropriation . . . . .	(\$463,180,000)	
		\$519,456,000
General Fund—Private/Local Appropriation . . . . .	(\$14,868,000)	
		\$16,674,000
<u>Hospital Safety Net Assessment Fund—State</u>		
<u>Appropriation . . . . .</u>		\$3,476,000

TOTAL APPROPRIATION . . . . . ~~(\$1,041,344,000)~~  
\$1,091,784,000

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

(a) \$113,689,000 of the general fund—state appropriation for fiscal year 2010 and \$113,689,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for persons and services not covered by the medicaid program. This is a reduction of \$11,606,000 each fiscal year from the nonmedicaid funding that was allocated for expenditure by regional support networks during fiscal year 2009 prior to supplemental budget reductions. This \$11,606,000 reduction shall be distributed among regional support networks proportional to each network's share of the total state population. To the extent possible, levels of regional support network spending shall be maintained in the following priority order: (i) Crisis and commitment services; (ii) community inpatient services; and (iii) residential care services, including personal care and emergency housing assistance.

(b) ~~(\$16,900,000)~~ \$10,400,000 of the general fund—state appropriation for fiscal year 2010 ~~(and \$16,900,000)~~, \$9,100,000 of the general fund—state appropriation for fiscal year 2011, and \$1,300,000 of the general fund—federal appropriation are provided solely for the department and regional support networks to contract for implementation of high-intensity program for active community treatment (PACT) teams ~~(, and other proven program approaches that the department concurs will enable the regional support network to achieve significant reductions in the number of beds the regional support network would otherwise need to use at the state hospitals)~~. The department shall work with regional support networks and the center for medicare and medicaid services to integrate eligible components of the PACT service delivery model into medicaid capitation rates no later than January 2011, while maintaining consistency with all essential elements of the PACT evidence-based practice model.

(c) \$6,500,000 of the general fund—state appropriation for fiscal year 2010 and \$6,500,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the western Washington regional support networks to provide either community- or hospital campus-based services for persons who require the level of care provided by the program for adaptive living skills (PALS) at western state hospital.

(d) The number of nonforensic beds allocated for use by regional support networks at eastern state hospital shall be 192 per day. The number of nonforensic beds allocated for use by regional support networks at western state hospital shall be 617 per day during the first quarter of fiscal year 2010, and 587 per day thereafter. Beds in the program for adaptive living skills (PALS) are not included in the preceding bed allocations. The department shall separately charge regional support networks for persons served in the PALS program.

~~((+))~~ (e) From the general fund—state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and disability services administration for the general fund—state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

~~((e))~~ (f) \$4,582,000 of the general fund—state appropriation for fiscal year 2010 and \$4,582,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for mental health services for mentally ill offenders while confined in a county or city jail and for facilitating access to programs that offer mental health services upon release from confinement.

~~((f))~~ (g) The department is authorized to continue to contract directly, rather than through contracts with regional support networks, for children's long-term inpatient facility services.

~~((g))~~ (h) \$750,000 of the general fund—state appropriation for fiscal year 2010 and \$750,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to continue performance-based incentive contracts to provide appropriate community support services for individuals with severe mental illness who were discharged from the state hospitals as part of the expanding community services initiative. These funds will be used to enhance community residential and support services provided by regional support networks through other state and federal funding.

~~((h))~~ (i) \$1,500,000 of the general fund—state appropriation for fiscal year 2010 and \$1,500,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the Spokane regional support network to implement services to reduce utilization and the census at eastern state hospital. Such services shall include:

(i) High intensity treatment team for persons who are high utilizers of psychiatric inpatient services, including those with co-occurring disorders and other special needs;

(ii) Crisis outreach and diversion services to stabilize in the community individuals in crisis who are at risk of requiring inpatient care or jail services;

(iii) Mental health services provided in nursing facilities to individuals with dementia, and consultation to facility staff treating those individuals; and

(iv) Services at the sixteen-bed evaluation and treatment facility.

At least annually, the Spokane regional support network shall assess the effectiveness of these services in reducing utilization at eastern state hospital, identify services that are not optimally effective, and modify those services to improve their effectiveness.

~~((i))~~ (j) The department shall return to the Spokane regional support network fifty percent of the amounts assessed against the network during the last six months of calendar year 2009 for state hospital utilization in excess of its contractual limit. The regional support network shall use these funds for operation during its initial months of a new sixteen-bed evaluation and treatment facility that will enable the network to reduce its use of the state hospital, and for diversion and community support services for persons with dementia who would likely otherwise require care at the state hospital.

~~((j))~~ (k) The department is directed to identify and implement program efficiencies and benefit changes in its delivery of medicaid managed-care services that are sufficient to operate within the state and federal appropriations in this section. Such actions may include but are not limited to methods such as adjusting the care access standards; improved utilization management of ongoing, recurring, and high-intensity services; and increased uniformity in provider payment rates. The department shall ensure that the capitation rate adjustments necessary to accomplish these efficiencies and changes are



distributed uniformly and equitably across all regional support networks statewide. The department is directed to report to the relevant legislative fiscal and policy committees at least thirty days prior to implementing rate adjustments reflecting these changes.

~~((k))~~ (l) In developing the new medicaid managed care rates under which the public mental health managed care system will operate during the five years beginning in fiscal year 2011, the department should seek to estimate the reasonable and necessary cost of efficiently and effectively providing a comparable set of medically necessary mental health benefits to persons of different acuity levels regardless of where in the state they live. Actual prior period spending in a regional administrative area shall not be a key determinant of future payment rates. The department shall report to the office of financial management and to the relevant fiscal and policy committees of the legislature on its proposed new waiver and mental health managed care rate-setting approach by October 1, 2009, and again at least sixty days prior to implementation of new capitation rates.

(m) In implementing the new public mental health managed care payment rates for fiscal year 2011, the department shall to the maximum extent possible within each regional support network's allowable rate range establish rates so that there is no increase or decrease in the total state and federal funding that the regional support network would receive if it were to continue to be paid at its October 2009 through June 2010 rates. The department shall additionally revise the draft rates issued January 28, 2010, to more accurately reflect the lower practitioner productivity inherent in the delivery of services in extremely rural regions in which a majority of the population reside in frontier counties, as defined and designated by the national center for frontier communities.

~~((h))~~ (n) \$1,529,000 of the general fund—state appropriation for fiscal year 2010 and \$1,529,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to reimburse Pierce and Spokane counties for the cost of conducting 180-day commitment hearings at the state psychiatric hospitals.

~~((m))~~ (o) The legislature intends and expects that regional support networks and contracted community mental health agencies shall make all possible efforts to, at a minimum, maintain current compensation levels of direct care staff. Such efforts shall include, but not be limited to, identifying local funding that can preserve client services and staff compensation, achieving administrative reductions at the regional support network level, and engaging stakeholders on cost-savings ideas that maintain client services and staff compensation. For purposes of this section, "direct care staff" means persons employed by community mental health agencies whose primary responsibility is providing direct treatment and support to people with mental illness, or whose primary responsibility is providing direct support to such staff in areas such as client scheduling, client intake, client reception, client records-keeping, and facilities maintenance.

(p) Regional support networks may use local funds to earn additional federal medicaid match, provided the locally matched rate does not exceed the upper-bound of their federally allowable rate range, and provided that the enhanced funding is used only to provide medicaid state plan or waiver services to medicaid clients. Additionally, regional support networks may use a portion of the state funds allocated in accordance with (a) of this subsection to earn

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additional medicaid match, but only to the extent that the application of such funds to medicaid services does not diminish the level of crisis and commitment, community inpatient, residential care, and outpatient services presently available to persons not eligible for medicaid.

<b>(2) INSTITUTIONAL SERVICES</b>	
General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$120,637,000)</del>
	<u>\$119,423,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$124,995,000)</del>
	<u>\$123,012,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$151,160,000)</del>
	<u>\$153,425,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$65,868,000)</del>
	<u>\$64,614,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<del><b>(\$462,660,000)</b></del>
	<u><b>\$460,474,000</b></u>

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

(a) The state psychiatric hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) \$231,000 of the general fund—state appropriation for fiscal year 2008 and \$231,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a community partnership between western state hospital and the city of Lakewood to support community policing efforts in the Lakewood community surrounding western state hospital. The amounts provided in this subsection (2)(b) are for the salaries, benefits, supplies, and equipment for one full-time investigator, one full-time police officer, and one full-time community service officer at the city of Lakewood.

(c) \$45,000 of the general fund—state appropriation for fiscal year 2010 and \$45,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for payment to the city of Lakewood for police services provided by the city at western state hospital and adjacent areas.

(d) \$200,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for support of the psychiatric security review panel established pursuant to Senate Bill No. 6610. If Senate Bill No. 6610 is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

<b>(3) SPECIAL PROJECTS</b>	
General Fund—State Appropriation (FY 2010) . . . . .	\$1,819,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$1,812,000)</del>
	<u>\$2,092,000</u>
General Fund—Federal Appropriation . . . . .	\$2,142,000
<b>TOTAL APPROPRIATION . . . . .</b>	<del><b>(\$5,773,000)</b></del>
	<u><b>\$6,053,000</b></u>

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

(a) \$1,511,000 of the general fund—state appropriation for fiscal year 2010 and \$1,511,000 of the general fund—state appropriation for fiscal year 2011 are

provided solely for children's evidence based mental health services. Funding is sufficient to continue serving children at the same levels as fiscal year 2009.

(b) \$100,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for consultation, training, and technical assistance to regional support networks on strategies for effective service delivery in very sparsely populated counties.

(c) \$60,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the department to contract with the Washington state institute for public policy for completion of the research reviews to be conducted in accordance with chapter 263, Laws of 2010.

(d) \$60,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the department to contract with the Washington state institute for public policy for completion of the research reviews to be conducted in accordance with section 1, chapter 280, Laws of 2010.

(e) \$60,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for implementation of sections 2 and 3, chapter 280, Laws of 2010. The department shall use these funds to contract with the Washington state institute for public policy for completion of an assessment of (i) the extent to which the number of persons involuntarily committed for 3, 14, and 90 days is likely to increase as a result of the revised commitment standards; (ii) the availability of community treatment capacity to accommodate that increase; (iii) strategies for cost-effectively leveraging state, local, and private resources to increase community involuntary treatment capacity; and (iv) the extent to which increases in involuntary commitments are likely to be offset by reduced utilization of correctional facilities, publicly-funded medical care, and state psychiatric hospitalizations.

*(f) By October 1, 2010, the department shall report to the governor and appropriate committees of the legislature with (i) a report on improving services for children who are at greatest risk of requiring long-term inpatient and residential care due to the severity of their emotional impairments; and (ii) an inventory of current publicly funded efforts in Washington to identify children at risk of emotional impairments and to provide intervention before a mental disorder manifests itself. The report on improving services for children at risk of long-term care shall be developed by the division of behavioral health and recovery services in consultation with treatment specialists, regional support networks, behavioral health provider organizations, and consumer and family representatives. It shall include potential alternatives for services to children at risk of long-term, intensive mental health care and recommend specific proposals regarding program components, delivery system organization, and cost estimates. The proposals may include short and long-term alternatives to reach statewide equity in access to high-intensity services with a primary focus on children who are at risk of out-of-home placement or who are high system utilizers. Evidence-based and research-based practices shall be included as options to the extent that they provide appropriate services for children at risk of long-term, intensive mental health care. The inventory shall include, but is not limited to, activities that focus on prevention rather than solely on clinical or medical treatment and that rely on strategies such as those identified by the national academies' institute of medicine as effective in preventing childhood emotional impairments. The*

inventory shall be developed by the family policy council in consultation with public health departments, special education experts, managed health care plans, regional support networks, the University of Washington's children's mental health evidence-based practice institute, and behavioral health provider organizations.

(4) PROGRAM SUPPORT	
General Fund—State Appropriation (FY 2010) . . . . .	(( <del>\$4,077,000</del> ))
	<u>\$4,078,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(( <del>\$4,094,000</del> ))
	<u>\$4,070,000</u>
General Fund—Federal Appropriation . . . . .	(( <del>\$7,227,000</del> ))
	<u>\$7,219,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$15,398,000</del> ))
	<u>\$15,367,000</u>

The department is authorized and encouraged to continue its contract with the Washington state institute for public policy to provide a longitudinal analysis of long-term mental health outcomes as directed in chapter 334, Laws of 2001 (mental health performance audit); to build upon the evaluation of the impacts of chapter 214, Laws of 1999 (mentally ill offenders); and to assess program outcomes and cost effectiveness of the children's mental health pilot projects as required by chapter 372, Laws of 2006.

\*Sec. 204 was partially vetoed. See message at end of chapter.

\*Sec. 205. 2010 c 3 s 204 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
DEVELOPMENTAL DISABILITIES PROGRAM**

(1) COMMUNITY SERVICES

General Fund—State Appropriation (FY 2010) . . . . .	(( <del>\$311,589,000</del> ))
	<u>\$307,348,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(( <del>\$366,489,000</del> ))
	<u>\$338,299,000</u>
General Fund—Federal Appropriation . . . . .	(( <del>\$849,263,000</del> ))
	<u>\$902,900,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$1,527,341,000</del> ))
	<u>\$1,548,547,000</u>

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

(a) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b)(i) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients. In doing so, the department shall comply with all maintenance of effort requirements contained in the American reinvestment and recovery act.

(ii) \$508,000 of the general fund—state appropriation for fiscal year 2011 and \$822,000 of the general fund—federal appropriation are provided solely for the department to partially restore the reductions to in-home care that are taken in (b)(i) of this subsection. The department will use the same formula to restore personal care hours that it used to reduce personal care hours.

(c) Amounts appropriated in this section are sufficient to develop and implement the use of a consistent, statewide outcome-based vendor contract for employment and day services by April 1, 2011. The rates paid to vendors under this contract shall also be made consistent. In its description of activities the agency shall include activity listings and dollars appropriated for: Employment services, day services, child development services and county administration of services to the developmentally disabled. The department shall begin reporting to the office of financial management on these activities beginning in fiscal year 2010.

~~(d) ((\$5,593,000 of the general fund—state appropriation for fiscal year 2010, \$4,002,000 of the general fund—state appropriation for fiscal year 2011, and \$14,701,000 of the general fund—federal appropriation are provided solely for community residential and support services. Funding in this subsection shall be prioritized for (i) residents of residential habilitation centers who are able to be adequately cared for in community settings and who choose to live in those community settings; (ii) clients without residential services who are at immediate risk of institutionalization or in crisis; (iii) children who are at risk of institutionalization or who are aging out of other state services; and (iv) current home and community-based waiver program clients who have been assessed as having an immediate need for increased services. First priority shall be given to children who are at risk of institutionalization. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed \$300. In order to maximize the number of clients served and ensure the cost-effectiveness of the waiver programs, the department will strive to limit new client placement expenditures to 90 percent of the budgeted daily rate. If this can be accomplished, additional clients may be served with excess funds, provided the total projected carry-forward expenditures do not exceed the amounts estimated. The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served with these additional community services, where they were residing, what kinds of services they were receiving prior to placement, and the actual expenditures for all community services to support these clients.~~

~~(e)(i) \$493,000 of the general fund—state appropriation for fiscal year 2010, \$1,463,000 of the general fund—state appropriation for fiscal year 2011, and \$2,741,000 of the general fund—federal appropriation are provided solely for community services for persons with developmental disabilities who also have community protection issues. Funding in this subsection shall be prioritized for (A) clients being diverted or discharged from the state psychiatric hospitals; (B) clients participating in the dangerous mentally ill offender program; (C) clients participating in the community protection program; and (D) mental health crisis diversion outplacements. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed \$349 per day in fiscal year 2010 and \$356 per day in fiscal year 2011.~~

~~In order to maximize the number of clients served and ensure the cost-effectiveness of the waiver programs, the department will strive to limit new client placement expenditures to 90 percent of the budgeted daily rate. If this can be accomplished, additional clients may be served with excess funds if the total projected carry forward expenditures do not exceed the amounts estimated.~~

~~(ii) The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served with these additional community services, where they were residing, what kinds of services they were receiving prior to placement, and the actual expenditures for all community services to support these clients.~~

~~(f))~~ \$302,000 of the general fund—state appropriation for fiscal year 2010, \$831,000 of the general fund—state appropriation for fiscal year 2011, and \$1,592,000 of the general fund—federal appropriation are provided solely for health care benefits pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

~~((g))~~ (e)(i) \$682,000 of the general fund—state appropriation for fiscal year 2010, \$1,651,000 of the general fund—state appropriation for fiscal year 2011, and \$1,678,000 of the general fund—federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(ii) The federal portion of the amounts in this subsection (g) is contingent upon federal approval of participation in contributions to the trust and shall remain unallotted and placed in reserve status until the office of financial management and the department of social and health services receive federal approval.

(iii) Expenditures for the purposes specified in this subsection (g) shall not exceed the amounts provided in this subsection.

~~((h))~~ (f) Within the amounts appropriated in this subsection (1), the department shall implement all necessary rules to facilitate the transfer to a department home and community-based services (HCBS) waiver of all eligible individuals who (i) currently receive services under the existing state-only employment and day program or the existing state-only residential program, and (ii) otherwise meet the waiver eligibility requirements. The amounts appropriated are sufficient to ensure that all individuals currently receiving services under the state-only employment and day and state-only residential programs who are not transferred to a department HCBS waiver will continue to receive services.

~~((i) Adult day health services shall only be authorized for in-home clients.~~

~~(j))~~ (g) In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

~~((k))~~ (h) The department shall not pay a home care agency licensed under chapter 70.127 RCW for personal care services provided by a family member,

pursuant to Substitute House Bill No. 2361 (modifying state payments for in-home care).

~~((H))~~ (i) Within the appropriations of this section, the department shall reduce all seventeen payment levels of the seventeen-level payment system from the fiscal year 2009 levels for boarding homes, boarding homes contracted as assisted living, and adult family homes. Excluded from the reductions are exceptional care rate add-ons. The long-term care program may develop add-ons to pay exceptional care rates to adult family homes and boarding homes with specialty contracts to provide support for the following specifically eligible clients:

(i) Persons with AIDS or HIV-related diseases who might otherwise require nursing home or hospital care;

(ii) Persons with Alzheimer's disease and related dementia who might otherwise require nursing home care; and

(iii) Persons with co-occurring mental illness and long-term care needs who are eligible for expanded community services and who might otherwise require state and local psychiatric hospital care.

Within amounts appropriated, exceptional add-on rates for AIDS/HIV, dementia specialty care, and expanded community services may be standardized within each program.

~~((M))~~ (j) The amounts appropriated in this subsection reflect a reduction in funds available for employment and day services. In administering this reduction the department shall negotiate with counties and their vendors so that this reduction, to the greatest extent possible, is achieved by reducing vendor rates and allowable contract administrative charges (overhead) and not through reductions to direct client services or direct service delivery or programs.

~~((N))~~ Within the amounts allotted for employment and day services in this section, the department shall prioritize the funding of employment services for students graduating from high school during fiscal years 2010 and 2011. However, nothing in this subsection is intended to displace services for other recipients of employment services.

~~((O))~~ (k) As part of the needs assessment instrument, the department may collect data on family income for minor children with developmental disabilities and all individuals who are receiving state-only funded services. The department may ensure that this information is collected as part of the client assessment process.

(l) \$116,000 of the general fund—state appropriation for fiscal year 2010, \$2,689,000 of the general fund—state appropriation for fiscal year 2011, and \$1,772,000 of the general fund—federal appropriation are provided solely for employment services and required waiver services. Priority consideration for this new funding shall be young adults with developmental disabilities living with their family who need employment opportunities and assistance after high school graduation. Services shall be provided for both waiver and nonwaiver clients. Fifty percent of the general fund appropriation shall be utilized for graduates served on a home and community-based services waiver and fifty percent of the general fund appropriation shall be used for nonwaiver clients.

**(m) The division of developmental disabilities shall not reduce funding for county employment contracts. Funding for this purpose shall be maintained at the amount appropriated for this purpose in chapter 564, Laws of 2009.**

(n) The department shall, by September 30, 2010, provide a report to the legislature on the implementation of chapter 571, Laws of 2009 (Substitute House Bill No. 2361). The report shall provide an analysis of the savings and/or costs to the agency associated with the implementation of the bill. Additionally, the report shall provide a full accounting of the relative hourly costs of agency providers and individual providers.

(o) The department shall establish a working group with representatives of the home care industry to identify and eliminate or mitigate administrative burdens. The make-up of this working group shall be limited to:

(i) The state unit on aging chief of the aging and disabilities service administration (ADSA);

(ii) Other ADSA representatives as the state unit on aging chief deems necessary;

(iii) A representative from the department of health facility services licensing;

(iv) No more than seven representatives of the home care industry, to include:

(A) A representative of each of the three home care associations;

(B) A for-profit agency with at least seven area agency on aging contracts;

(C) A nonprofit with at least seven area agency on aging contracts;

(D) An agency that serves persons with developmental disabilities; and

(E) An agency that is a community action program;

(v) No more than two area agency on aging directors; and

(vi) Representatives from each of the two labor unions which represent home care workers.

The department is authorized to assign work group members consistent with this subsection (1)(s). The working group shall hold its first meeting no later than May 1, 2010, and shall meet at least monthly or as needed until the group has accomplished its goals. The work group shall provide a report on its findings to the legislative fiscal committees by January 1, 2011.

(p) The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served in each of the following categories: (i) Residents of residential habilitation centers who are able to be adequately cared for in community settings and who choose to live in those community settings; (ii) clients without residential services who are at immediate risk of institutionalization or in crisis; (iii) children who are at risk of institutionalization or who are aging out of other state services; (iv) current home and community-based waiver program clients who have been assessed as having an immediate need for increased services; (v) clients being diverted or discharged from the state psychiatric hospitals; (vi) clients participating in the dangerous mentally ill offender program; (vii) clients participating in the community protection program; or (viii) mental health crisis diversion outplacements. The department shall strive to serve these clients in the most cost-effective manner.

(q) \$81,000 of the general fund—state appropriation for fiscal year 2010, \$599,000 of the general fund—state appropriation for fiscal year 2011, and \$1,111,000 of the general fund—federal appropriation are provided solely for the department to provide employment and day services for eligible students



who are currently on a waiver and will graduate from high school during fiscal years 2010 and 2011.

**(r) \$100,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for direct support to families of individuals with developmental disabilities to provide instruction in self-advocacy.**

**(s) \$100,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for direct support of local organizations that utilize parent-to-parent networks and communication to promote access and quality of care for individuals with developmental disabilities and their families.**

(t) The automatic award of additional hours of personal care for people with special meal preparation or incontinence needs is eliminated. Authorization of service hours will be based upon the individual's assessed needs.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$61,612,000)</del>
	\$61,422,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$74,185,000)</del>
	\$65,685,000
General Fund—Federal Appropriation . . . . .	<del>(\$202,160,000)</del>
	\$210,473,000
General Fund—Private/Local Appropriation . . . . .	\$22,441,000
TOTAL APPROPRIATION . . . . .	<del>(\$360,398,000)</del>
	\$360,021,000

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

(a) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b) The developmental disabilities program is authorized to use funds appropriated in this subsection to purchase goods and supplies through direct contracting with vendors when the program determines it is cost-effective to do so.

(c) \$721,000 of the general fund—state appropriation for fiscal year 2010 and \$721,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the department to fulfill its contracts with the school districts under chapter 28A.190 RCW to provide transportation, building space, and other support services as are reasonably necessary to support the educational programs of students living in residential habilitation centers.

(d) In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(3) PROGRAM SUPPORT

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$1,420,000)</del>
	\$1,407,000

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General Fund—State Appropriation (FY 2011) . . . . .	(\$1,372,000)
	<u>\$1,379,000</u>
General Fund—Federal Appropriation . . . . .	(\$1,360,000)
	<u>\$1,319,000</u>
TOTAL APPROPRIATION . . . . .	(\$4,152,000)
	<u>\$4,105,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

**(4) SPECIAL PROJECTS**

<del>General Fund—State Appropriation (FY 2010)</del> . . . . .	<del>\$15,000</del>
<del>General Fund—State Appropriation (FY 2011)</del> . . . . .	<del>\$15,000</del>
General Fund—Federal Appropriation . . . . .	(\$21,066,000)
	<u>\$9,631,000</u>
TOTAL APPROPRIATION . . . . .	(\$21,096,000)
	<u>\$9,631,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: The appropriations in this subsection are available solely for the infant toddler early intervention program.

\*Sec. 205 was partially vetoed. See message at end of chapter.

\*Sec. 206. 2010 c 3 s 205 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
AGING AND ADULT SERVICES PROGRAM**

General Fund—State Appropriation (FY 2010) . . . . .	(\$584,741,000)
	<u>\$616,837,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$693,325,000)
	<u>\$638,535,000</u>
General Fund—Federal Appropriation . . . . .	(\$1,805,958,000)
	<u>\$1,953,289,000</u>
General Fund—Private/Local Appropriation . . . . .	(\$19,973,000)
	<u>\$18,013,000</u>
Traumatic Brain Injury Account—State Appropriation . . . . .	(\$1,816,000)
	<u>\$4,136,000</u>
TOTAL APPROPRIATION . . . . .	(\$3,105,813,000)
	<u>\$3,230,810,000</u>

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

(1) For purposes of implementing chapter 74.46 RCW, the weighted average nursing facility payment rate shall not exceed ~~(\$156.37)~~ \$169.85 for fiscal year 2010 and shall not exceed ~~(\$158.74)~~ \$166.24 for fiscal year 2011, including the rate add-on described in subsection (12) of this section. There will be no adjustments for economic trends and conditions in fiscal years 2010 and 2011. The economic trends and conditions factor or factors defined in the biennial

appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the component rate allocations established in accordance with chapter 74.46 RCW. When no economic trends and conditions factor for either fiscal year is defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the component rate allocations established in accordance with chapter 74.46 RCW.

(2) After examining actual nursing facility cost information, the legislature finds that the medicaid nursing facility rates calculated pursuant to Substitute House Bill No. 3202 or Substitute Senate Bill No. 6872 (nursing facility medicaid payments) provide sufficient reimbursement to efficient and economically operating nursing facilities and bears a reasonable relationship to costs.

(3) In accordance with chapter 74.46 RCW, the department shall issue no additional certificates of capital authorization for fiscal year 2010 and no new certificates of capital authorization for fiscal year 2011 and shall grant no rate add-ons to payment rates for capital improvements not requiring a certificate of need and a certificate of capital authorization for fiscal year 2011.

~~((3))~~ (4) The long-term care program may develop and pay enhanced rates for exceptional care to nursing homes for persons with traumatic brain injuries who are transitioning from hospital care. The cost per patient day for caring for these clients in a nursing home setting may be equal to or less than the cost of caring for these clients in a hospital setting.

~~((4))~~ (5) Within the appropriations of this section, the department shall reduce all seventeen payment levels of the seventeen-level payment system from the fiscal year 2009 levels for boarding homes, boarding homes contracted as assisted living, and adult family homes. Excluded from the reductions are exceptional care rate add-ons. The long-term care program may develop add-ons to pay exceptional care rates to adult family homes and boarding homes with specialty contracts to provide support for the following specifically eligible clients:

(a) Persons with AIDS or HIV-related diseases who might otherwise require nursing home or hospital care;

(b) Persons with Alzheimer's disease and related dementia who might otherwise require nursing home care; and

(c) Persons with co-occurring mental illness and long-term care needs who are eligible for expanded community services and who might otherwise require state and local psychiatric hospital care.

Within amounts appropriated, exceptional add-on rates for AIDS/HIV, dementia specialty care, and expanded community services may be standardized within each program.

~~((5))~~ (6)(a) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients. In doing so, the department shall comply with all maintenance of effort requirements contained in the American reinvestment and recovery act.

(b) \$3,070,000 of the general fund—state appropriation for fiscal year 2011 and \$4,980,000 of the general fund—federal appropriation are provided solely for the department to partially restore the reduction to in-home care that are taken in (a) of this subsection. The department will use the same formula to restore personal care hours that it used to reduce personal care hours.

~~((6))~~ (7) \$536,000 of the general fund—state appropriation for fiscal year 2010, \$1,477,000 of the general fund—state appropriation for fiscal year 2011, and \$2,830,000 of the general fund—federal appropriation are provided solely for health care benefits pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

~~((7))~~ (8)(a) \$1,212,000 of the general fund—state appropriation for fiscal year 2010, \$2,934,000 of the general fund—state appropriation for fiscal year 2011, and \$2,982,000 of the general fund—federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(b) \$330,000 of the general fund—state appropriation for fiscal year 2010, \$660,000 of the general fund—state appropriation for fiscal year 2011, and \$810,000 of the general fund—federal appropriation are provided solely for transfer from the department to the training partnership, as provided in RCW 74.39A.360, for infrastructure and instructional costs associated with training of individual providers, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(c) The federal portion of the amounts in this subsection is contingent upon federal approval of participation in contributions to the trust and shall remain unallotted and placed in reserve status until the office of financial management and the department of social and health services receive federal approval.

(d) Expenditures for the purposes specified in this subsection shall not exceed the amounts provided in this subsection.

~~((8))~~ (9) Within the amounts appropriated in this section, the department may expand the new freedom waiver program to accommodate new waiver recipients throughout the state. As possible, and in compliance with current state and federal laws, the department shall allow current waiver recipients to transfer to the new freedom waiver.

~~((9))~~ (10) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

~~((10) Adult day health services shall only be authorized for in-home clients.)~~

(11) \$3,955,000 of the general fund—state appropriation for fiscal year 2010, \$4,239,000 of the general fund—state appropriation for fiscal year 2011, and \$10,190,000 of the general fund—federal appropriation are provided solely for the continued operation of community residential and support services for persons who are older adults or who have co-occurring medical and behavioral disorders and who have been discharged or diverted from a state psychiatric

hospital. These funds shall be used to serve individuals whose treatment needs constitute substantial barriers to community placement, who no longer require active psychiatric treatment at an inpatient hospital level of care, and who no longer meet the criteria for inpatient involuntary commitment. Coordination of these services will be done in partnership between the mental health program and the aging and disability services administration.

(12) Within the funds provided, the department shall continue to provide an add-on per medicaid resident day per facility not to exceed \$1.57. The add-on shall be used to increase wages, benefits, and/or staffing levels for certified nurse aides; or to increase wages and/or benefits for dietary aides, housekeepers, laundry aides, or any other category of worker whose statewide average dollars-per-hour wage was less than \$15 in calendar year 2008, according to cost report data. The add-on may also be used to address resulting wage compression for related job classes immediately affected by wage increases to low-wage workers. The department shall continue reporting requirements and a settlement process to ensure that the funds are spent according to this subsection. The department shall adopt rules to implement the terms of this subsection.

(13) \$1,840,000 of the general fund—state appropriation for fiscal year 2010 and \$1,877,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for operation of the volunteer ~~((ehore))~~ services program. Funding shall be prioritized towards serving populations traditionally served by long-term care services to include senior citizens and persons with disabilities.

(14) In accordance with chapter 74.39 RCW, the department may implement two medicaid waiver programs for persons who do not qualify for such services as categorically needy, subject to federal approval and the following conditions and limitations:

(a) One waiver program shall include coverage of care in community residential facilities. Enrollment in the waiver shall not exceed 600 persons at any time.

(b) The second waiver program shall include coverage of in-home care. Enrollment in this second waiver shall not exceed 200 persons at any time.

(c) The department shall identify the number of medically needy nursing home residents, and enrollment and expenditures on each of the two medically needy waivers, on monthly management reports.

(d) If it is necessary to establish a waiting list for either waiver because the budgeted number of enrollment opportunities has been reached, the department shall track how the long-term care needs of applicants assigned to the waiting list are met.

(15) The department shall establish waiting lists to the extent necessary to assure that annual expenditures on the community options program entry systems (COPES) program do not exceed appropriated levels. In establishing and managing any such waiting list, the department shall assure priority access to persons with the greatest unmet needs, as determined by department assessment processes.

(16) The department shall contract for housing with service models, such as cluster care, to create efficiencies in service delivery and responsiveness to unscheduled personal care needs by clustering hours for clients that live in close proximity to each other.

(17) The department shall not pay a home care agency licensed under chapter 70.127 RCW for personal care services provided by a family member, pursuant to Substitute House Bill No. 2361 (modifying state payments for in-home care).

(18) ~~((~~\$204,000~~) \$209,000)~~ of the general fund—state appropriation for fiscal year 2010, ~~((~~\$1,099,000~~) \$781,000)~~ of the general fund—state appropriation for fiscal year 2011, and ~~((~~\$1,697,000~~) \$1,293,000)~~ of the general fund—federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(19) ~~((Sufficient funding is provided in this section for the department to implement Engrossed Second Substitute House Bill No. 1935 (adult family homes). During the 2009-11 biennium, the initial licensing fee for an adult family home shall be set at \$900.00. During the 2009-11 biennium, the annual licensing renewal fee shall be set at \$100.00.))~~ In accordance with RCW 18.51.050, 18.20.050, and 43.135.055, the department is authorized to increase nursing facility and boarding home fees in fiscal year 2011 as necessary to meet the actual costs of conducting the licensure, inspection, and regulatory programs.

(a) \$1,035,000 of the general fund—private/local appropriation assumes that the current annual renewal license fee for nursing facilities shall be increased to \$327 per bed beginning in fiscal year 2011.

(b) \$1,806,000 of the general fund—local appropriation assumes that the current annual renewal license fee for boarding homes shall be increased to \$106 per bed beginning in fiscal year 2011.

(20) The department shall, by September 30, 2010, provide a report to the legislature on the implementation of chapter 571, Laws of 2009 (Substitute House Bill No. 2361). The report shall provide an analysis of the savings and/or costs to the agency associated with the implementation of the bill. Additionally, the report shall provide a full accounting of the relative hourly costs of agency providers and individual providers.

(21) The department shall establish a working group with representatives of the home care industry to identify and eliminate or mitigate administrative burdens. The make-up of this working group shall be limited to:

(a) The state unit on aging chief of the aging and disabilities service administration (ADSA);

(b) Other ADSA representatives as the state unit on aging chief deems necessary;

(c) A representative from the department of health facility services licensing;

(d) No more than seven representatives of the home care industry, to include:

(i) A representative of each of the three home care associations;

(ii) A for-profit agency with at least seven area agency on aging contracts;

(iii) A nonprofit with at least seven area agency on aging contracts;

(iv) An agency that serves persons with developmental disabilities; and

(v) An agency that is a community action program;

(e) No more than two area agency on aging directors; and

(f) Representatives from each of the two labor unions which represent home care workers.

The department is authorized to assign work group members consistent with this subsection. The working group shall hold its first meeting no later than May 1, 2010, and shall meet at least monthly or as needed until the group has accomplished its goals. The work group shall provide a report on its findings to the legislative fiscal committees by January 1, 2011.

(22) \$2,566,000 of the traumatic brain injury account—state appropriation is provided solely to continue services for persons with traumatic brain injury (TBI) as defined in RCW 74.31.020 through 74.31.050. The TBI advisory council shall provide a report to the legislature by December 1, 2010, on the effectiveness of the functions overseen by the council and shall provide recommendations on the development of critical services for individuals with traumatic brain injury.

(23) The automatic award of additional hours of personal care for people with special meal preparation or incontinence needs is eliminated. Authorization of service hours will be based upon the individual's assessed needs.

(24) For calendar year 2009, the department shall calculate split settlements covering two periods January 1, 2009, through June 30, 2009, and July 1, 2009, through December 31, 2009. For the second period beginning July 1, 2009, the department may partially or totally waive settlements only in specific cases where a nursing home can demonstrate significant decreases in costs from the first period.

(25) \$72,000 of the traumatic brain injury account appropriation and \$116,000 of the general fund—federal appropriation are provided solely for a direct care rate add-on to any nursing facility specializing in the care of residents with traumatic brain injuries where more than 50 percent of residents are classified with this condition based upon the federal minimum data set assessment.

(26) \$69,000 of the general fund—state appropriation for fiscal year 2010, \$1,289,000 of the general fund—state appropriation for fiscal year 2011, and \$2,050,000 of the general fund—federal appropriation are provided solely for the department to maintain enrollment in the adult day health services program. New enrollments are authorized for up to 1,575 clients or to the extent that appropriated funds are available to cover additional clients.

(27) \$1,000,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the department to contract for the provision of an individual provider referral registry.

(28) \$100,000 of the general fund—state appropriation for fiscal year 2011 and \$100,000 of the general fund—federal appropriation are provided solely for

the department to contract with a consultant to evaluate and make recommendations on a pay-for-performance payment subsidy system. The department shall organize one workgroup meeting with the consultant where nursing home stakeholders may provide input on pay-for-performance ideas. The consultant shall review pay-for-performance strategies used in other states to sustain and enhance quality-improvement efforts in nursing facilities. The evaluation shall include a review of the centers for medicare and medicaid services demonstration project to explore the feasibility of pay-for-performance systems in medicare certified nursing facilities. The consultant shall develop a report to include:

(a) Best practices used in other states for pay-for-performance strategies incorporated into medicaid nursing home payment systems;

(b) The relevance of existing research to Washington state;

(c) A summary and review of suggestions for pay-for-performance strategies provided by nursing home stakeholders in Washington state; and

(d) An evaluation of the effectiveness on [of] a variety of performance measures.

(29) \$4,100,000 of the general fund—state appropriation for fiscal year 2010, \$4,174,000 of the general fund—state appropriation for fiscal year 2011, and \$8,124,000 of the general fund—federal appropriation are provided for the operation of the management services division of the aging and disability services administration. This includes but is not limited to the budget, contracts, accounting, decision support, information technology, and rate development activities for programs administered by the aging and disability services administration. Nothing in this subsection is intended to exempt the management services division of the aging and disability services administration from reductions directed by the secretary. However, funds provided in this subsection shall not be transferred elsewhere within the department nor used for any other purpose.

\*Sec. 206 was partially vetoed. See message at end of chapter.

\*Sec. 207. 2010 c 3 s 206 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
ECONOMIC SERVICES PROGRAM**

General Fund—State Appropriation (FY 2010) . . . . .	(\$557,452,000)
	\$564,492,000
General Fund—State Appropriation (FY 2011) . . . . .	(\$587,973,000)
	\$581,459,000
General Fund—Federal Appropriation . . . . .	(\$1,139,899,000)
	\$1,223,832,000
General Fund—Private/Local Appropriation . . . . .	(\$27,920,000)
	\$31,816,000
Administrative Contingency Account—State Appropriation . . . . .	(\$29,136,000)
	\$24,336,000
TOTAL APPROPRIATION . . . . .	(\$2,342,380,000)
	\$2,425,935,000

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



(1) (~~(\$303,196,000)~~) \$303,393,000 of the general fund—state appropriation for fiscal year 2010, (~~(\$309,755,000)~~) \$285,913,000 of the general fund—state appropriation for fiscal year 2011, (~~(\$29,136,000)~~) \$24,336,000 of the administrative contingency account—state appropriation, and \$778,606,000 of the general fund—federal appropriation are provided solely for all components of the WorkFirst program. The department shall use moneys from the administrative contingency account for WorkFirst job placement services provided by the employment security department. Within the amounts provided for the WorkFirst program, the department may provide assistance using state-only funds for families eligible for temporary assistance for needy families. In addition, within the amounts provided for WorkFirst the department shall:

(a) Establish a career services work transition program;

(b) Continue to implement WorkFirst program improvements that are designed to achieve progress against outcome measures specified in RCW 74.08A.410. Outcome data regarding job retention and wage progression shall be reported quarterly to appropriate fiscal and policy committees of the legislature for families who leave assistance, measured after 12 months, 24 months, and 36 months. The department shall also report the percentage of families who have returned to temporary assistance for needy families after 12 months, 24 months, and 36 months;

(c) Submit a report electronically by October 1, 2009, to the fiscal committees of the legislature containing a spending plan for the WorkFirst program. The plan shall identify how spending levels in the 2009-2011 biennium will be adjusted to stay within available federal grant levels and the appropriated state-fund levels;

(d) Provide quarterly fiscal reports to the office of financial management and the legislative fiscal committees detailing information on the amount expended from general fund—state and general fund—federal by activity;

(e) Maintain the fiscal year 2009 grant standard for the temporary assistance for needy families grant.

**(2) *The WorkFirst subcabinet, in partnership with the department of social and health services, shall review and prepare a report on services provided and accessed by both general population clients and limited English proficiency clients. The review shall include information on efficiencies and outcomes related to client services for each client population. The report should identify services and expenditures related to client outcomes in fiscal year 2010. The report on these programs and client outcomes shall be reported to the appropriate committees of the legislature no later than December 15, 2010.***

(3) The department and the office of financial management shall electronically report quarterly the expenditures, maintenance of effort allotments, expenditure amounts, and caseloads for the WorkFirst program to the legislative fiscal committees.

~~((3))~~ (4) \$16,783,000 of the general fund—state appropriation for fiscal year 2011 and \$62,000,000 of the general fund—federal appropriation are provided solely for all components of the WorkFirst program in order to maintain services to January 2011. The legislature intends to work with the governor to design and implement fiscal and programmatic modifications to provide for the sustainability of the program. The funding in this subsection

assumes that no other expenditure reductions will be made prior to January 2011 other than those assumed in the appropriation levels in this act.

(5) ((~~\$84,856,000~~) \$94,322,000 of the general fund—state appropriation for fiscal year 2010 and ((~~\$95,173,000~~) \$97,168,000 of the general fund—state appropriation for fiscal year 2011, net of recoveries, are provided solely for cash assistance and other services to recipients in the ((~~general assistance—unemployable program~~)) cash program pursuant to chapter 8, Laws of 2010 1st sp. sess. (security lifeline act), including persons in the unemployable, expedited, and aged, blind, and disabled components of the program. It is the intent of the legislature that the lifeline incapacity determination and progressive evaluation process regulations be carefully designed to accurately identify those persons who have been or will be incapacitated for at least ninety days. The incapacity determination and progressive evaluation process regulations in effect on January 1, 2010, cannot be amended until at least September 30, 2010; except that provisions related to the use of administrative review teams may be amended, and obsolete terminology and functional assessment language may be updated on or after July 1, 2010, in a manner that only minimally impacts the outcome of incapacity evaluations. After September 30, 2010, the incapacity determination and progressive evaluation process regulations may be amended only if the reports under (a) and (b) of this subsection have been submitted, and find that expenditures will exceed the appropriated level by three percent or more.

(a) The department and the caseload forecast council shall, by September 21, 2010, submit a report to the legislature based upon the most recent caseload forecast and actual expenditure data available, as to whether expenditures for the lifeline-unemployable grants in fiscal year 2011 will exceed \$69,648,000 for fiscal year 2011 in the 2010 supplemental operating budget by three percent or more. If expenditures will exceed the appropriated amount for lifeline-unemployable grants by three percent or more, the department may adopt regulations modifying incapacity determination and progressive evaluation process regulations after September 30, 2010.

(b) On or before September 21, 2010, the department shall submit a report to the relevant policy and fiscal committees of the legislature that includes the following information regarding any regulations proposed for adoption that would modify the lifeline incapacity determination and progressive evaluation process:

(i) A copy of the proposed changes and a concise description of the changes;

(ii) A description of the persons who would likely be affected by adoption of the regulations, including their impairments, age, education, and work history;

(iii) An estimate of the number of persons who, on a monthly basis through June 2013, would be denied lifeline benefits if the regulations were adopted, expressed as a number, as a percentage of total applicants, and as a percentage of the number of persons granted lifeline benefits in each month;

(iv) An estimate of the number of persons who, on a monthly basis through June 2013, would have their lifeline benefits terminated following an eligibility review if the regulations were adopted, expressed as a number, as a percentage of the number of persons who have had an eligibility review in each month, and as a percentage of the total number of persons currently receiving lifeline-unemployable benefits in each month; and

(v) Intended improvements in employment or treatment outcomes among persons receiving lifeline benefits that could be attributable to the changes in the regulations.

(c) Within these amounts:

~~((a))~~ (i) The department shall aggressively pursue opportunities to transfer ~~((general assistance unemployable))~~ lifeline clients to general assistance expedited coverage and to facilitate client applications for federal supplemental security income when the client's incapacities indicate that he or she would be likely to meet the federal disability criteria for supplemental security income. The department shall initiate and file the federal supplemental security income interim agreement as quickly as possible in order to maximize the recovery of federal funds;

~~((b))~~ (ii) The department shall review the ~~((general assistance))~~ lifeline caseload to identify recipients that would benefit from assistance in becoming naturalized citizens, and thus be eligible to receive federal supplemental security income benefits. Those cases shall be given high priority for naturalization funding through the department;

~~((c))~~ (iii) The department shall actively coordinate with local workforce development councils to expedite access to worker retraining programs for ~~((general assistance unemployable))~~ lifeline clients in those regions of the state with the greatest number of such clients;

~~((d))~~ (iv) By July 1, 2009, the department shall enter into an interagency agreement with the department of veterans' affairs to establish a process for referral of veterans who may be eligible for veteran's services. This agreement must include outstationing department of veterans' affairs staff in selected community service office locations in King and Pierce counties to facilitate applications for veterans' services; and

~~((e))~~ (v) In addition to any earlier evaluation that may have been conducted, the department shall intensively evaluate those clients who have been receiving ~~((general assistance unemployable))~~ lifeline benefits for twelve months or more as of July 1, 2009, or thereafter, if the available medical and incapacity related evidence indicates that the client is unlikely to meet the disability standard for federal supplemental security income benefits. The evaluation shall identify services necessary to eliminate or minimize barriers to employment, including mental health treatment, substance abuse treatment and vocational rehabilitation services. The department shall expedite referrals to chemical dependency treatment, mental health and vocational rehabilitation services for these clients.

~~((f))~~ (vi) The appropriations in this subsection reflect a change in the earned income disregard policy for ~~((general assistance unemployable))~~ lifeline clients. It is the intent of the legislature that the department shall adopt the temporary assistance for needy families earned income policy for ~~((general assistance unemployable))~~ the lifeline program.

~~((4))~~ (6) \$750,000 of the general fund—state appropriation for fiscal year 2010 and \$750,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for naturalization services.

~~((5))~~ (7)(a) \$3,550,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for refugee employment services, of which \$2,650,000 is provided solely for the department to pass through to statewide

refugee assistance organizations for limited English proficiency pathway services; and \$3,550,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for refugee employment services, of which \$2,650,000 is provided solely for the department to pass through to statewide refugee assistance organizations for limited English proficiency pathway services.

(b) The legislature intends that the appropriation in this subsection for the 2009-11 fiscal biennium will maintain funding for refugee programs at a level at least equal to expenditures on these programs in the 2007-09 fiscal biennium.

~~((6))~~ (8) The appropriations in this section reflect reductions in the appropriations for the economic services administration's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

(9) \$855,000 of the general fund—state appropriation for fiscal year 2011, \$719,000 of the general fund—federal appropriation, and \$2,907,000 of the general fund—private/local appropriation are provided solely for the implementation of the opportunity portal, the food stamp employment and training program, and the disability lifeline program under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(10) \$200,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the department to award grants to small mutual assistance or small community-based organizations that contract with the department for immigrant and refugee assistance services. The funds shall be awarded to provide funding for community groups to provide transitional assistance, language skills, and other resources to improve refugees' economic self-sufficiency through the effective use of social services, financial services, and medical assistance.

**(11) \$250,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for increased funding for limited English proficiency pathway programs.**

\*Sec. 207 was partially vetoed. See message at end of chapter.

Sec. 208. 2010 c 3 s 207 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
ALCOHOL AND SUBSTANCE ABUSE PROGRAM**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$82,028,000)</del>
	<u>\$81,982,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$84,682,000)</del>
	<u>\$82,393,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$145,604,000)</del>
	<u>\$148,034,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$2,719,000)</del>
	<u>\$2,718,000</u>
Criminal Justice Treatment Account—State Appropriation . . . . .	<del>(\$17,747,000)</del>
	<u>\$17,743,000</u>
Problem Gambling Account—State Appropriation . . . . .	<del>(\$1,459,000)</del>
	<u>\$1,456,000</u>

TOTAL APPROPRIATION . . . . .((~~\$334,239,000~~)  
\$334,326,000

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

(1) Within the amounts appropriated in this section, the department may contract with the University of Washington and community-based providers for the provision of the parent-child assistance program. For all contractors, indirect charges for administering the program shall not exceed ten percent of the total contract amount.

(2) Within the amounts appropriated in this section, the department shall continue to provide for chemical dependency treatment services for adult medicaid eligible and general assistance-unemployable patients.

(3) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(4) \$2,247,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the implementation of the lifeline program under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(5) \$3,500,000 of the general fund—federal appropriation (from the substance abuse prevention and treatment federal block grant) is provided solely for the continued funding of existing county drug and alcohol use prevention programs.

\*Sec. 209. 2010 c 3 s 208 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
 MEDICAL ASSISTANCE PROGRAM**

General Fund—State Appropriation (FY 2010) . . . . .((~~\$1,598,043,000~~)  
\$1,697,203,000

General Fund—State Appropriation (FY 2011) . . . . .((~~\$1,985,797,000~~)  
\$1,789,973,000

General Fund—Federal Appropriation . . . . .((~~\$5,212,855,000~~)  
\$6,086,632,000

General Fund—Private/Local Appropriation . . . . .((~~\$12,903,000~~)  
\$37,249,000

Emergency Medical Services and Trauma Care Systems  
 Trust Account—State Appropriation . . . . .((~~\$15,076,000~~)  
\$15,075,000

Tobacco Prevention and Control Account—  
 State Appropriation . . . . .((~~\$3,766,000~~)  
\$4,464,000

Hospital Safety Net Assessment Fund—State  
 Appropriation . . . . . \$260,036,000

TOTAL APPROPRIATION . . . . .((~~\$8,828,440,000~~)  
\$9,890,632,000

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

(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(3) The legislature affirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(4) When a person is ineligible for medicaid solely by reason of residence in an institution for mental diseases, the department shall provide the person with the same benefits as he or she would receive if eligible for medicaid, using state-only funds to the extent necessary.

(5) In accordance with RCW 74.46.625, \$6,000,000 of the general fund—federal appropriation is provided solely for supplemental payments to nursing homes operated by public hospital districts. The public hospital district shall be responsible for providing the required nonfederal match for the supplemental payment, and the payments shall not exceed the maximum allowable under federal rules. It is the legislature's intent that the payments shall be supplemental to and shall not in any way offset or reduce the payments calculated and provided in accordance with part E of chapter 74.46 RCW. It is the legislature's further intent that costs otherwise allowable for rate-setting and settlement against payments under chapter 74.46 RCW shall not be disallowed solely because such costs have been paid by revenues retained by the nursing home from these supplemental payments. The supplemental payments are subject to retrospective interim and final cost settlements based on the nursing homes' as-filed and final medicare cost reports. The timing of the interim and final cost settlements shall be at the department's discretion. During either the interim cost settlement or the final cost settlement, the department shall recoup from the public hospital districts the supplemental payments that exceed the medicaid cost limit and/or the medicare upper payment limit. The department shall apply federal rules for identifying the eligible incurred medicaid costs and the medicare upper payment limit.

(6) \$1,110,000 of the general fund—federal appropriation and \$1,105,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for grants to rural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(7) \$9,818,000 of the general fund—state appropriation for fiscal year 2011, and \$9,865,000 of the general fund—federal appropriation are provided solely for grants to nonrural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to

hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(8) The department shall continue the inpatient hospital certified public expenditures program for the 2009-11 biennium. The program shall apply to all public hospitals, including those owned or operated by the state, except those classified as critical access hospitals or state psychiatric institutions. The department shall submit reports to the governor and legislature by November 1, 2009, and by November 1, 2010, that evaluate whether savings continue to exceed costs for this program. If the certified public expenditures (CPE) program in its current form is no longer cost-effective to maintain, the department shall submit a report to the governor and legislature detailing cost-effective alternative uses of local, state, and federal resources as a replacement for this program. During fiscal year 2010 and fiscal year 2011, hospitals in the program shall be paid and shall retain one hundred percent of the federal portion of the allowable hospital cost for each medicaid inpatient fee-for-service claim payable by medical assistance and one hundred percent of the federal portion of the maximum disproportionate share hospital payment allowable under federal regulations. Inpatient medicaid payments shall be established using an allowable methodology that approximates the cost of claims submitted by the hospitals. Payments made to each hospital in the program in each fiscal year of the biennium shall be compared to a baseline amount. The baseline amount will be determined by the total of (a) the inpatient claim payment amounts that would have been paid during the fiscal year had the hospital not been in the CPE program based on the reimbursement rates developed, implemented, and consistent with policies approved in the 2009-11 biennial operating appropriations act (chapter 564, Laws of 2009) and in effect on July 1, 2009, (b) one half of the indigent assistance disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005, and (c) all of the other disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005 to the extent the same disproportionate share hospital programs exist in the 2009-11 biennium. If payments during the fiscal year exceed the hospital's baseline amount, no additional payments will be made to the hospital except the federal portion of allowable disproportionate share hospital payments for which the hospital can certify allowable match. If payments during the fiscal year are less than the baseline amount, the hospital will be paid a state grant equal to the difference between payments during the fiscal year and the applicable baseline amount. Payment of the state grant shall be made in the applicable fiscal year and distributed in monthly payments. The grants will be recalculated and redistributed as the baseline is updated during the fiscal year. The grant payments are subject to an interim settlement within eleven months after the end of the fiscal year. A final settlement shall be performed. To the extent that either settlement determines that a hospital has received funds in excess of what it would have received as described in this subsection, the hospital must repay the excess amounts to the state when requested. \$20,403,000 of the general fund—state appropriation for fiscal year 2010, of which \$6,570,000 ((of the general fund—state appropriation for fiscal year 2010, which)) is appropriated in section 204(1) of this act, and (((\$1,500,000 of the general fund—state appropriation for

~~fiscal year 2011, which)) \$29,480,000 of the general fund—state appropriation for fiscal year 2011, of which \$6,570,000 is appropriated in section 204(1) of this act, are provided solely for state grants for the participating hospitals. ((Sufficient amounts are appropriated in this section for the remaining state grants for the participating hospitals.)) CPE hospitals will receive the inpatient and outpatient reimbursement rate restorations in section 9 and rate increases in section 10(1)(b) of Engrossed Second Substitute House Bill No. 2956 (hospital safety net assessment) funded through the hospital safety net assessment fund rather than through the baseline mechanism specified in this subsection.~~

(9) The department is authorized to use funds appropriated in this section to purchase goods and supplies through direct contracting with vendors when the department determines it is cost-effective to do so.

(10) \$93,000 of the general fund—state appropriation for fiscal year 2010 and \$93,000 of the general fund—federal appropriation are provided solely for the department to pursue a federal Medicaid waiver pursuant to Second Substitute Senate Bill No. 5945 (Washington health partnership plan). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(11) The department shall require managed health care systems that have contracts with the department to serve medical assistance clients to limit any reimbursements or payments the systems make to providers not employed by or under contract with the systems to no more than the medical assistance rates paid by the department to providers for comparable services rendered to clients in the fee-for-service delivery system.

(12) A maximum of ~~(((\$166,875,000 of the general fund—state appropriation and \$38,389,000 of the general fund—federal)) \$241,141,000 in total funds from the general fund—state, general fund—federal, and tobacco and prevention control account—state appropriations~~ may be expended in the fiscal biennium for the ~~((general assistance-unemployable))~~ medical program pursuant to chapter 8, Laws of 2010 1st sp. sess. (security lifeline act), and these amounts are provided solely for this program. Of these amounts, \$10,749,000 of the general fund—state appropriation for fiscal year 2010 and \$10,892,000 of the general fund—federal appropriation are provided solely for payments to hospitals for providing outpatient services to low income patients who are recipients of ((general assistance-unemployable)) lifeline benefits. Pursuant to RCW 74.09.035, the department shall not expend for the ((general assistance)) lifeline medical care services program any amounts in excess of the amounts provided in this subsection.

(13) ~~((If the department determines that it is feasible within the amounts provided in subsection (16) of this section, and without the loss of federal disproportionate share hospital funds, the department shall contract with the carrier currently operating a managed care pilot project for the provision of medical care services to general assistance-unemployable clients.))~~ Mental health services shall be included in the services provided through the managed care system~~((If the department determines that it is feasible, effective October 1, 2009, in addition to serving clients in the pilot counties, the carrier shall expand managed care services to clients residing in at least the following counties: Spokane, Yakima, Chelan, Kitsap, and Cowlitz. If the department determines that it is feasible, the carrier shall complete implementation into the~~



remaining counties. Total per person costs to the state, including outpatient and inpatient services and any additional costs due to stop loss agreements, shall not exceed the per capita payments projected for the general assistance-unemployable eligibility category, by fiscal year, in the February 2009 medical assistance expenditures forecast) for lifeline clients under chapter 8, Laws of 2010 1st sp. sess. In transitioning lifeline clients to managed care, the department shall attempt to deliver care to lifeline clients through medical homes in community and migrant health centers. The department, in collaboration with the carrier, shall seek to improve the transition rate of ((general assistance)) lifeline clients to the federal supplemental security income program. The department shall renegotiate the contract with the managed care plan that provides services for lifeline clients to maximize state retention of future hospital savings as a result of improved care coordination. The department, in collaboration with stakeholders, shall propose a new name for the lifeline program.

***(14) The department shall evaluate the impact of the use of a managed care delivery and financing system on state costs, savings, and outcomes for ((general assistance)) lifeline medical clients. Outcomes measured shall include state costs, utilization, changes in mental health status and symptoms, and involvement in the criminal justice system. Outcomes measured shall also include the total costs or savings resulting from utilization changes due to care management, and how much of those costs or savings accrued to the state and the managed care organization. The department shall provide a report on these outcomes to the relevant policy and fiscal committees of the legislature by November 1, 2010. Monthly encounter data shall be included in the report.***

(15) The department shall report to the governor and the fiscal committees of the legislature by June 1, 2010, on its progress toward achieving a twenty percentage point increase in the generic prescription drug utilization rate.

(16) State funds shall not be used by hospitals for advertising purposes.

(17) \$24,356,000 of the general fund—private/local appropriation and \$35,707,000 of the general fund—federal appropriation are provided solely for the implementation of professional services supplemental payment programs. The department shall seek a medicaid state plan amendment to create a professional services supplemental payment program for University of Washington medicine professional providers no later than July 1, 2009. The department shall apply federal rules for identifying the shortfall between current fee-for-service medicaid payments to participating providers and the applicable federal upper payment limit. Participating providers shall be solely responsible for providing the local funds required to obtain federal matching funds. Any incremental costs incurred by the department in the development, implementation, and maintenance of this program will be the responsibility of the participating providers. Participating providers will retain the full amount of supplemental payments provided under this program, net of any potential costs for any related audits or litigation brought against the state. The department shall report to the governor and the legislative fiscal committees on the prospects for expansion of the program to other qualifying providers as soon as feasibility is determined but no later than December 31, 2009. The report will outline estimated impacts on the participating providers, the procedures necessary to comply with federal guidelines, and the administrative resource requirements

necessary to implement the program. The department will create a process for expansion of the program to other qualifying providers as soon as it is determined feasible by both the department and providers but no later than June 30, 2010.

(18) ~~((\$9,350,000))~~ \$9,075,000 of the general fund—state appropriation for fiscal year 2010, ~~((\$8,313,000))~~ \$8,588,000 of the general fund—state appropriation for fiscal year 2011, and ~~((\$20,371,000))~~ \$39,747,000 of the general fund—federal appropriation are provided solely for development and implementation of a replacement system for the existing medicaid management information system. The amounts provided in this subsection are conditioned on the department satisfying the requirements of section 902 of this act.

(19) \$506,000 of the general fund—state appropriation for fiscal year 2011 and \$657,000 of the general fund—federal appropriation are provided solely for the implementation of Second Substitute House Bill No. 1373 (children's mental health). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(20) Pursuant to 42 U.S.C. Sec. 1396(a)(25), the department shall pursue insurance claims on behalf of medicaid children served through its in-home medically intensive child program under WAC 388-551-3000. The department shall report to the Legislature by December 31, 2009, on the results of its efforts to recover such claims.

(21) The department may, on a case-by-case basis and in the best interests of the child, set payment rates for medically intensive home care services to promote access to home care as an alternative to hospitalization. Expenditures related to these increased payments shall not exceed the amount the department would otherwise pay for hospitalization for the child receiving medically intensive home care services.

(22) \$425,000 of the general fund—state appropriation for fiscal year 2010(~~(\$425,000 of the general fund—state appropriation for fiscal year 2011,))~~) and ~~((\$1,580,000))~~ \$790,000 of the general fund—federal appropriation are provided solely to continue children's health coverage outreach and education efforts under RCW 74.09.470. These efforts shall rely on existing relationships and systems developed with local public health agencies, health care providers, public schools, the women, infants, and children program, the early childhood education and assistance program, child care providers, newborn visiting nurses, and other community-based organizations. The department shall seek public-private partnerships and federal funds that are or may become available to provide on-going support for outreach and education efforts under the federal children's health insurance program reauthorization act of 2009.

(23) The department, in conjunction with the office of financial management, shall ~~((reduce outpatient and inpatient hospital rates and))~~ implement a prorated inpatient payment policy. ~~((In determining the level of reductions needed, the department shall include in its calculations services paid under fee for service, managed care, and certified public expenditure payment methods; but reductions shall not apply to payments for psychiatric inpatient services or payments to critical access hospitals.))~~

(24) The department will pursue a competitive procurement process for antihemophilic products, emphasizing evidence-based medicine and protection of patient access without significant disruption in treatment.

(25) The department will pursue several strategies towards reducing pharmacy expenditures including but not limited to increasing generic prescription drug utilization by 20 percentage points and promoting increased utilization of the existing mail-order pharmacy program.

(26) The department shall reduce reimbursement for over-the-counter medications while maintaining reimbursement for those over-the-counter medications that can replace more costly prescription medications.

(27) The department shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(28) The department shall target funding for maternity support services towards pregnant women with factors that lead to higher rates of poor birth outcomes, including hypertension, a preterm or low birth weight birth in the most recent previous birth, a cognitive deficit or developmental disability, substance abuse, severe mental illness, unhealthy weight or failure to gain weight, tobacco use, or African American or Native American race.

(29) \$260,036,000 of the hospital safety net assessment fund—state appropriation and \$255,448,000 of the general fund—federal appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2956 (hospital safety net assessment). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(30) \$79,000 of the general fund—state appropriation for fiscal year 2010 and \$53,000 of the general fund—federal appropriation are provided solely to implement Substitute House Bill No. 1845 (medical support obligations).

~~((30))~~ (31) \$63,000 of the general fund—state appropriation for fiscal year 2010, \$583,000 of the general fund—state appropriation for fiscal year 2011, and \$864,000 of the general fund—federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings, and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

~~((31))~~ (32) \$73,000 of the general fund—state appropriation for fiscal year 2011 and \$50,000 of the general fund—federal appropriation is provided solely for supplemental services that will be provided to offenders in lieu of a prison sentence pursuant to chapter 224, Laws of 2010 (Substitute Senate Bill No. 6639).

(33) Sufficient amounts are provided in this section to provide full benefit dual eligible beneficiaries with medicare part D prescription drug copayment coverage in accordance with RCW 74.09.520.

(34) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect providers, direct client services, or direct service delivery or programs.

(35) The department shall contract with an organization that provides medication therapy management services to increase the use of lower cost alternative medications, improve patient compliance with prescribed regimens, reduce harmful side effects from medication, and ensure that medications achieve their desired therapeutic results. The department shall not contract for these services unless the contractor guarantees that the services will generate savings, as measured by the department's actual experience after implementation, that are greater than the cost of the contracted services.

(36) \$331,000 of the general fund—state appropriation for fiscal year 2010, \$331,000 of the general fund—state appropriation for fiscal year 2011, and \$1,228,000 of the general fund—federal appropriation are provided solely for the department to support the activities of the Washington poison center. The department shall seek federal authority to receive matching funds from the federal government through the children's health insurance program.

(37) \$528,000 of the general fund—state appropriation and \$2,955,000 of the general fund—federal appropriation are provided solely for the implementation of the lifeline program under chapter 8, Laws of 2010 1st sp. sess. (security lifeline act).

(38) If the cost of a brand name drug, after receiving discounted prices and rebates, is less than the cost of the generic version of the drug for the medical assistance program, the brand name drug shall be purchased.

(39) The department shall propose a new medicaid prescription drug pricing benchmark to replace the average wholesale price (AWP), and report on the transition plan, the potential impact on stakeholders, and impact on state expenditures for the 2011-13 biennium to the governor and the fiscal committees of the legislature by November 1, 2010. This effort will include collaboration with stakeholders and be consistent with the recommendations of the American medicaid pharmacy administrators association and the national association of medicaid directors working group on post-AWP pricing and reimbursement.

(40) Sufficient amounts are provided in this section to provide medicaid school-based medical services.

(41) The department shall pursue all opportunities to maximize discounted drug pricing through the 340B drug pricing program in section 340B of the public health service act. The department shall report its findings to the governor and the fiscal committees of the legislature by December 1, 2010.

(42) The department shall develop a transition plan from a fee-for-service delivery system to a managed care delivery system for aged, blind, and disabled clients eligible for medical assistance coverage by June 1, 2011.

(43) Reductions in dental services are to be achieved by focusing on the fastest growing areas of dental care. Reductions in preventative care, particularly for children, will be avoided to the extent possible.

(44) The department shall develop the capability to implement apple health for kids express lane eligibility enrollments for children receiving basic food assistance by June 30, 2011.

(45)(a) The department, in coordination with the health care authority, shall actively continue to negotiate a medicaid section 1115 waiver with the federal centers for medicare and medicaid services that would provide federal matching funds for services provided to persons enrolled in the basic health plan under chapter 70.47 RCW and the medical care services program under RCW 74.09.035.

(b) If the waiver in (a) of this subsection is granted, the department and the health care authority may implement the waiver if it allows the program to remain within appropriated levels, after providing notice of its terms and conditions to the relevant policy and fiscal committees of the legislature in writing thirty days prior to the planned implementation date of the waiver.

(46) \$704,000 of the general fund—state appropriation for fiscal year 2010, \$812,000 of the general fund—state appropriation for fiscal year 2011, and \$1,516,000 of the general fund—federal appropriation are provided solely for maintaining employer-sponsored insurance program staff, coordination of benefits unit staff, the payment integrity audit team, and family planning nursing.

*(47) For healthy options managed care rates established on or after July 1, 2010, the department shall pay health plans operating in the same county the same base capitation rates for that county, with plan-specific adjustments related to risk characteristics of the plan's members including age, gender, and diagnostic-based risk adjustments, such as chronic disability payment system risk scores. The department shall provide preliminary rates for the upcoming fiscal year to all the healthy options plans and the fiscal committees of the legislature by September 30, 2010.*

(48) Every effort shall be made to maintain current employment levels and achieve administrative savings through vacancies and employee attrition. Efficiencies shall be implemented as soon as possible in order to minimize actual reduction in force. The department shall implement a management strategy that minimizes disruption of service and negative impacts on employees.

\*Sec. 209 was partially vetoed. See message at end of chapter.

Sec. 210. 2010 c 3 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
VOCATIONAL REHABILITATION PROGRAM**

General Fund—State Appropriation (FY 2010) . . . . .	(\$10,451,000)
	\$10,327,000
General Fund—State Appropriation (FY 2011) . . . . .	(\$10,125,000)
	\$10,077,000
General Fund—Federal Appropriation . . . . .	(\$83,534,000)
	\$107,961,000
Telecommunications Devices for the Hearing and Speech Impaired—State Appropriation. . . . .	(\$1,979,000)
	\$5,976,000
TOTAL APPROPRIATION . . . . .	(\$106,089,000)
	\$134,341,000

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The appropriations in this section are subject to the following conditions and limitations: The vocational rehabilitation program shall coordinate closely with the economic services program to serve ~~((general assistance unemployable))~~ lifeline clients under chapter 8, Laws of 2010 1st sp. sess. who are referred for eligibility determination and vocational rehabilitation services, and shall make every effort, within the requirements of the federal rehabilitation act of 1973, to serve these clients.

**Sec. 211.** 2010 c 3 s 210 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
SPECIAL COMMITMENT PROGRAM**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$49,818,000)</del>
	<u>\$48,827,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$47,259,000)</del>
	<u>\$46,922,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$97,077,000)</del>
	<u>\$95,749,000</u>

**\*Sec. 212.** 2010 c 3 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$34,425,000)</del>
	<u>\$33,604,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$34,627,000)</del>
	<u>\$29,407,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$55,169,000)</del>
	<u>\$51,119,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$1,526,000)</del>
	<u>\$1,121,000</u>
<u>Institutional Impact Account—State Appropriation . . . . .</u>	<u>\$22,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$125,747,000)</del>
	<u>\$115,273,000</u>

The appropriations in this section are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(1) ~~(\$150,000)~~ \$333,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$150,000)~~ \$300,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the Washington state mentors program to continue its public-private partnerships to provide technical assistance and training to mentoring programs that serve at-risk youth.

(2) \$445,000 of the general fund—state appropriation for fiscal year 2010 and \$445,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for funding of the teamchild project through the governor's juvenile justice advisory committee.

(3) \$178,000 of the general fund—state appropriation for fiscal year 2010 and \$178,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the juvenile detention alternatives initiative.

(4) Amounts appropriated in this section reflect a reduction to the family policy council. The family policy council shall reevaluate staffing levels and administrative costs to ensure to the extent possible a maximum ratio of grant moneys provided and administrative costs.

(5) Amounts appropriated in this section reflect a reduction to the council on children and families. The council on children and families shall reevaluate staffing levels and administrative costs to ensure to the extent possible a maximum ratio of grant moneys provided and administrative costs.

**(6) The department shall not reduce funding to the governor's juvenile justice advisory committee from the amounts appropriated for this purpose in chapter 564, Laws of 2009.**

**(7) \$25,000 of the general fund—state appropriation for fiscal year 2010 is provided for the department, in collaboration with the department of health and the health care authority, to report to the fiscal committees of the legislature by November 1, 2010, on estimates of the full costs and savings to all state-purchased health care from the inclusion of coverage for the diagnosis and treatment of autism spectrum disorders for individuals less than twenty-one years of age. Autism spectrum disorders are defined to mean any of the pervasive developmental disorders defined by the most recent edition of the diagnostic and statistical manual of mental disorders. Coverage must include all medically necessary care which is defined to include any care, treatment, intervention, service, or item that is prescribed, provided, or ordered by a licensed physician or licensed psychologist. Treatment of autism spectrum disorders includes the following care prescribed, ordered, or provided for an individual diagnosed with one of the autism spectrum disorders by a licensed physician or licensed psychologist who determines the care to be medically necessary: (a) Habilitative or rehabilitative care; (b) pharmacy care, except when plans do not offer any pharmacy benefits; (c) psychiatric care; and (d) psychological care. The estimates should fully consider all potential offsets to currently funded care and services and should consider including the coverage of the diagnosis and treatment of autism spectrum disorders within the currently mandated provision of mental health benefits.**

\*Sec. 212 was partially vetoed. See message at end of chapter.

**Sec. 213.** 2009 c 564 s 213 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
PAYMENTS TO OTHER AGENCIES PROGRAM**

General Fund—State Appropriation (FY 2010) . . . . .	(\$53,431,000)
	\$61,985,000
General Fund—State Appropriation (FY 2011) . . . . .	(\$53,472,000)
	\$61,461,000
General Fund—Federal Appropriation . . . . .	(\$49,494,000)
	\$56,572,000
TOTAL APPROPRIATION . . . . .	(\$156,397,000)
	\$180,018,000

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**\*Sec. 214.** 2009 c 564 s 214 (uncodified) is amended to read as follows:

<b>FOR THE STATE HEALTH CARE AUTHORITY</b>	
General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$206,295,000)</del>
	<u>\$208,258,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$182,138,000)</del>
	<u>\$159,306,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$6,302,000)</del>
	<u>\$34,727,000</u>
State Health Care Authority Administration Account—	
State Appropriation . . . . .	<del>(\$35,261,000)</del>
	<u>\$34,880,000</u>
Medical Aid Account—State Appropriation . . . . .	<del>(\$529,000)</del>
	<u>\$527,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<del><b>(\$430,525,000)</b></del>
	<u><b>\$437,698,000</b></u>

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

(1) Within amounts appropriated in this section and sections 205 and 206 of this act, the health care authority shall continue to provide an enhanced basic health plan subsidy for foster parents licensed under chapter 74.15 RCW and workers in state-funded home care programs. Under this enhanced subsidy option, foster parents eligible to participate in the basic health plan as subsidized enrollees and home care workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at the minimum premium amount charged to enrollees with incomes below sixty-five percent of the federal poverty level.

(2) The health care authority shall require organizations and individuals that are paid to deliver basic health plan services and that choose to sponsor enrollment in the subsidized basic health plan to pay 133 percent of the premium amount which would otherwise be due from the sponsored enrollees.

(3) The administrator shall take at least the following actions to assure that persons participating in the basic health plan are eligible for the level of assistance they receive: (a) Require submission of (i) income tax returns, and recent pay history, from all applicants, or (ii) other verifiable evidence of earned and unearned income from those persons not required to file income tax returns; (b) check employment security payroll records at least once every twelve months on all enrollees; (c) require enrollees whose income as indicated by payroll records exceeds that upon which their subsidy is based to document their current income as a condition of continued eligibility; (d) require enrollees for whom employment security payroll records cannot be obtained to document their current income at least once every six months; (e) not reduce gross family income for self-employed persons by noncash-flow expenses such as, but not limited to, depreciation, amortization, and home office deductions, as defined by the United States internal revenue service; and (f) pursue repayment and civil penalties from persons who have received excessive subsidies, as provided in RCW 70.47.060(9).

(4)(a) In order to maximize the funding appropriated for the basic health plan, the health care authority is directed to make modifications that will reduce



the total number of subsidized enrollees to approximately 65,000 by January 1, 2010. In addition to the reduced enrollment, other modifications may include changes in enrollee premium obligations, changes in benefits, enrollee cost-sharing, and termination of the enrollment of individuals concurrently enrolled in a medical assistance program as provided in Substitute House Bill No. 2341.

(b) The health care authority shall coordinate with the department of social and health services to negotiate a medicaid section 1115 waiver with the federal centers for medicare and medicaid services that would provide matching funds for services provided to persons enrolled in the basic health plan under chapter 70.47 RCW.

(c) If the waiver in (b) of this subsection is granted, the health care authority may implement the waiver if it allows the program to remain within appropriated levels, after providing notice of its terms and conditions to the relevant policy and fiscal committees of the legislature in writing thirty days prior to the planned implementation date of the waiver.

(5) \$250,000 of the general fund—state appropriation for fiscal year 2010 and \$250,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5360 (community collaboratives). If the bill is not enacted by June 30, 2009, the amounts provided in this section shall lapse.

(6) The ((department)) authority shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(7)(a) \$2,495,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the authority for grants to two pilot projects, one each based in Spokane and Whatcom counties, to provide a full continuum of health care services to low-income adults. The pilot project in Spokane county shall aim for an enrollment of five hundred individuals and the pilot project in Whatcom county shall aim for an enrollment of one thousand individuals. All individuals enrolled in the pilot projects shall meet the criteria in (b) of this subsection. Grantees must demonstrate experience in working with an established network of health care providers in the county capable of providing continuity of health care services that may include a primary care medical home and catastrophic insurance coverage, to low-income adults. Expectations of grantees will include: Coordinating public, private, and volunteer efforts within the county to maximize participation within the grant funds available; and providing continuity of care to participants that promotes improved health outcomes as determined by the health care authority. Grantees will submit reports as directed by the health care authority.

(b) In order to participate in a pilot, eligible low-income adults must have an income at or below two hundred percent of the federal poverty level; reside in the county where the project is based; be on the basic health waiting list at the time of application to participate; have no other health insurance coverage; and not be eligible for full-scope medical assistance programs, federal medicare programs, or health insurance through their employer. Grantees may require participants to meet other criteria, such as qualifying for health insurance coverage and paying premiums or other costs in order to participate in the pilot.

(c) The authority, in collaboration with the grantees of the pilots in (a) of this subsection, shall seek any federal funds that may be available with the enactment of federal health care reform.

(8) In the event that the authority markets a nonsubsidized version of the basic health plan, the authority must also provide information on other health care coverage options to potential clients.

(9) \$20,000 of the general fund—state appropriation for fiscal year 2010 and \$63,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the implementation of chapter 220, Laws of 2010 (accountable care organizations).

\*Sec. 214 was partially vetoed. See message at end of chapter.

Sec. 215. 2010 c 3 s 212 (uncodified) is amended to read as follows:

**FOR THE HUMAN RIGHTS COMMISSION**

General Fund—State Appropriation (FY 2010) . . . . .	\$2,638,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$2,533,000)</del>
	<u>\$2,511,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$1,299,000)</del>
	<u>\$1,584,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$6,470,000)</del>
	<u>\$6,733,000</u>

Sec. 216. 2009 c 564 s 216 (uncodified) is amended to read as follows:

**FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS**

Worker and Community Right-to-Know Account—	
State Appropriation . . . . .	\$20,000
Accident Account—State Appropriation . . . . .	<del>(\$18,453,000)</del>
	<u>\$18,139,000</u>
Medical Aid Account—State Appropriation . . . . .	<del>(\$18,453,000)</del>
	<u>\$18,139,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$36,926,000)</del>
	<u>\$36,298,000</u>

Sec. 217. 2009 c 564 s 217 (uncodified) is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$19,146,000)</del>
	<u>\$17,273,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$19,176,000)</del>
	<u>\$17,843,000</u>
General Fund—Federal Appropriation . . . . .	<u>\$143,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$200,000)</del>
	<u>\$1,303,000</u>
Death Investigations Account—State Appropriation . . . . .	\$148,000
Municipal Criminal Justice Assistance Account—	
State Appropriation . . . . .	\$460,000
Washington Auto Theft Prevention Authority Account—	
State Appropriation . . . . .	\$5,844,000
TOTAL APPROPRIATION . . . . .	<del>(\$44,974,000)</del>
	<u>\$43,014,000</u>

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

~~(1) ((\$1,874,000 of the general fund—state appropriation for fiscal year 2010 and \$1,922,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for 10 additional basic law enforcement academies in fiscal year 2010 and 10 additional basic law enforcement academies in fiscal year 2011.~~

~~(2))~~ \$1,191,000 of the general fund—state appropriation for fiscal year 2010 and \$1,191,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the Washington association of sheriffs and police chiefs to continue to develop, maintain, and operate the jail booking and reporting system (JBRs) and the statewide automated victim information and notification system (SAVIN).

~~((3))~~ (2) \$5,000,000 of the general fund—state appropriation for fiscal year 2010 and \$5,000,000 of the general fund—state appropriation for fiscal year 2011, are provided to the Washington association of sheriffs and police chiefs solely to verify the address and residency of registered sex offenders and kidnapping offenders under RCW 9A.44.130. The Washington association of sheriffs and police chiefs shall:

(a) Enter into performance-based agreements with units of local government to ensure that registered offender address and residency are verified:

- (i) For level I offenders, every twelve months;
- (ii) For level II offenders, every six months; and
- (iii) For level III offenders, every three months.

For the purposes of this subsection, unclassified offenders and kidnapping offenders shall be considered at risk level I unless in the opinion of the local jurisdiction a higher classification is in the interest of public safety.

(b) Collect performance data from all participating jurisdictions sufficient to evaluate the efficiency and effectiveness of the address and residency verification program; and

(c) Submit a report on the effectiveness of the address and residency verification program to the governor and the appropriate committees of the house of representatives and senate by December 31, each year.

The Washington association of sheriffs and police chiefs may retain up to three percent of the amount provided in this subsection for the cost of administration. Any funds not disbursed for address and residency verification or retained for administration may be allocated to local prosecutors for the prosecution costs associated with failing-to-register offenses.

~~((4))~~ (3) \$30,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for the implementation of Second Substitute House Bill No. 2078 (persons with developmental disabilities in correctional facilities or jails). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$171,000 of the general fund—local appropriation is provided solely to purchase ammunition for the basic law enforcement academy. Jurisdictions with one hundred or more full-time commissioned officers shall reimburse to the criminal justice training commission the costs of ammunition, based on the average cost of ammunition per cadet, for cadets that they enroll in the basic law enforcement academy.

(5) The criminal justice training commission may not run a basic law enforcement academy class of fewer than 30 students.

(6) \$1,500,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for continuing the enforcement of illegal drug laws in the rural pilot project enforcement areas as set forth in chapter 339, Laws of 2006.

**Sec. 218.** 2009 c 564 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

General Fund—State Appropriation (FY 2010) . . . . .	(\$24,224,000)
	<u>\$24,975,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$25,237,000)
	<u>\$19,336,000</u>
<del>((General Fund—Federal Appropriation . . . . .</del>	<del>\$100,000)</del>
General Fund—Federal Appropriation . . . . .	(\$10,000,000)
	<u>\$10,100,000</u>
Asbestos Account—State Appropriation . . . . .	(\$924,000)
	<u>\$923,000</u>
Electrical License Account—State Appropriation . . . . .	(\$43,162,000)
	<u>\$36,977,000</u>
Farm Labor Revolving Account—Private/Local Appropriation . . . . .	\$28,000
Worker and Community Right-to-Know Account—	
State Appropriation . . . . .	(\$1,979,000)
	<u>\$1,987,000</u>
Public Works Administration Account—State	
Appropriation . . . . .	(\$5,764,000)
	<u>\$6,021,000</u>
Manufactured Home Installation Training Account—	
State Appropriation . . . . .	(\$138,000)
	<u>\$143,000</u>
Accident Account—State Appropriation . . . . .	(\$248,281,000)
	<u>\$250,509,000</u>
Accident Account—Federal Appropriation . . . . .	(\$13,622,000)
	<u>\$13,621,000</u>
Medical Aid Account—State Appropriation . . . . .	(\$249,537,000)
	<u>\$249,232,000</u>
Medical Aid Account—Federal Appropriation . . . . .	\$3,186,000
Plumbing Certificate Account—State Appropriation . . . . .	(\$1,693,000)
	<u>\$1,704,000</u>
Pressure Systems Safety Account—State Appropriation . . . . .	(\$3,775,000)
	<u>\$4,144,000</u>
TOTAL APPROPRIATION . . . . .	(\$631,650,000)
	<u>\$622,886,000</u>

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

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees related to factory assembled structures, contractor registration, electricians, plumbers, asbestos removal, boilers, elevators, and manufactured home installers. These increases are necessary to support expenditures authorized in

this section, consistent with chapters 43.22, 18.27, 19.28, and 18.106 RCW, RCW 49.26.130, and chapters 70.79, 70.87, and 43.22A RCW.

(2) \$424,000 of the accident account—state appropriation and \$76,000 of the medical aid account—state appropriation are provided solely for implementation of a community agricultural worker safety grant at the department of agriculture. The department shall enter into an interagency agreement with the department of agriculture to implement the grant.

(3) \$4,850,000 of the medical aid account—state appropriation is provided solely to continue the program of safety and health as authorized by RCW 49.17.210 to be administered under rules adopted pursuant to chapter 34.05 RCW, provided that projects funded involve workplaces insured by the medical aid fund, and that priority is given to projects fostering accident prevention through cooperation between employers and employees or their representatives.

(4) \$150,000 of the medical aid account—state appropriation is provided solely for the department to contract with one or more independent experts to evaluate and recommend improvements to the rating plan under chapter 51.18 RCW, including analyzing how risks are pooled, the effect of including worker premium contributions in adjustment calculations, incentives for accident and illness prevention, return-to-work practices, and other sound risk-management strategies that are consistent with recognized insurance principles.

(5) The department shall continue to conduct utilization reviews of physical and occupational therapy cases at the 24th visit. The department shall continue to report performance measures and targets for these reviews on the agency web site. The reports are due September 30th for the prior fiscal year and must include the amount spent and the estimated savings per fiscal year.

(6) The appropriations in this section reflect reductions in the appropriations for the department of labor and industries' administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing administrative costs only.

(7) \$500,000 of the accident account—state appropriation is provided solely for the department to contract with one or more independent experts to oversee and assist the department's implementation of improvements to the rating plan under chapter 51.18 RCW, in collaboration with the department and with the department's work group of retrospective rating and workers' compensation stakeholders. The independent experts will validate the impact of recommended changes on retrospective rating participants and nonparticipants, confirm implementation technology changes, and provide other implementation assistance as determined by the department.

(8) \$194,000 of the accident account—state appropriation and \$192,000 of the medical aid account—state appropriation are provided solely for implementation of Senate Bill No. 5346 (health care administrative procedures). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(9) \$131,000 of the accident account—state appropriation and \$128,000 of the medical aid account—state appropriation are provided solely for implementation of Senate Bill No. 5613 (stop work orders). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(10) \$68,000 of the accident account—state appropriation and \$68,000 of the medical aid account—state appropriation are provided solely for

implementation of Senate Bill No. 5688 (registered domestic partners). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(11) \$320,000 of the accident account—state appropriation and \$147,000 of the medical aid account—state appropriation are provided solely for implementation of Senate Bill No. 5873 (apprenticeship utilization). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.~~

~~(15))~~ (12) \$73,000 of the general fund—state appropriation for fiscal year 2010, \$66,000 of the general fund—state appropriation for fiscal year 2011, \$606,000 of the accident account—state appropriation, and \$600,000 of the medical aid account—state appropriation are provided solely for the implementation of House Bill No. 1555 (underground economy). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.~~

~~(16))~~ (13) \$574,000 of the accident account—state appropriation and \$579,000 of the medical account—state appropriation are provided solely for the implementation of House Bill No. 1402 (industrial insurance appeals). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(14) Within statutory guidelines, the boiler program shall explore opportunities to increase program efficiency. Strategies may include the consolidation of routine multiple inspections to the same site and trip planning to ensure the least number of miles traveled.

(15) \$16,000 of the general fund—state appropriation for fiscal year 2010 and \$50,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the crime victims compensation program to pay claims for mental health services for crime victim compensation program clients who have an established relationship with a mental health provider and subsequently obtain coverage under the medicaid program or the medical care services program under chapter 74.09 RCW. Prior to making such payment, the program must have determined that payment for the specific treatment or provider is not available under the medicaid or medical care services program. In addition, the program shall make efforts to contact any healthy options or medical care services health plan in which the client may be enrolled to help the client obtain authorization to pay the claim on an out-of-network basis.

(16) \$48,000 of the accident account—state appropriation and \$48,000 of the medical aid account—state appropriation are provided solely for the implementation of Substitute House Bill No. 2789 (issuance of subpoenas for purposes of agency investigations of underground economic activity). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(17) \$71,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for implementation of Senate Bill No. 6349 (farm internship program). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(18) \$127,000 of the general fund—state appropriation for fiscal year 2010 and \$133,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the department to provide benefits in excess of the cap

established by sections 1 and 2, chapter 122, Laws of 2010. These benefits shall be paid for claimants who were determined eligible for and who were receiving crime victims' compensation benefits because they were determined to be permanently and totally disabled, as defined by RCW 51.08.160, prior to April 1, 2010. The director shall establish, by May 1, 2010, a process to aid crime victims' compensation recipients in identifying and applying for appropriate alternative benefit programs.

(19) \$155,000 of the public works administration account—state appropriation is provided solely for the implementation of Engrossed House Bill No. 2805 (offsite prefabricated items). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 219.** 2010 c 3 s 213 (uncodified) is amended to read as follows:

**FOR THE INDETERMINATE SENTENCE REVIEW BOARD**

General Fund—State Appropriation (FY 2010) . . . . .	\$1,882,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$1,886,000)</del>
	<u>\$1,864,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$3,768,000)</del>
	<u>\$3,746,000</u>

**Sec. 220.** 2009 c 564 s 220 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

(1) HEADQUARTERS

General Fund—State Appropriation (FY 2010) . . . . .	\$1,913,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$1,899,000)</del>
	<u>\$1,865,000</u>
Charitable, Educational, Penal, and Reformatory Institutions Account—State Appropriation . . . . .	\$10,000
TOTAL APPROPRIATION . . . . .	<del>(\$3,822,000)</del>
	<u>\$3,788,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(2) FIELD SERVICES

General Fund—State Appropriation (FY 2010) . . . . .	\$4,885,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$4,943,000)</del>
	<u>\$4,964,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$1,842,000)</del>
	<u>\$2,382,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$3,491,000)</del>
	<u>\$4,512,000</u>
Veterans Innovations Program Account—State Appropriation . . . . .	<del>(\$648,000)</del>
	<u>\$897,000</u>

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Veteran Estate Management Account—Private/Local	
Appropriation . . . . .	(\$1,069,000)
	<u>\$1,072,000</u>
TOTAL APPROPRIATION . . . . .	(\$16,878,000)
	<u>\$18,712,000</u>

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

(a) The department shall collaborate with the department of social and health services to identify and assist eligible general assistance unemployable clients to access the federal department of veterans affairs benefits.

(b) \$648,000 of the veterans innovations program account—state appropriation is provided solely for the department to continue support for returning combat veterans through the veterans innovation program, including emergency financial assistance through the defenders' fund and long-term financial assistance through the competitive grant program.

(c) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

<b>(3) INSTITUTIONAL SERVICES</b>	
General Fund—State Appropriation (FY 2010) . . . . .	(\$3,638,000)
	<u>\$3,318,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$2,845,000)
	<u>\$2,371,000</u>
General Fund—Federal Appropriation . . . . .	(\$50,791,000)
	<u>\$50,353,000</u>
General Fund—Private/Local Appropriation . . . . .	(\$31,734,000)
	<u>\$34,189,000</u>
TOTAL APPROPRIATION . . . . .	(\$89,008,000)
	<u>\$90,231,000</u>

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

(a) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(b) The reductions in this subsection shall be achieved through savings from contract revisions and shall not impact the availability of goods and services for residents of the three state veterans homes.

\*Sec. 221. 2010 c 3 s 214 (uncodified) is amended to read as follows:

<b>FOR THE DEPARTMENT OF HEALTH</b>	
General Fund—State Appropriation (FY 2010) . . . . .	(\$107,413,000)
	<u>\$98,414,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$82,806,000)
	<u>\$81,735,000</u>



General Fund—Federal Appropriation . . . . .	(\$480,871,000)
	<u>\$564,379,000</u>
General Fund—Private/Local Appropriation . . . . .	(\$138,846,000)
	<u>\$162,237,000</u>
Hospital Data Collection Account—State Appropriation. . . . .	(\$326,000)
	<u>\$218,000</u>
Health Professions Account—State Appropriation . . . . .	(\$76,218,000)
	<u>\$82,850,000</u>
Aquatic Lands Enhancement Account—State Appropriation . . . . .	\$603,000
Emergency Medical Services and Trauma Care Systems Trust Account—State Appropriation. . . . .	(\$13,531,000)
	<u>\$13,206,000</u>
Safe Drinking Water Account—State Appropriation . . . . .	(\$2,723,000)
	<u>\$2,731,000</u>
Drinking Water Assistance Account—Federal Appropriation. . . . .	(\$22,817,000)
	<u>\$22,862,000</u>
Waterworks Operator Certification—State Appropriation. . . . .	(\$1,519,000)
	<u>\$1,522,000</u>
Drinking Water Assistance Administrative Account— State Appropriation . . . . .	\$326,000
State Toxics Control Account—State Appropriation . . . . .	(\$3,600,000)
	<u>\$4,106,000</u>
Medical Test Site Licensure Account—State Appropriation. . . . .	(\$2,117,000)
	<u>\$2,261,000</u>
Youth Tobacco Prevention Account—State Appropriation . . . . .	\$1,512,000
Public Health Supplemental Account—Private/Local Appropriation. . . . .	(\$3,525,000)
	<u>\$3,804,000</u>
<u>Community and Economic Development Fee Account—State Appropriation. . . . .</u>	<u>\$298,000</u>
Accident Account—State Appropriation . . . . .	(\$295,000)
	<u>\$292,000</u>
Medical Aid Account—State Appropriation . . . . .	\$48,000
Tobacco Prevention and Control Account— State Appropriation . . . . .	(\$46,852,000)
	<u>\$44,196,000</u>
Biotoxin Account—State Appropriation . . . . .	(\$1,165,000)
	<u>\$1,163,000</u>
TOTAL APPROPRIATION . . . . .	(\$987,113,000)
	<u>\$1,088,763,000</u>

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

(1) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department of health and the state board of health shall not

implement any new or amended rules pertaining to primary and secondary school facilities until the rules and a final cost estimate have been presented to the legislature, and the legislature has formally funded implementation of the rules through the omnibus appropriations act or by statute. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(2) In accordance with RCW 43.70.250 and 43.135.055, the department is authorized to establish and raise fees in fiscal year 2011 as necessary to meet the actual costs of conducting business and the appropriation levels in this section. This authorization applies to fees for the review of sewage tank designs, fees related to regulation and inspection of farmworker housing, and fees associated with the following professions: Acupuncture, dental, denturist, mental health counselor, nursing, nursing assistant, optometry, radiologic technologist, recreational therapy, respiratory therapy, social worker, cardiovascular invasive specialist, and practitioners authorized under chapter 18.240 RCW.

(3) Pursuant to RCW 43.135.055 and RCW 43.70.250, the department is authorized to establish fees by the amount necessary to fully support the cost of activities related to the administration of long-term care worker certification. The department is further authorized to increase fees by the amount necessary to implement the regulatory requirements of the following bills: House Bill No. 1414 (health care assistants), House Bill No. 1740 (dental residency licenses), and House Bill No. 1899 (retired active physician licenses).

~~((3))~~ (4) \$764,000 of the health professions account—state appropriation is provided solely for the medical quality assurance commission to maintain disciplinary staff and associated costs sufficient to reduce the backlog of disciplinary cases and to continue to manage the disciplinary caseload of the commission.

~~((4))~~ (5) \$57,000 of the general fund—state appropriation for fiscal year 2010 and \$58,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the midwifery licensure and regulatory program to offset a reduction in revenue from fees. ~~((There shall be no change to the current annual fees for new or renewed licenses for the midwifery program.))~~ The department shall convene the midwifery advisory committee on a quarterly basis to address issues related to licensed midwifery. The appropriations in this section assume that the current application and renewal fee for midwives shall be increased by fifty dollars and all other fees for midwives be adjusted accordingly.

~~((5))~~ (6) Funding for the human papillomavirus vaccine shall not be included in the department's universal vaccine purchase program in fiscal year

2010. Remaining funds for the universal vaccine purchase program shall be used to continue the purchase of all other vaccines included in the program until May 1, 2010, ~~((or until state funds are exhausted,))~~ at which point state funding for the universal vaccine purchase program shall be discontinued. ~~((Funds from section 317 of the federal public health services act direct assistance shall not be used in lieu of state funds.~~

~~((6))~~ (7) Beginning July 1, 2010, the department, in collaboration with the department of social and health services, shall maximize the use of existing federal funds, including section 317 of the federal public health services act direct assistance as well as federal funds that may become available under the American recovery and reinvestment act, in order to continue to provide immunizations for low-income, nonmedicaid eligible children up to three hundred percent of the federal poverty level in state-sponsored health programs.

~~((7))~~ (8) The department shall eliminate outreach activities for the health care directives registry and use the remaining amounts to maintain the contract for the registry and minimal staffing necessary to administer the basic entry functions for the registry.

~~((8))~~ (9) Funding in this section reflects a temporary reduction of resources for the 2009-11 fiscal biennium for the state board of health to conduct health impact reviews.

~~((9))~~ (10) Pursuant to RCW 43.135.055 and 43.70.125, the department is authorized to adopt rules to establish a fee schedule to apply to applicants for initial certification surveys of health care facilities for purposes of receiving federal health care program reimbursement. The fees shall only apply when the department has determined that federal funding is not sufficient to compensate the department for the cost of conducting initial certification surveys. The fees for initial certification surveys may be established as follows: Up to \$1,815 for ambulatory surgery centers, up to \$2,015 for critical access hospitals, up to \$980 for end stage renal disease facilities, up to \$2,285 for home health agencies, up to \$2,285 for hospice agencies, up to \$2,285 for hospitals, up to \$520 for rehabilitation facilities, up to \$690 for rural health clinics, and up to \$7,000 for transplant hospitals.

~~((10))~~ (11) Funding for family planning grants for fiscal year 2011 is reduced in the expectation that federal funding shall become available to expand coverage of services for individuals through programs at the department of social and health services. In the event that such funding is not provided, the legislature intends to continue funding through a supplemental appropriation at fiscal year 2010 levels. \$4,500,000 of the general fund—state appropriation is provided solely for the department of health-funded family planning clinic grants due to federal funding not becoming available.

~~((11))~~ (12) \$16,000,000 of the tobacco prevention and control account—state appropriation is provided solely for local health jurisdictions to conduct core public health functions as defined in RCW 43.70.514.

~~((12))~~ (13) \$100,000 of the health professions account appropriation is provided solely for implementation of Substitute House Bill No. 1414 (health care assistants). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

~~((13))~~ (14) \$42,000 of the health professions account—state appropriation is provided solely to implement Substitute House Bill No. 1740 (dentistry

license issuance). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

~~((14))~~ (15) \$23,000 of the health professions account—state appropriation is provided solely to implement Second Substitute House Bill No. 1899 (retired active physician licenses). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

~~((15))~~ (16) \$12,000 of the general fund—state appropriation for fiscal year 2010 and \$67,000 of the general fund—private/local appropriation are provided solely to implement House Bill No. 1510 (birth certificates). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

~~((16))~~ (17) \$31,000 of the health professions account is provided for the implementation of Second Substitute Senate Bill No. 5850 (human trafficking). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

~~((17))~~ (18) \$282,000 of the health professions account is provided for the implementation of Substitute Senate Bill No. 5752 (dentists cost recovery). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

~~((18))~~ (19) \$106,000 of the health professions account is provided for the implementation of Substitute Senate Bill No. 5601 (speech language assistants). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

(20) Subject to existing resources, the department of health is encouraged to examine, in the ordinary course of business, current and prospective programs, treatments, education, and awareness of cardiovascular disease that are needed for a thriving and healthy Washington.

(21) \$400,500 from the health professions account is appropriated to fund nursing commission programs related to discipline, impaired practitioner programs, and expedited credentialing. Funding comes from a reduction in the \$20 fees that nurses pay for access to University of Washington library resources.

(22) \$390,000 of the health professions account—state appropriation is provided solely to implement chapter 169, Laws of 2010 (nursing assistants). The amount provided in this subsection is from fee revenue authorized by Engrossed Substitute Senate Bill No. 6582.

(23) \$10,000 of the health professions account—state appropriation for fiscal year 2010 and \$40,000 of the health professions account—state appropriation for fiscal year 2011 are provided solely for the department to study cost effective options for collecting demographic data related to the health care professions workforce to be submitted to the legislature by December 1, 2010.

(24) \$66,000 of the health professions account—state appropriation is provided solely to implement chapter 209, Laws of 2010 (pain management).

(25) \$10,000 of the health professions account—state appropriation is provided solely to implement chapter 92, Laws of 2010 (cardiovascular invasive specialists).

(26) \$23,000 of the general fund—state appropriation is provided solely to implement chapter 182, Laws of 2010 (tracking ephedrine, etc.).

(27) The department is authorized to coordinate a tobacco cessation media campaign using all appropriate media with the purpose of maximizing the use of quit-line services and youth smoking prevention.

**(28) For all contracts for smoking cessation and awareness services agreed to after the effective date of this section, at least ten percent of the value of that contract shall be dedicated to supporting smoking cessation and prevention programs for underserved and hard to reach populations, including populations with smoking rates higher than the state average.**

(29) It is the intent of the legislature that the reductions in appropriations to the AIDS/HIV programs shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing these programs.

(30) \$400,000 of the state toxics control account—state appropriation is provided solely for granting to a willing local public entity to provide emergency water supplies or water treatment for households with individuals at high public health risk from nitrate-contaminated wells in the lower Yakima basin.

(31) \$100,000 of the state toxics control account—state appropriation is provided solely for an interagency contract to the department of ecology to grant to agencies involved in improving groundwater quality in the lower Yakima Valley. These agencies will develop a local plan for improving water quality and reducing nitrate contamination. The department of ecology will report to the appropriate committees of the legislature and to the office of financial management no later than December 1, 2010, summarizing progress towards developing and implementing this plan.

\*Sec. 221 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 222. A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS.** The appropriations to the department of corrections in this act shall be expended for the programs and in the amounts specified herein. However, after May 1, 2010, after approval by the director of financial management and unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 2010 between programs. The department shall not transfer funds, and the director of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds and not federal funds. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing seven days prior to approving any deviations from appropriation levels. The written notification shall include a narrative explanation and justification of the changes, along with expenditures and allotments by budget unit and appropriation, both before and after any allotment modifications or transfers.

\*Sec. 223. 2010 c 3 s 215 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**(1) ADMINISTRATION AND SUPPORT SERVICES**

**Ch. 37 WASHINGTON LAWS, 2010 Sp. Sess.**

General Fund—State Appropriation (FY 2010) . . . . .	(\$55,622,000)
	<u>\$55,772,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$56,318,000)
	<u>\$55,417,000</u>
TOTAL APPROPRIATION . . . . .	(\$111,940,000)
	<u>\$111,189,000</u>

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

(a) Within funds appropriated in this section, the department shall seek contracts for chemical dependency vendors to provide chemical dependency treatment of offenders in corrections facilities, including corrections centers and community supervision facilities, which have demonstrated effectiveness in treatment of offenders and are able to provide data to show a successful treatment rate.

(b) \$35,000 of the general fund—state appropriation for fiscal year 2010 and \$35,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the support of a statewide council on mentally ill offenders that includes as its members representatives of community-based mental health treatment programs, current or former judicial officers, and directors and commanders of city and county jails and state prison facilities. The council will investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who have a history of offending or who are at-risk of offending, including their mental health, physiological, housing, employment, and job training needs.

**(2) CORRECTIONAL OPERATIONS**

General Fund—State Appropriation (FY 2010) . . . . .	(\$456,657,000)
	<u>\$458,503,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$626,303,000)
	<u>\$600,657,000</u>
General Fund—Federal Appropriation . . . . .	(\$185,131,000)
	<u>\$186,719,000</u>
<del>(General Fund—Private/Local Appropriation . . . . .</del>	<del>\$3,536,000)</del>
Washington Auto Theft Prevention Authority Account—	
State Appropriation . . . . .	(\$5,960,000)
	<u>\$5,936,000</u>
<u>State Efficiency and Restructuring Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$34,522,000</u>
TOTAL APPROPRIATION . . . . .	(\$1,277,587,000)
	<u>\$1,286,337,000</u>

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

(a) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. Any funds generated in excess of actual costs shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as a recovery of costs.

(b) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(c) During the 2009-11 biennium, when contracts are established or renewed for offender pay phone and other telephone services provided to inmates, the department shall select the contractor or contractors primarily based on the following factors: (i) The lowest rate charged to both the inmate and the person paying for the telephone call; and (ii) the lowest commission rates paid to the department, while providing reasonable compensation to cover the costs of the department to provide the telephone services to inmates and provide sufficient revenues for the activities funded from the institutional welfare betterment account.

(d) The Harborview medical center and the University of Washington medical center shall provide inpatient and outpatient hospital services to offenders confined in department of corrections facilities at a rate no greater than the average rate that the department has negotiated with other community hospitals in Washington state.

(e) A political subdivision which is applying for funding to mitigate one-time impacts associated with construction or expansion of a correctional institution, consistent with WAC 137-12A-030, may apply for the mitigation funds in the fiscal biennium in which the impacts occur or in the immediately succeeding fiscal biennium.

(f) Within amounts provided in this subsection, the department, jointly with the department of social and health services, shall identify the number of offenders released through the extraordinary medical placement program, the cost savings to the department of corrections, including estimated medical cost savings, and the costs for medical services in the community incurred by the department of social and health services. The department and the department of social and health services shall jointly report to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010.

(g) \$11,863,000 of the general fund—state appropriation for fiscal year 2010, \$11,864,000 of the general fund—state appropriation for fiscal year 2011, and \$2,336,000 of the general fund-private/local appropriation are provided solely for in-prison evidence-based programs and for the reception diagnostic center program as part of the offender re-entry initiative.

**(h) The department shall appropriately transition offenders from custody as close as possible to the offender's earned release date without adversely affecting public safety. The number of offenders held beyond their earned release date should not exceed the number of offenders held beyond their earned release date in fiscal year 2008. By June 1, 2010, the department shall provide a report on its offender population to the office of financial management and the legislative fiscal committees. The report shall include (i) an explanation for the increase in the adult inmate population between the November 2009 forecast and the February 2010 forecast; (ii) an explanation for the increase in the number of offenders held beyond their earned release date between fiscal year 2008 and calendar year 2009; and (iii) a description of the department's actions to reduce and maintain the number of offenders**

**held beyond their earned release date to the population level from fiscal year 2008, and a timetable for achieving that goal.**

(i) The appropriations in this subsection are based on savings assumed from decreasing the offender population at the McNeil Island corrections center to 256 minimum security offenders, decreasing the offender population at the Larch corrections center to 240 offenders, the closure of the Ahtanum View corrections center, and the closure of the Pine Lodge corrections center for women.

(3) COMMUNITY SUPERVISION	
General Fund—State Appropriation (FY 2010) . . . . .	(\$151,249,000)
	\$150,729,000
General Fund—State Appropriation (FY 2011) . . . . .	(\$141,785,000)
	\$139,945,000
TOTAL APPROPRIATION . . . . .	(\$293,034,000)
	\$290,674,000

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

(a) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(b) \$2,083,000 of the general fund—state appropriation for fiscal year 2010 and \$2,083,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to implement Senate Bill No. 5525 (state institutions/release). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(c) The appropriations in this subsection are based upon savings assumed from the implementation of Engrossed Substitute Senate Bill No. 5288 (supervision of offenders).

(d) \$2,791,000 of the general fund—state appropriation for fiscal year 2010 and \$3,166,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for evidence-based community programs and for community justice centers as part of the offender re-entry initiative.

(e) \$418,300 of the general fund—state appropriation for fiscal year 2010 is provided solely for the purposes of settling all claims in *Hilda Solis, Secretary of Labor, United States Department of Labor v. State of Washington, Department of Corrections*, United States District Court, Western District of Washington, Cause No. C08-cv-05362-RJB. The expenditure of this amount is contingent on the release of all claims in the case, and total settlement costs shall not exceed the amount provided in this subsection. If settlement is not fully executed by June 30, 2010, the amount provided in this subsection shall lapse.

(f) \$984,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for supplemental services that will be provided to offenders in lieu of a prison sentence, pursuant to chapter 224, Laws of 2010 (confinement alternatives).

(4) CORRECTIONAL INDUSTRIES	
General Fund—State Appropriation (FY 2010) . . . . .	\$2,574,000



General Fund—State Appropriation (FY 2011) . . . . .	(\$2,565,000)
	<u>\$2,547,000</u>
TOTAL APPROPRIATION . . . . .	(\$5,139,000)
	<u>\$5,121,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: \$132,000 of the general fund—state appropriation for fiscal year 2010 and \$132,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(5) INTERAGENCY PAYMENTS

General Fund—State Appropriation (FY 2010) . . . . .	(\$40,455,000)
	<u>\$40,728,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$40,450,000)
	<u>\$40,084,000</u>
TOTAL APPROPRIATION . . . . .	(\$80,905,000)
	<u>\$80,812,000</u>

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

(a) The state prison institutions may use funds appropriated in this subsection to rent uniforms from correctional industries in accordance with existing legislative mandates.

(b) The state prison medical facilities may use funds appropriated in this subsection to purchase goods and supplies through hospital or other group purchasing organizations when it is cost effective to do so.

\*Sec. 223 was partially vetoed. See message at end of chapter.

Sec. 224. 2009 c 564 s 224 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SERVICES FOR THE BLIND**

General Fund—State Appropriation (FY 2010) . . . . .	(\$2,544,000)
	<u>\$2,504,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$2,550,000)
	<u>\$2,390,000</u>
General Fund—Federal Appropriation . . . . .	(\$18,125,000)
	<u>\$18,116,000</u>
General Fund—Private/Local Appropriation . . . . .	(\$20,000)
	<u>\$30,000</u>
TOTAL APPROPRIATION . . . . .	(\$23,239,000)
	<u>\$23,040,000</u>

The amounts appropriated in this section are subject to the following conditions and limitations: Sufficient amounts are appropriated in this section to support contracts for services that provide employment support and help with life activities for deaf and blind individuals in King county.

**Ch. 37 WASHINGTON LAWS, 2010 Sp. Sess.**

**Sec. 225.** 2010 c 3 s 216 (uncodified) is amended to read as follows:

**FOR THE SENTENCING GUIDELINES COMMISSION**

General Fund—State Appropriation (FY 2010) . . . . .	\$962,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$960,000)</del>
	<u>\$948,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$1,922,000)</del>
	<u>\$1,910,000</u>

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

(1) Within the amounts appropriated in this section, the sentencing guidelines commission, in partnership with the courts, shall develop a plan to implement an evidence-based system of community custody for adult felons that will include the consistent use of evidence-based risk and needs assessment tools, programs, supervision modalities, and monitoring of program integrity. The plan for the evidence-based system of community custody shall include provisions for identifying cost-effective rehabilitative programs; identifying offenders for whom such programs would be cost-effective; monitoring the system for cost-effectiveness; and reporting annually to the legislature. In developing the plan, the sentencing guidelines shall consult with: The Washington state institute for public policy; the legislature; the department of corrections; local governments; prosecutors; defense attorneys; victim advocate groups; law enforcement; the Washington federation of state employees; and other interested entities. The sentencing guidelines commission shall report its recommendations to the governor and the legislature by December 1, 2009.

(2)(a) Except as provided in subsection (b), during the 2009-11 biennium, the reports required by RCW 9.94A.480(2) and 9.94A.850(2) (d) and (h) shall be prepared within the available funds and may be delayed or suspended at the discretion of the commission.

(b) The commission shall submit the analysis described in section 15 of Engrossed Substitute Senate Bill No. 5288 no later than December 1, 2011.

(3) Within the amounts appropriated in this section, the sentencing guidelines commission shall survey the practices of other states relating to offenders who violate any conditions of their community custody. In conducting the survey, the sentencing guidelines commission shall perform a review of the research studies to determine if a mandatory minimum confinement policy is an evidence-based practice, investigate the implementation of such a policy in other states, and estimate the fiscal impacts of implementing such a policy in Washington state. The sentencing guidelines commission shall report its findings to the governor and the legislature by December 1, 2010.

**Sec. 226.** 2009 c 564 s 226 (uncodified) is amended to read as follows:

**FOR THE EMPLOYMENT SECURITY DEPARTMENT**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$7,054,000)</del>
	<u>\$2,054,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$53,000)</del>
	<u>\$5,053,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$320,561,000)</del>
	<u>\$324,135,000</u>

General Fund—Private/Local Appropriation . . . . .	<del>(\$33,825,000)</del>
	<u>\$33,640,000</u>
Unemployment Compensation Administration	
Account—Federal Appropriation . . . . .	<del>(\$332,904,000)</del>
	<u>\$362,740,000</u>
Administrative Contingency Account—State	
Appropriation. . . . .	<del>(\$293,000)</del>
	<u>\$345,000</u>
Employment Service Administrative Account—	
State Appropriation . . . . .	<del>(\$37,195,000)</del>
	<u>\$37,775,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$731,885,000)</del>
	<u>\$765,742,000</u>

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

(1) ~~(\$55,029,000)~~ \$59,829,000 of the unemployment compensation administration account—federal appropriation is provided from amounts made available to the state by section 903(d) and (f) of the social security act (Reed act). This amount is authorized to continue current unemployment insurance functions and department services to employers and job seekers.

(2) \$32,067,000 of the unemployment compensation administration account—federal appropriation is provided from amounts made available to the state by section 903(d) and (f) of the social security act (Reed act). This amount is authorized to fund the replacement of the unemployment insurance tax information system (TAXIS) for the employment security department. This section is subject to section 902 of this act.

(3) \$110,000 of the unemployment compensation administration account—federal appropriation is provided solely for implementation of Senate Bill No. 5804 (leaving part time work voluntarily). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(4) \$1,263,000 of the unemployment compensation administration account—federal appropriation is provided solely for implementation of Senate Bill No. 5963 (unemployment insurance). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(5) \$159,000 of the unemployment compensation account—federal appropriation is provided solely for the implementation of House Bill No. 1555 (underground economy) from funds made available to the state by section 903(d) of the social security act (Reed act).

(6) ~~(\$293,000)~~ \$295,000 of the administrative contingency—state appropriation for fiscal year 2010 is provided solely for the implementation of House Bill No. 2227 (evergreen jobs act). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(7) \$7,000,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for the implementation of Senate Bill No. 5809 (WorkForce employment and training). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(8) \$444,000 of the unemployment compensation administration account—federal appropriation is provided solely for the implementation of Substitute

Senate Bill No. 6524 (unemployment insurance penalties and contribution rates from funds made available to the state by section 903 (d) or (f) of the social security act (Reed 12 act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(9) \$232,000 of the unemployment compensation administration account— federal appropriation from funds made available to the state by section 903(c) or (f) of the social security act (Reed act) is provided solely for the implementation of Substitute House Bill No. 2789 (underground economic activity). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

Sec. 227. 2009 c 564 s 221 (uncodified) is amended to read as follows:

**FOR THE HOME CARE QUALITY AUTHORITY**

General Fund—State Appropriation (FY 2010) . . . . .	\$1,229,000
<del>((General Fund—State Appropriation (FY 2011) . . . . .</del>	<del>\$1,221,000</del>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$2,450,000)</b>

**PART III  
NATURAL RESOURCES**

Sec. 301. 2009 c 564 s 301 (uncodified) is amended to read as follows:

**FOR THE COLUMBIA RIVER GORGE COMMISSION**

General Fund—State Appropriation (FY 2010) . . . . .	\$441,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$445,000)</del>
	<u>\$440,000</u>
General Fund—Federal Appropriation . . . . .	\$30,000
General Fund—Private/Local Appropriation . . . . .	<del>(\$864,000)</del>
	<u>\$845,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b><del>(\$1,780,000)</del></b>
	<u>\$1,756,000</u>

Sec. 302. 2010 c 3 s 301 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$59,991,000)</del>
	<u>\$58,552,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$58,047,000)</del>
	<u>\$52,725,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$82,452,000)</del>
	<u>\$82,079,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$16,668,000)</del>
	<u>\$16,688,000</u>
Special Grass Seed Burning Research Account—State Appropriation . . . . .	\$14,000
Reclamation Account—State Appropriation . . . . .	<del>(\$3,679,000)</del>
	<u>\$3,649,000</u>
Flood Control Assistance Account—State Appropriation . . . . .	<del>(\$1,965,000)</del>
	<u>\$1,943,000</u>
<u>State Emergency Water Projects Revolving Account—State Appropriation . . . . .</u>	<u>\$240,000</u>

Waste Reduction/Recycling/Litter Control—State Appropriation . . . . .	(( <del>\$14,554,000</del> ))
	<u>\$12,467,000</u>
<u>State Drought Preparedness Account—State</u> <u>Appropriation . . . . .</u>	<u>\$4,000,000</u>
State and Local Improvements Revolving Account (Water Supply Facilities)—State Appropriation . . . . .	(( <del>\$426,000</del> ))
	<u>\$424,000</u>
Freshwater Aquatic Algae Control Account—State Appropriation . . . . .	(( <del>\$509,000</del> ))
	<u>\$508,000</u>
Water Rights Tracking System Account—State Appropriation . . . . .	\$116,000
Site Closure Account—State Appropriation . . . . .	(( <del>\$706,000</del> ))
	<u>\$922,000</u>
Wood Stove Education and Enforcement Account— State Appropriation . . . . .	\$612,000
Worker and Community Right-to-Know Account— State Appropriation . . . . .	(( <del>\$1,670,000</del> ))
	<u>\$1,663,000</u>
State Toxics Control Account—State Appropriation . . . . .	(( <del>\$101,705,000</del> ))
	<u>\$106,642,000</u>
State Toxics Control Account—Private/Local Appropriation . . . . .	(( <del>\$383,000</del> ))
	<u>\$379,000</u>
Local Toxics Control Account—State Appropriation . . . . .	(( <del>\$24,730,000</del> ))
	<u>\$24,690,000</u>
Water Quality Permit Account—State Appropriation . . . . .	(( <del>\$37,433,000</del> ))
	<u>\$37,018,000</u>
Underground Storage Tank Account—State Appropriation . . . . .	(( <del>\$3,298,000</del> ))
	<u>\$3,270,000</u>
Biosolids Permit Account—State Appropriation . . . . .	(( <del>\$1,413,000</del> ))
	<u>\$1,866,000</u>
Hazardous Waste Assistance Account—State Appropriation . . . . .	(( <del>\$5,930,000</del> ))
	<u>\$5,880,000</u>
Air Pollution Control Account—State Appropriation . . . . .	(( <del>\$2,030,000</del> ))
	<u>\$2,111,000</u>
Oil Spill Prevention Account—State Appropriation . . . . .	(( <del>\$10,688,000</del> ))
	<u>\$10,599,000</u>
Air Operating Permit Account—State Appropriation . . . . .	(( <del>\$2,783,000</del> ))
	<u>\$2,758,000</u>
Freshwater Aquatic Weeds Account—State Appropriation . . . . .	(( <del>\$1,699,000</del> ))
	<u>\$1,693,000</u>
Oil Spill Response Account—State Appropriation . . . . .	(( <del>\$7,078,000</del> ))
	<u>\$7,077,000</u>

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Metals Mining Account—State Appropriation . . . . .	\$14,000
Water Pollution Control Revolving Account—State Appropriation . . . . .	(\$465,000)
	<u>\$535,000</u>
Water Pollution Control Revolving Account—Federal Appropriation . . . . .	(\$1,940,000)
	<u>\$2,210,000</u>
<u>Water Rights Processing Account—State Appropriation . . . . .</u>	<u>\$68,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>(\$442,998,000)</b>
	<u>\$443,412,000</u>

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

(1) \$170,000 of the oil spill prevention account—state appropriation is provided solely for a contract with the University of Washington's sea grant program to continue an educational program targeted to small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

(2) \$240,000 of the woodstove education and enforcement account—state appropriation is provided solely for citizen outreach efforts to improve understanding of burn curtailments, the proper use of wood heating devices, and public awareness of the adverse health effects of woodsmoke pollution.

(3) \$3,000,000 of the general fund—private/local appropriation is provided solely for contracted toxic-site cleanup actions at sites where multiple potentially liable parties agree to provide funding.

(4) \$3,600,000 of the local toxics account—state appropriation is provided solely for the standby emergency rescue tug stationed at Neah Bay.

(5) \$811,000 of the state toxics account—state appropriation is provided solely for oversight of toxic cleanup at facilities that treat, store, and dispose of hazardous wastes.

(6) \$1,456,000 of the state toxics account—state appropriation is provided solely for toxic cleanup at sites where willing parties negotiate prepayment agreements with the department and provide necessary funding.

(7) \$558,000 of the state toxics account—state appropriation and \$3,000,000 of the local toxics account—state appropriation are provided solely for grants and technical assistance to Puget Sound-area local governments engaged in updating shoreline master programs.

(8) \$950,000 of the state toxics control account—state appropriation is provided solely for measuring water and habitat quality to determine watershed health and assist salmon recovery, beginning in fiscal year 2011.

(9) RCW 70.105.280 authorizes the department to assess reasonable service charges against those facilities that store, treat, incinerate, or dispose of dangerous or extremely hazardous waste that involves both a nonradioactive hazardous component and a radioactive component. Service charges may not exceed the costs to the department in carrying out the duties in RCW 70.105.280. The current service charges do not meet the costs of the department to carry out its duties. Pursuant to RCW 43.135.055 and 70.105.280, the department is authorized to increase the service charges no greater than 18 percent for fiscal year 2010 and no greater than 15 percent for fiscal year 2011. Such service charges shall include all costs of public participation grants

awarded to qualified entities by the department pursuant to RCW 70.105D.070(5) for facilities at which such grants are recognized as a component of a community relations or public participation plan authorized or required as an element of a consent order, federal facility agreement or agreed order entered into or issued by the department pursuant to any federal or state law governing investigation and remediation of releases of hazardous substances. Public participation grants funded by such service charges shall be in addition to, and not in place of, any other grants made pursuant to RCW 70.105D.070(5). Costs for the public participation grants shall be billed individually to the mixed waste facility associated with the grant.

(10) The department is authorized to increase the following fees in the 2009-2011 biennium as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Environmental lab accreditation, dam safety and inspection, biosolids permitting, air emissions new source review, and manufacturer registration and renewal.

(11) \$63,000 of the state toxics control account—state appropriation is provided solely for implementation of Substitute Senate Bill No. 5797 (solid waste handling permits). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(12) \$225,000 of the general fund—state appropriation for fiscal year 2010 and \$193,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(13) \$150,000 of the general fund—state appropriation for fiscal year 2010 and \$150,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for watershed planning implementation grants to continue ongoing efforts to develop and implement water agreements in the Nooksack Basin and the Bertrand watershed. These amounts are intended to support project administration; monitoring; negotiations in the Nooksack watershed between tribes, the department, and affected water users; continued implementation of a flow augmentation project; plan implementation in the Fishtrap watershed; and the development of a water bank.

(14) \$215,000 of the general fund—state appropriation for fiscal year 2010 and \$235,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to provide watershed planning implementation grants for WRIA 32 to implement Substitute House Bill No. 1580 (pilot local water management program). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(15) \$200,000 of the general fund—state appropriation for fiscal year 2010 and \$200,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the purpose of supporting the trust water rights program and processing trust water right transfer applications that improve instream flow.

(16)(a) The department shall convene a stock water working group that includes: Legislators, four members representing agricultural interests, three members representing environmental interests, the attorney general or designee, the director of the department of ecology or designee, the director of the department of agriculture or designee, and affected federally recognized tribes shall be invited to send participants.

(b) The group shall review issues surrounding the use of permit-exempt wells for stock-watering purposes and may develop recommendations for legislative action.

(c) The working group shall meet periodically and report its activities and recommendations to the governor and the appropriate legislative committees by December 1, 2009.

(17) \$73,000 of the water quality permit account—state appropriation is provided solely to implement Substitute House Bill No. 1413 (water discharge fees). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(18) The department shall continue to work with the Columbia Snake River irrigators' association to determine how seasonal water operation and maintenance conservation can be utilized. In implementing this proviso, the department shall also consult with the Columbia River policy advisory group as appropriate.

(19) The department shall track any changes in costs, wages, and benefits that would have resulted if House Bill No. 1716 (public contract living wages), as introduced in the 2009 regular session of the legislature, were enacted and made applicable to contracts and related subcontracts entered into, renewed, or extended during the 2009-11 biennium. The department shall submit a report to the house of representatives commerce and labor committee and the senate labor, commerce, and consumer protection committee by December 1, 2011. The report shall include data on any aggregate changes in wages and benefits that would have resulted during the 2009-11 biennium.

(20) Within amounts appropriated in this section the department shall develop recommendations by December 1, 2009, for a convenient and effective mercury-containing light recycling program for residents, small businesses, and small school districts throughout the state. The department shall consider options including but not limited to, a producer-funded program, a recycler-supported or recycle fee program, a consumer fee at the time of purchase, general fund appropriations, or a currently existing dedicated account. The department shall involve and consult with stakeholders including persons who represent retailers, waste haulers, recyclers, mercury-containing light manufacturers or wholesalers, cities, counties, environmental organizations and other interested parties. The department shall report its findings and recommendations for a recycling program for mercury-containing lights to the appropriate committees of the legislature by December 1, 2009.

~~(21) ((During the 2009-11 biennium, the department shall implement its cost reimbursement authority for processing water right applications using a competitive bidding process. For each cost reimbursement application, the department shall obtain cost proposals and other necessary information from at least three prequalified costs reimbursement consultants and shall select the lowest responsive bidder.~~

~~(22)))~~ \$140,000 of the freshwater aquatic algae control account—state appropriation is provided solely for grants to cities, counties, tribes, special purpose districts, and state agencies for capital and operational expenses used to manage and study excessive saltwater algae with an emphasis on the periodic accumulation of sea lettuce on Puget Sound beaches.



~~((23))~~ (22) By December 1, 2009, the department in consultation with local governments shall conduct a remedial action grant financing alternatives report. The report shall address options for financing the remedial action grants identified in the department's report, entitled "House Bill 1761, Model Toxics Control Accounts Ten-Year Financing Plan" and shall include but not be limited to the following: (a) Capitalizing cleanup costs using debt insurance; (b) capitalizing cleanup costs using prefunded cost-cap insurance; (c) other contractual instruments with local governments; and (d) an assessment of overall economic benefits of the remedial action grants funded using the instruments identified in this section.

(23) \$220,000 of the site closure account—state appropriation is provided solely for litigation expenses associated with the lawsuit filed by energy solutions, inc., against the Northwest interstate compact on low-level radioactive waste management and its executive director.

(24) \$68,000 of the water rights processing account—state appropriation is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6267 (water rights processing). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(25) \$10,000 of the state toxics control account—state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 5543 (mercury-containing lights). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(26) \$300,000 of the state toxics control account—state appropriation is provided solely for piloting and evaluating two coordinated, multijurisdictional permitting teams for nontransportation projects.

(27)(a) \$4,000,000 of the state drought preparedness account—state appropriation is provided solely for response to a drought declaration pursuant to chapter 43.83B RCW. If such a drought declaration occurs, the department of ecology may provide funding to public bodies as defined in RCW 43.83B.050 in connection with projects and measures designed to alleviate drought conditions that may affect public health and safety, drinking water supplies, agricultural activities, or fish and wildlife survival.

(b) Projects or measures for which funding will be provided must be connected with a water system, water source, or water body that is receiving, or has been projected to receive, less than seventy-five percent of normal water supply, as the result of natural drought conditions. This reduction in water supply must be such that it is causing, or will cause, undue hardship for the entities or fish or wildlife depending on the water supply. The department shall issue guidelines outlining grant program and matching fund requirements within ten days of a drought declaration.

\*Sec. 303. 2010 c 3 s 302 (uncodified) is amended to read as follows:

<b>FOR THE STATE PARKS AND RECREATION COMMISSION</b>	
General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$23,326,000)</del>
	\$23,176,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$22,729,000)</del>
	\$20,311,000
General Fund—Federal Appropriation . . . . .	<del>(\$5,902,000)</del>
	\$6,892,000

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General Fund—Private/Local Appropriation . . . . .	\$73,000
Winter Recreation Program Account—State Appropriation. . . . .	(((\$1,558,000))
	<u>\$1,556,000</u>
Off Road Vehicle Account—State Appropriation. . . . .	\$239,000
Snowmobile Account—State Appropriation . . . . .	\$4,842,000
Aquatic Lands Enhancement Account—State Appropriation . . . . .	(((\$363,000))
	<u>\$368,000</u>
Recreation Resources Account—State Appropriation . . . . .	\$9,802,000
NOVA Program Account—State Appropriation. . . . .	\$9,560,000
Parks Renewal and Stewardship Account—State Appropriation. . . . .	(((\$71,778,000))
	<u>\$72,975,000</u>
Parks Renewal and Stewardship Account— Private/Local Appropriation . . . . .	\$300,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>(((\$150,472,000))</b>
	<b><u>\$150,094,000</u></b>

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

(1) \$79,000 of the general fund—state appropriation for fiscal year 2010 and \$79,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for a grant for the operation of the Northwest avalanche center.

(2) Proceeds received from voluntary donations given by motor vehicle registration applicants shall be used solely for the operation and maintenance of state parks.

*(3) With the passage of Substitute House Bill No. 2339 (state parks system donation), the legislature finds that it has provided sufficient funds to ensure that all state parks remain open during the 2009-11 biennium. The commission shall not close state parks (~~unless the bill is not enacted by June 30, 2009, or revenue collections are insufficient to fund the ongoing operation of state parks. By January 10, 2010, the commission shall provide a report to the legislature on their budget and resources related to operating parks for the remainder of the biennium~~).*

**(4) The commission shall not close or transfer Tolmie state park.**

(5) The commission shall work with the department of general administration to evaluate the commission's existing leases with the intention of increasing net revenue to state parks. The commission shall provide to the office of financial management and the legislative fiscal committees no later than September 30, 2009, a list of leases the commission proposes be managed by the department of general administration.

\*Sec. 303 was partially vetoed. See message at end of chapter.

\*Sec. 304. 2009 c 564 s 304 (uncodified) is amended to read as follows:

<b>FOR THE RECREATION AND CONSERVATION FUNDING BOARD</b>	
General Fund—State Appropriation (FY 2010) . . . . .	(((\$1,511,000))
	<u>\$1,486,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(((\$1,558,000))
	<u>\$1,480,000</u>

General Fund—Federal Appropriation . . . . .	<del>(\$10,431,000)</del>
	<u>\$10,322,000</u>
General Fund—Private/Local Appropriation . . . . .	\$250,000
Aquatic Lands Enhancement Account—State Appropriation . . . . .	\$278,000
Firearms Range Account—State Appropriation . . . . .	\$39,000
Recreation Resources Account—State Appropriation . . . . .	<del>(\$2,805,000)</del>
	<u>\$2,710,000</u>
NOVA Program Account—State Appropriation . . . . .	<del>(\$1,062,000)</del>
	<u>\$1,049,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$17,934,000)</del>
	<u>\$17,614,000</u>

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

(1) \$204,000 of the general fund—state appropriation for fiscal year 2010 and \$244,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute House Bill No. 2157 (salmon recovery). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) The recreation and conservation office, under the direction of the salmon recovery funding board, shall assess watershed and regional-scale capacity issues relating to the support and implementation of salmon recovery. The assessment shall examine priority setting and incentives to further promote coordination to ensure that effective and efficient mechanisms for delivery of salmon recovery funding board funds are being utilized. The salmon recovery funding board shall distribute its operational funding to the appropriate entities based on this assessment.

(3) The recreation and conservation office shall negotiate an agreement with the Puget Sound partnership to consolidate or share certain administrative functions currently performed by each agency independently. The agencies shall proportionately share the costs of such shared functions. Examples of shared functions may include, but are not limited to, support for personnel, information technology, grant and contract management, invasive species work, legislative coordination, and policy and administrative support of various boards and councils.

**(4) The biodiversity council shall be extended through fiscal year 2011.**

\*Sec. 304 was partially vetoed. See message at end of chapter.

Sec. 305. 2009 c 564 s 305 (uncodified) is amended to read as follows:

**FOR THE ENVIRONMENTAL HEARINGS OFFICE**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$1,079,000)</del>
	<u>\$1,108,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$1,074,000)</del>
	<u>\$1,104,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$2,153,000)</del>
	<u>\$2,212,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$46,000 of the general fund—state appropriation for fiscal year

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2010 is provided solely for tenant improvement costs associated with moving the office to a new location.

**\*Sec. 306.** 2010 c 3 s 303 (uncodified) is amended to read as follows:

**FOR THE CONSERVATION COMMISSION**

General Fund—State Appropriation (FY 2010) . . . . .	(\$7,575,000)
	<u>\$7,556,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$7,590,000)
	<u>\$7,285,000</u>
General Fund—Federal Appropriation . . . . .	(\$1,179,000)
	<u>\$1,178,000</u>
TOTAL APPROPRIATION . . . . .	(\$16,344,000)
	<u>\$16,019,000</u>

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

(1) In order to maintain a high degree of customer service and accountability for conservation districts, \$125,000 is to support the conservation commission's administrative activities related to the processing of conservation district invoices and budgeting.

(2) \$38,000 of the general fund—state appropriation for fiscal year 2011 is provided solely to the Kittitas conservation district for infrastructure improvements to facilitate and enhance wildlife habitat related to the wild horse coordinated resource management plan.

\*Sec. 306 was partially vetoed. See message at end of chapter.

**Sec. 307.** 2010 c 3 s 304 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

General Fund—State Appropriation (FY 2010) . . . . .	(\$40,686,000)
	<u>\$41,263,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$38,891,000)
	<u>\$34,337,000</u>
General Fund—Federal Appropriation . . . . .	(\$86,330,000)
	<u>\$85,799,000</u>
General Fund—Private/Local Appropriation . . . . .	(\$47,490,000)
	<u>\$47,211,000</u>
Off Road Vehicle Account—State Appropriation . . . . .	(\$415,000)
	<u>\$413,000</u>
Aquatic Lands Enhancement Account—State Appropriation . . . . .	(\$6,757,000)
	<u>\$6,739,000</u>
Recreational Fisheries Enhancement—State Appropriation . . . . .	(\$3,640,000)
	<u>\$3,472,000</u>
Warm Water Game Fish Account—State Appropriation . . . . .	(\$2,877,000)
	<u>\$2,861,000</u>
Eastern Washington Pheasant Enhancement Account— State Appropriation . . . . .	(\$848,000)
	<u>\$851,000</u>

Aquatic Invasive Species Enforcement Account— State Appropriation . . . . .	\$207,000
Aquatic Invasive Species Prevention Account— State Appropriation . . . . .	<del>(\$844,000)</del>
	<u>\$833,000</u>
Wildlife Account—State Appropriation . . . . .	<del>(\$76,178,000)</del>
	<u>\$86,878,000</u>
<u>Wildlife Account—Federal Appropriation . . . . .</u>	<u>\$101,000</u>
<u>Wildlife Account—Private/Local Appropriation . . . . .</u>	<u>\$39,000</u>
Game Special Wildlife Account—State Appropriation . . . . .	<del>(\$2,381,000)</del>
	<u>\$2,367,000</u>
Game Special Wildlife Account—Federal Appropriation . . . . .	<del>(\$8,928,000)</del>
	<u>\$3,426,000</u>
Game Special Wildlife Account—Private/Local Appropriation . . . . .	\$487,000
Wildlife Rehabilitation Account—State Appropriation . . . . .	<del>(\$270,000)</del>
	<u>\$269,000</u>
Regional Fisheries Salmonid Recovery Account— Federal Appropriation . . . . .	\$5,001,000
Oil Spill Prevention Account—State Appropriation . . . . .	<del>(\$884,000)</del>
	<u>\$876,000</u>
Oyster Reserve Land Account—State Appropriation . . . . .	<del>(\$918,000)</del>
	<u>\$916,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$324,032,000)</del>
	<u>\$324,346,000</u>

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

(1) \$294,000 of the aquatic lands enhancement account—state appropriation is provided solely for the implementation of hatchery reform recommendations defined by the hatchery scientific review group.

(2) \$355,000 of the general fund—state appropriation for fiscal year 2010 and \$422,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the department to implement a pilot project with the Confederated Tribes of the Colville Reservation to develop expanded recreational fishing opportunities on Lake Rufus Woods and its northern shoreline and to conduct joint enforcement of lake fisheries on Lake Rufus Woods and adjoining waters, pursuant to state and tribal intergovernmental agreements developed under the Columbia River water supply program. For the purposes of the pilot project:

(a) A fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirement of RCW 77.32.010 on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods;

(b) The Colville Tribes have agreed to provide to holders of its nontribal member fishing permits a means to demonstrate that fish in their possession were lawfully taken in Lake Rufus Woods;

(c) A Colville tribal member identification card shall satisfy the license requirement of RCW 77.32.010 on all waters of Lake Rufus Woods;

(d) The department and the Colville Tribes shall jointly designate fishing areas on the north shore of Lake Rufus Woods for the purposes of enhancing access to the recreational fisheries on the lake; and

(e) The Colville Tribes have agreed to recognize a fishing license issued under RCW 77.32.470 or RCW 77.32.490 as satisfying the nontribal member fishing permit requirements of Colville tribal law on the reservation portion of the waters of Lake Rufus Woods and at designated fishing areas on the north shore of Lake Rufus Woods;

(3) Prior to submitting its 2011-2013 biennial operating and capital budget request related to state fish hatcheries to the office of financial management, the department shall contract with the hatchery scientific review group (HSRG) to review this request. This review shall: (a) Determine if the proposed requests are consistent with HSRG recommendations; (b) prioritize the components of the requests based on their contributions to protecting wild salmonid stocks and meeting the recommendations of the HSRG; and (c) evaluate whether the proposed requests are being made in the most cost effective manner. The department shall provide a copy of the HSRG review to the office of financial management with their agency budget proposal.

(4) Within existing funds, the department shall continue implementing its capital program action plan dated September 1, 2007, including the purchase of the necessary maintenance and support costs for the capital programs and engineering tools. The department shall report to the office of financial management and the appropriate committees of the legislature, its progress in implementing the plan, including improvements instituted in its capital program, by September 30, ~~((2011))~~ 2010.

(5) \$1,232,000 of the state wildlife account—state appropriation is provided solely to implement Substitute House Bill No. 1778 (fish and wildlife). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(6) \$400,000 of the general fund—state appropriation for fiscal year 2010 and \$400,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for a state match to support the Puget Sound nearshore partnership between the department and the U.S. army corps of engineers.

(7) ~~(((\$100,000))~~ \$50,000 of the general fund—state appropriation for fiscal year 2010 and ~~(((\$100,000))~~ \$50,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for removal of derelict gear in Washington waters.

(8) The department of fish and wildlife shall dispose of all ~~((fixed-wing))~~ Cessna aircraft it currently owns. The proceeds from the aircraft shall be deposited into the state wildlife account. Disposal of the aircraft must occur no later than June 30, 2010. The department shall coordinate with the department of natural resources on the installation of fire surveillance equipment into its Partenavia aircraft. The department shall make its Partenavia aircraft available to the department of natural resources on a cost-reimbursement basis for its use in coordinating fire suppression efforts. The two agencies shall develop an interagency agreement that defines how they will share access to the plane.

(9) \$50,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for an electron project fish passage study consistent with the

recommendations and protocols contained in the 2008 electron project downstream fish passage final report.

(10) \$60,000 of the general fund—state appropriation for fiscal year 2010 and \$60,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(11) If sufficient new revenues are not identified to continue hatchery operations, within the constraints of legally binding tribal agreements, the department shall dispose of, by removal, sale, lease, reversion, or transfer of ownership, the following hatcheries: McKernan, Colville, Omak, Bellingham, Arlington, and Mossyrock. Disposal of the hatcheries must occur by June 30, 2011, and any proceeds received from disposal shall be deposited in the state wildlife account. Within available funds, the department shall provide quarterly reports on the progress of disposal to the office of financial management and the appropriate fiscal committees of the legislature. The first report shall be submitted no later than September 30, 2009.

(12) \$100,000 of the eastern Washington pheasant enhancement account—state appropriation is provided solely for the department to support efforts to enhance permanent and temporary pheasant habitat on public and private lands in Grant, Franklin, and Adams counties. The department may support efforts by entities including conservation districts, nonprofit organizations, and landowners, and must require such entities to provide significant nonstate matching resources, which may be in the form of funds, material, or labor.

(13) Within the amounts appropriated in this section, the department of fish and wildlife shall develop a method for allocating its administrative and overhead costs proportionate to program fund use. As part of its 2011-2013 biennial operating budget, the department shall submit a decision package that rebalances expenditure authority for all agency funds based upon proportionate contributions.

(14) Within the amounts appropriated in this section, the department shall identify additional opportunities for partnerships in order to keep fish hatcheries operational. Such partnerships shall aim to maintain fish production and salmon recovery with less reliance on state operating funds.

(15) Within the amounts appropriated in this section, the department shall work with stakeholders to develop a long-term funding model that sustains the department's work of conserving species and habitat, providing sustainable recreational and commercial opportunities and using sound business practices. The funding model analysis shall assess the appropriate uses of each fund source and whether the department's current and projected revenue levels are adequate to sustain its current programs. The department shall report its recommended funding model including supporting analysis and stakeholder participation summary to the office of financial management and the appropriate committees of the legislature by October 1, 2010.

(16) By October 1, 2010, the department shall enter into an interagency agreement with the department of natural resources for land management services for the department's wildlife conservation and recreation lands. Land management services may include but are not limited to records management, real estate services such as surveying, and land acquisition and disposal services.

The interagency agreement shall describe business processes, service delivery expectations, cost, and timing. In the agreement, the department shall define its roles and responsibilities. A draft agreement shall be submitted to the office of financial management and the appropriate fiscal committees of the legislature by July 1, 2010.

(17) Prior to opening game management unit 490 to public hunting, the department shall complete an environmental impact statement that includes an assessment of how public hunting activities will impact the ongoing protection of the public water supply.

(18) The department must work with appropriate stakeholders to facilitate the disposition of salmon to best utilize the resource, increase revenues to regional fisheries enhancement groups, and enhance the provision of nutrients to food banks. By November 1, 2010, the department must provide a report to the appropriate committees of the legislature summarizing these discussions, outcomes, and recommendations. After November 1, 2010, the department shall not solicit or award a surplus salmon disposal contract without first giving due consideration to implementing the recommendations developed during the stakeholder process.

(19) \$50,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for increased fish production at Voight Creek hatchery.

\*Sec. 308. 2009 c 564 s 308 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

General Fund—State Appropriation (FY 2010) . . . . .	(\$40,275,000)
	<u>\$48,822,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$40,857,000)
	<u>\$37,513,000</u>
General Fund—Federal Appropriation . . . . .	(\$26,731,000)
	<u>\$28,784,000</u>
General Fund—Private/Local Appropriation . . . . .	(\$1,371,000)
	<u>\$2,369,000</u>
Forest Development Account—State Appropriation . . . . .	(\$41,765,000)
	<u>\$41,640,000</u>
Off Road Vehicle Account—State Appropriation . . . . .	(\$4,236,000)
	<u>\$4,406,000</u>
Surveys and Maps Account—State Appropriation . . . . .	(\$2,543,000)
	<u>\$2,332,000</u>
Aquatic Lands Enhancement Account—State Appropriation . . . . .	(\$7,217,000)
	<u>\$8,315,000</u>
Resources Management Cost Account—State Appropriation . . . . .	(\$78,951,000)
	<u>\$78,704,000</u>
Surface Mining Reclamation Account—State Appropriation . . . . .	(\$3,490,000)
	<u>\$3,494,000</u>
Disaster Response Account—State Appropriation . . . . .	\$5,000,000
Forest and Fish Support Account—State Appropriation . . . . .	\$8,000,000



Aquatic Land Dredged Material Disposal Site	
Account—State Appropriation . . . . .	<del>(\$1,336,000)</del>
	<u>\$1,333,000</u>
Natural Resources Conservation Areas Stewardship	
Account—State Appropriation . . . . .	<del>(\$34,000)</del>
	<u>\$184,000</u>
State Toxics Control Account—State Appropriation . . . . .	<del>(\$80,000)</del>
	<u>\$720,000</u>
Air Pollution Control Account—State Appropriation . . . . .	<del>(\$569,000)</del>
	<u>\$568,000</u>
NOVA Program Account—State Appropriation. . . . .	<del>(\$982,000)</del>
	<u>\$974,000</u>
Derelict Vessel Removal Account—State	
Appropriation. . . . .	<del>(\$1,754,000)</del>
	<u>\$1,749,000</u>
Agricultural College Trust Management Account—	
State Appropriation . . . . .	<del>(\$2,643,000)</del>
	<u>\$1,941,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<del><b>(\$267,834,000)</b></del>
	<u><b>\$276,848,000</b></u>

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

(1) \$1,355,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$1,299,000)~~ \$349,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for deposit into the agricultural college trust management account and are provided solely to manage approximately 70,700 acres of Washington State University's agricultural college trust lands.

(2) ~~(\$11,128,000)~~ \$22,670,000 of the general fund—state appropriation for fiscal year 2010, \$11,128,000 of the general fund—state appropriation for fiscal year 2011, and \$5,000,000 of the disaster response account—state appropriation are provided solely for emergency fire suppression. None of the general fund and disaster response account amounts provided in this subsection may be used to fund agency indirect and administrative expenses. Agency indirect and administrative costs shall be allocated among the agency's remaining accounts and appropriations. The department of natural resources shall submit a quarterly report to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from the disaster response account. This work shall be done in coordination with the military department.

(3) \$5,000,000 of the forest and fish support account—state appropriation is provided solely for adaptive management, monitoring, and participation grants to tribes. If federal funding for this purpose is reinstated, the amount provided in this subsection shall lapse.

(4) \$600,000 of the derelict vessel removal account—state appropriation is provided solely for removal of derelict and abandoned vessels that have the potential to contaminate Puget Sound.

(5) \$666,000 of the general fund—federal appropriation is provided solely to implement House Bill No. 2165 (forest biomass energy project). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(6) \$5,000 of the general fund—state appropriation for fiscal year 2010 and \$5,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to implement Substitute House Bill No. 1038 (specialized forest products). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(7) \$440,000 of the state general fund—state appropriation for fiscal year 2010 and \$440,000 of the state general fund—state appropriation for fiscal year 2011 are provided solely for forest work crews that support correctional camps and are contingent upon continuing operations of Naselle youth camp at the level provided in fiscal year 2008. The department shall consider using up to \$2,000,000 of the general fund—federal appropriation to support and utilize correctional camp crews to implement natural resource projects approved by the federal government for federal stimulus funding.

(8) The department of natural resources shall dispose of the King Air aircraft it currently owns. Before disposal and within existing funds, the department shall transfer specialized equipment for fire surveillance to the department of fish and wildlife's Partenavia aircraft. Disposal of the aircraft must occur no later than June 30, 2010, and the proceeds from the sale of the aircraft shall be deposited into the ~~((natural resources equipment revolving fund))~~ forest and fish support account. ~~((At the expiration of current leases))~~ No later than June 30, 2011, the department shall lease facilities in eastern Washington sufficient to house the necessary aircraft, mechanics, and pilots used for forest fire prevention and suppression.

(9) \$30,000 of the general fund—state appropriation for fiscal year 2010 and \$30,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(10) \$1,030,000 of the aquatic lands enhancement account—state appropriation for fiscal year 2011 is provided solely for continuing scientific studies already underway as part of the adaptive management process. Funds may not be used to initiate new studies unless the department secures new federal funding for the adaptive management process.

(11) Within available funds, the department of natural resources shall review the statutory method for determining aquatic lands lease rates for private marinas, public marinas not owned and operated by port districts, yacht clubs, and other entities leasing state land for boat moorage. The review shall consider alternative methods for determining rents for these entities for a fair distribution of rent, consistent with the department management mandates for state aquatic lands.

(12) \$40,000 of the general fund—state appropriation for fiscal year 2011 and \$100,000 of the aquatic lands enhancement account—state appropriation are provided solely to install up to twenty mooring buoys in Eagle Harbor and to remove abandoned boats, floats, and other trespassing structures.

(13) By October 1, 2010, the department shall enter into an interagency agreement with the department of fish and wildlife for providing land

management services on the department of fish and wildlife's wildlife conservation and recreation lands. Land management services may include but are not limited to records management, real estate services such as surveying, and land acquisition and disposal services. The interagency agreement shall describe business processes, service delivery expectations, cost, and timing. A draft agreement shall be submitted to the office of financial management and the appropriate fiscal committees of the legislature by July 1, 2010.

(14) \$41,000 of the forest development account—state appropriation, \$44,000 of the resources management cost account—state appropriation, and \$2,000 of the agricultural college trust management account—state appropriation are provided solely for the implementation of Second Substitute House Bill No. 2481 (DNR forest biomass agreements). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

*(15) The department may not include shellfish growers in its aquatic habitat conservation plan if those growers have been issued a federal nationwide or individual permit by the United States army corps of engineers, in consultation with the United States fish and wildlife service and the national marine fisheries service, which concludes that shellfish cultivation activities on department-managed aquatic lands will not pose jeopardy to threatened or endangered species under the federal endangered species act.*

\*Sec. 308 was partially vetoed. See message at end of chapter.

Sec. 309. 2010 c 3 s 305 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

General Fund—State Appropriation (FY 2010) . . . . .	(( <del>\$12,329,000</del> ))
	\$12,320,000
General Fund—State Appropriation (FY 2011) . . . . .	(( <del>\$11,271,000</del> ))
	\$16,219,000
General Fund—Federal Appropriation . . . . .	(( <del>\$11,565,000</del> ))
	\$20,947,000
General Fund—Private/Local Appropriation . . . . .	(( <del>\$194,000</del> ))
	\$193,000
Aquatic Lands Enhancement Account—State	
Appropriation . . . . .	(( <del>\$2,559,000</del> ))
	\$2,551,000
State Toxics Control Account—State Appropriation . . . . .	(( <del>\$4,298,000</del> ))
	\$4,724,000
Water Quality Permit Account—State Appropriation . . . . .	\$61,000
TOTAL APPROPRIATION . . . . .	(( <del>\$42,277,000</del> ))
	\$57,015,000

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

- (1) \$350,000 of the aquatic lands enhancement account appropriation is provided solely for funding to the Pacific county noxious weed control board to eradicate remaining spartina in Willapa Bay.
- (2) \$19,000 of the general fund—state appropriation for fiscal year 2010 and \$6,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to implement Substitute Senate Bill No. 5797 (solid waste

handling permits). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(3) The department is authorized to establish or increase the following fees in the 2009-11 biennium as necessary to meet the actual costs of conducting business: Christmas tree grower licensing, nursery dealer licensing, plant pest inspection and testing, and commission merchant licensing.

(4) \$5,420,000 of the general fund—state appropriation for fiscal year 2011 and \$2,782,000 of the general fund—federal appropriation are provided solely for implementation of Substitute Senate Bill No. 6341 (food assistance/department of agriculture). Within amounts appropriated in this subsection, \$65,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to this contract. If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(5) The department shall, if public or private funds are available, partner with eligible public and private entities with experience in food collection and distribution to review funding sources for eight full-time volunteers in the AmeriCorps VISTA program to conduct outreach to local growers, agricultural donors, and community volunteers. Public and private partners shall also be utilized to coordinate gleaning unharvested tree fruits and fresh produce for distribution to individuals throughout Washington state.

(6) When reducing laboratory activities and functions, the department shall not impact any research or analysis pertaining to bees.

Sec. 310. 2009 c 564 s 310 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON POLLUTION LIABILITY REINSURANCE PROGRAM**

Pollution Liability Insurance Program Trust	
Account—State Appropriation . . . . .	(( <del>\$638,000</del> ))
	<u>\$636,000</u>

Sec. 311. 2010 c 3 s 306 (uncodified) is amended to read as follows:

**FOR THE PUGET SOUND PARTNERSHIP**

General Fund—State Appropriation (FY 2010) . . . . .	(( <del>\$3,172,000</del> ))
	<u>\$3,143,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(( <del>\$3,143,000</del> ))
	<u>\$2,864,000</u>
General Fund—Federal Appropriation . . . . .	(( <del>\$3,623,000</del> ))
	<u>\$7,214,000</u>
Aquatic Lands Enhancement Account—State Appropriation . . . . .	(( <del>\$500,000</del> ))
	<u>\$493,000</u>
State Toxics Control Account—State Appropriation . . . . .	(( <del>\$896,000</del> ))
	<u>\$794,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$11,334,000</del> ))
	<u>\$14,508,000</u>

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

(1) \$305,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for measuring water and habitat quality to determine watershed health and assist salmon recovery.

(2) (~~(\$896,000)~~) \$794,000 of the state toxics control account—state appropriation is provided solely for activities that contribute to Puget Sound protection and recovery, including provision of independent advice and assessment of the state's oil spill prevention, preparedness, and response programs, including review of existing activities and recommendations for any necessary improvements. The partnership may carry out this function through an existing committee, such as the ecosystem coordination board or the leadership council, or may appoint a special advisory council. Because this is a unique statewide program, the partnership may invite participation from outside the Puget Sound region.

(3) Within the amounts appropriated in this section, the Puget Sound partnership shall facilitate an ongoing monitoring consortium to integrate monitoring efforts for storm water, water quality, watershed health, and other indicators to enhance monitoring efforts in Puget Sound.

(4) The Puget Sound partnership shall work with Washington State University and the environmental protection agency to secure funding for the beach watchers program.

(5) (~~(\$877,000)~~) \$839,000 of the general fund—state appropriation for fiscal year 2010 and (~~(\$877,000)~~) \$764,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to support public education and volunteer programs. The partnership is directed to distribute the majority of funding as grants to local organizations, local governments, and education, communication, and outreach network partners. The partnership shall track progress for this activity through the accountability system of the Puget Sound partnership.

(6) The Puget Sound partnership shall negotiate an agreement with the recreation and conservation office to consolidate or share certain administrative functions currently performed by each agency independently. The agencies shall proportionately share the costs of such shared functions. Examples of shared functions may include, but are not limited to, support for personnel, information technology, grant and contract management, invasive species work, legislative coordination, and policy and administrative support of various boards and councils.

**PART IV  
TRANSPORTATION**

**Sec. 401.** 2010 c 3 s 401 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

General Fund—State Appropriation (FY 2010) . . . . .	\$1,436,000
General Fund—State Appropriation (FY 2011) . . . . .	( <del>(\$1,535,000)</del> )
	<u>\$1,524,000</u>
Architects' License Account—State Appropriation . . . . .	( <del>(\$767,000)</del> )
	<u>\$923,000</u>
Professional Engineers' Account—State	
Appropriation . . . . .	( <del>(\$3,586,000)</del> )
	<u>\$3,568,000</u>

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Real Estate Commission Account—State Appropriation . . . . .	(\$10,047,000)
	<u>\$9,987,000</u>
Master License Account—State Appropriation . . . . .	\$15,718,000
Uniform Commercial Code Account—State Appropriation . . . . .	(\$3,100,000)
	<u>\$3,090,000</u>
Real Estate Education Account—State Appropriation . . . . .	\$276,000
Real Estate Appraiser Commission Account—State Appropriation . . . . .	(\$1,692,000)
	<u>\$1,683,000</u>
Business and Professions Account—State Appropriation . . . . .	(\$15,270,000)
	<u>\$15,188,000</u>
Real Estate Research Account—State Appropriation . . . . .	(\$320,000)
	<u>\$471,000</u>
Geologists' Account—State Appropriation . . . . .	\$53,000
Derelict Vessel Removal Account—State Appropriation . . . . .	\$31,000
TOTAL APPROPRIATION . . . . .	(\$53,831,000)
	<u>\$53,948,000</u>

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

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees for cosmetologists, funeral directors, cemeteries, court reporters and appraisers. These increases are necessary to support the expenditures authorized in this section, consistent with RCW 43.24.086.

(2) \$1,352,000 of the business and professions account—state appropriation is provided solely to implement Substitute Senate Bill No. 5391 (tattoo and body piercing). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(3) \$358,000 of the business and professions account—state appropriation is provided solely to implement Senate Bill No. 6126 (professional athletics). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$151,000 of the real estate research account appropriation is provided solely to implement chapter 156, Laws of 2010 (real estate broker licensure fees).

(5) \$158,000 of the architects' license account—state appropriation is provided solely to implement chapter 129, Laws of 2010 (architect licensing).

(6) \$60,000 of the master license account—state appropriation is provided solely to implement chapter 174, Laws of 2010 (vaccine association). The amount provided in this subsection shall be from fee revenue authorized in chapter 174, Laws of 2010.

**Sec. 402.** 2010 c 3 s 402 (uncodified) is amended to read as follows:

**FOR THE STATE PATROL**

General Fund—State Appropriation (FY 2010) . . . . .	(\$40,668,000)
	<u>\$38,977,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$39,566,000)
	<u>\$36,059,000</u>

General Fund—Federal Appropriation . . . . .	<del>(\$11,401,000)</del>
	<u>\$15,793,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$3,568,000)</del>
	<u>\$4,986,000</u>
Death Investigations Account—State Appropriation . . . . .	<del>(\$6,022,000)</del>
	<u>\$5,580,000</u>
Enhanced 911 Account—State Appropriation . . . . .	<del>(\$589,000)</del>
	<u>\$603,000</u>
County Criminal Justice Assistance Account—State Appropriation. . . . .	<del>(\$3,122,000)</del>
	<u>\$3,146,000</u>
Municipal Criminal Justice Assistance Account—State Appropriation. . . . .	<del>(\$1,245,000)</del>
	<u>\$1,255,000</u>
Fire Service Trust Account—State Appropriation . . . . .	\$131,000
Disaster Response Account—State Appropriation. . . . .	\$8,002,000
Fire Service Training Account—State Appropriation . . . . .	<del>(\$8,717,000)</del>
	<u>\$8,821,000</u>
Aquatic Invasive Species Enforcement Account—State Appropriation. . . . .	\$54,000
State Toxics Control Account—State Appropriation . . . . .	<del>(\$504,000)</del>
	<u>\$509,000</u>
Fingerprint Identification Account—State Appropriation. . . . .	<del>(\$7,371,000)</del>
	<u>\$10,454,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$130,960,000)</del>
	<u>\$134,370,000</u>

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

(1) \$200,000 of the fire service training account—state appropriation is provided solely for two FTEs in the office of the state director of fire protection to exclusively review K-12 construction documents for fire and life safety in accordance with the state building code. It is the intent of this appropriation to provide these services only to those districts that are located in counties without qualified review capabilities.

(2) \$8,000,000 of the disaster response account—state appropriation is provided solely for Washington state fire service resource mobilization costs incurred in response to an emergency or disaster authorized under RCW 43.43.960 and 43.43.964. The state patrol shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from this account. This work shall be done in coordination with the military department.

(3) The 2010 legislature will review the use of king air planes by the executive branch and the adequacy of funding in this budget regarding maintaining and operating the planes to successfully accomplish their mission.

(4) The appropriations in this section reflect reductions in the appropriations for the agency's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing

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those administrative costs that do not affect direct client services or direct service delivery or programs.

(5) \$400,000 of the fire service training account—state appropriation is provided solely for the firefighter apprenticeship training program.

(6) \$48,000 of the fingerprint identification account—state appropriation is provided solely to implement Substitute House Bill No. 1621 (consumer loan companies). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(7) In accordance with RCW 43.43.942, 46.52.085, and 43.135.055, the state patrol is authorized to increase the following fees in fiscal year 2011 as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Collision records requests; fire training academy courses; and fire training academy dorm accommodations.

(8) \$24,000 of the fingerprint identification account—state appropriation is provided solely for implementation of chapter 47, Laws of 2010 (criminal background checks).

**PART V  
EDUCATION**

**\*Sec. 501.** 2009 c 564 s 501 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$34,798,000)</del>
	<u>\$35,415,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$32,969,000)</del>
	<u>\$33,610,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$86,571,000)</del>
	<u>\$87,081,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$154,338,000)</del>
	<u>\$156,106,000</u>

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

(1) A maximum of ~~(\$22,532,000)~~ \$23,096,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$21,023,000)~~ \$21,926,000 of the general fund—state appropriation for fiscal year 2011 is for state agency operations.

(a) ~~(\$11,792,000)~~ \$11,226,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$11,325,000)~~ \$10,367,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the operation and expenses of the office of the superintendent of public instruction.

(i) Within the amounts provided in this subsection, the superintendent shall recognize the extraordinary accomplishments of four students who have demonstrated a strong understanding of the civics essential learning requirements to receive the Daniel J. Evans civic education award.

(ii) Within amounts appropriated in this subsection (1)(a), the office of the superintendent of public instruction, consistent with WAC 392-121-182 (alternative learning experience requirements) which requires documentation of alternative learning experience student headcount and full-time equivalent (FTE)



enrollment claimed for basic education funding, shall provide, ~~((via the))~~ monthly ~~((report of school district enrollment))~~, accurate monthly headcount and FTE enrollments for students in ~~((internet))~~ alternative learning experience (ALE) programs as well as information about resident and serving districts.

(ii) Within amounts provided in this subsection (1)(a), the state superintendent of public instruction shall share best practices with school districts regarding strategies for increasing efficiencies and economies of scale in school district noninstructional operations through shared service arrangements and school district cooperatives, as well as other practices.

**(b) \$250,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for a statewide school district reorganization commission.**

**(i) The commission shall develop and recommend a comprehensive plan for the reorganization of Washington school districts for review and potential adoption by the legislature.**

**(ii) The commission shall be composed of the following members: A representative of the state board of education selected by the members of the board; two representatives of school administrators selected by the Washington association of school administrators, with one representative each from eastern and western Washington; two representatives of school board directors selected by the Washington state school directors' association, with one representative each from eastern and western Washington; one representative of certificated instructional school employees selected by the Washington education association; an individual with experience as a demographer or as a participant on the redistricting commission under chapter 44.05 RCW selected by the governor.**

**(iii) The commission shall develop objective criteria, ranked in priority order, for the reorganization of Washington school districts to include consideration of but not be limited to criteria in RCW 28A.315.015 and 28A.315.205. Based on the adopted objective criteria, the commission shall develop a comprehensive plan for the reorganization and reduction of Washington school districts. The plan may also result in a reorganization of the number and boundaries of educational service districts.**

**(iv) The commission shall submit a final comprehensive school district reorganization plan to the superintendent of public instruction, the governor, and the legislature by December 1, 2012, to include the following: A list of the recommended school districts and educational service districts and their respective boundaries; recommended procedures and timelines for phased-in implementation of the reorganization plan; procedures and timelines for determination, adjustment, and transfer of assets and liabilities among school districts, including bonded indebtedness; procedures and timelines for determination and election of school district and educational service district boards of directors; and any other relevant elements the commission deems essential for legislative and gubernatorial consideration.**

**(c) \$25,000 of the general fund—state appropriation for fiscal year 2011 is provided to the office of the superintendent of public instruction solely to convene a science, technology, engineering, and mathematics (STEM) working group to develop a comprehensive plan with a shared vision, goals, and measurable objectives to improve policies and practices to ensure that a pathway is established for elementary schools, middle schools, high schools,**

postsecondary degree programs, and careers in the areas of STEM, including improving practices for recruiting, preparing, hiring, retraining, and supporting teachers and instructors while creating pathways to boost student success, close the achievement gap, and prepare every student to be college and career ready. The working group shall be composed of the director of STEM at the office of the superintendent of public instruction who shall be the chair of the working group, and at least one representative from the state board of education, professional educator standards board, state board of community and technical colleges, higher education coordinating board, workforce training and education coordinating board, the achievement gap oversight and accountability committee, and others with appropriate expertise. The working group shall develop a comprehensive plan and a report with recommendations, including a timeline for specific actions to be taken, which is due to the governor and the appropriate committees of the legislature by December 1, 2010.

~~(d) ((\$927,000))~~ \$920,000 of the general fund—state appropriation for fiscal year 2010 and \$941,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for research and development activities associated with the development of options for new school finance systems, including technical staff, reprogramming, and analysis of alternative student funding formulae. Within this amount is \$150,000 for the state board of education for further development of accountability systems, and \$150,000 for the professional educator standards board for continued development of teacher certification and evaluation systems.

~~((b)) (e)~~ \$965,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$965,000)~~ \$946,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

~~((e)) (f)~~ \$5,366,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$5,264,000)~~ \$3,312,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to the professional educator standards board for the following:

(i) \$1,070,000 in fiscal year 2010 and ~~(\$1,070,000)~~ \$1,058,000 in fiscal year 2011 are for the operation and expenses of the Washington professional educator standards board ~~(, including administering the alternative routes to certification program, pipeline for paraeducators conditional scholarship loan program, and the retooling to teach math conditional loan program));~~

(ii) ~~(\$3,431,000)~~ \$4,106,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$3,431,000)~~ \$2,066,000 of the general fund—state appropriation for fiscal year 2011 are for conditional scholarship loans and mentor stipends provided through the alternative routes to certification program administered by the professional educator standards board, including the pipeline for paraeducators program and the retooling to teach conditional loan programs. Funding within this subsection (1)(f)(ii) is also provided for the recruiting Washington teachers program. ~~((Of these amounts:~~

~~(A) \$500,000 each year is for conditional scholarships to candidates seeking an endorsement in special education, math, science, or bilingual education;~~

~~(B) \$2,372,000 for fiscal year 2010 and \$2,372,000 for fiscal year 2011 are for the expansion of conditional scholarship loans and mentor stipends for~~

~~individuals enrolled in alternative route state partnership programs and seeking endorsements in math, science, special education or bilingual education;~~

~~(C) Any remaining amounts in this subsection (c) shall be used to continue existing alternative routes to certification programs; and~~

~~(D) Candidates seeking math and science endorsements under (A) and (B) of this subsection shall receive priority for funding;~~

~~(iii) \$231,000 of the general fund—state appropriation for fiscal year 2010 and \$231,000 of the general fund—state appropriation for fiscal year 2011 are for the recruiting Washington teachers program;~~

~~(iv) \$200,000 of the general fund—state appropriation for fiscal year 2010 and \$200,000 of the general fund—state appropriation for fiscal year 2011 provided in this subsection are for \$4,000 conditional loan stipends for paraeducators participating in the pipeline for paraeducators program;~~

~~(v) \$244,000 of the general fund—state appropriation for fiscal year 2010 and \$244,000 of the general fund—state appropriation for fiscal year 2011 are for conditional stipends for certificated teachers pursuing a mathematics or science endorsement under the retooling to teach mathematics or science program. The conditional stipends shall be for endorsement exam fees as well as stipends for teachers who must also complete coursework; and~~

~~(vi)) (iii) \$102,000 of the general fund—state appropriation for fiscal year 2010 is provided for the implementation of Second Substitute Senate Bill No. 5973 (student achievement gap). ((The professional educator standards board (PESB) will convene a workgroup to identify a list of model standards for cultural competency and make recommendations to the education committees of the legislature on the strengths and weaknesses of those standards. Funding is also included here in the amount of \$10,000 for the PESB to develop an interagency agreement with the center for the improvement of student learning to participate.~~

~~(d) \$1,099,000)) \$100,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the ongoing work of the achievement gap oversight and accountability committee and implementation of the committee's recommendations.~~

~~***(iv) During the 2009-2011 fiscal biennium, the professional educator standards board is exempt from the provisions of chapter 7, Laws of 2010 1st sp. sess. (eliminating boards and commissions).***~~

~~(g) \$1,349,000 of the general fund—state appropriation for fiscal year 2010 and \$144,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for replacement of the apportionment system, which includes the processes that collect school district budget and expenditure information, staffing characteristics, and the student enrollments that drive the funding process.~~

~~((e) \$1,227,000)) (h) \$1,140,000 of the general fund—state appropriation for fiscal year 2010 and \$1,227,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the creation of a statewide data base of longitudinal student information. This amount is conditioned on the department satisfying the requirements in section 902 of this act.~~

~~((f)) (i) \$75,000 of the general fund—state appropriation for fiscal year 2010 ((and \$75,000 of the general fund—state appropriation for fiscal year 2011 are)) is provided solely to promote the financial literacy of students. The effort~~

will be coordinated through the financial education public-private partnership. It is expected that nonappropriated funds available to the public-private partnership will be sufficient to continue financial literacy activities.

~~((g))~~ (j) To the maximum extent possible, in adopting new agency rules or making any changes to existing rules or policies related to the fiscal provisions in the administration of part V of this act, the office of the superintendent of public instruction shall attempt to request approval through the normal legislative budget process.

~~((h))~~ (k) \$44,000 of the general fund—state appropriation for fiscal year 2010 and \$45,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5248 (enacting the interstate compact on educational opportunity for military children).

~~((i))~~ (l) \$700,000 of the general fund—state appropriation for fiscal year 2010 and \$700,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5410 (online learning).

~~((j))~~ (m) \$25,000 of the general fund—state appropriation for fiscal year 2010 and \$25,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for project citizen, a program sponsored by the national conference of state legislatures and the center for civic education to promote participation in government by middle school students.

(n) \$2,518,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the implementation of Substitute House Bill No. 2776 (K-12 education funding). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(o) \$133,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the implementation of Engrossed Second Substitute House Bill No. 3026 (state and federal civil rights laws). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(p) Beginning in the 2010-11 school year, the superintendent of public instruction shall require all districts receiving general apportionment funding for alternative learning experience (ALE) programs as defined in WAC 392-121-182 to provide separate financial accounting of expenditures for the ALE programs offered in district or with a provider, including but not limited to private companies and multidistrict cooperatives.

(q) \$55,000 of the general fund—state appropriation for fiscal year 2011 is provided to the office of the superintendent of public instruction solely to convene a technical working group to establish standards, guidelines, and definitions for what constitutes a basic education program for highly capable students and the appropriate funding structure for such a program, and to submit recommendations to the legislature for consideration. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders. The working group must consult with and seek input from nationally recognized experts; researchers and academics on the unique educational, emotional, and social needs of highly capable students and how to identify such students; representatives of national organizations and associations for educators of or advocates for highly capable students; school district representatives who are

educators, counselors, and classified school employees involved with highly capable programs; parents of students who have been identified as highly capable; representatives from the federally recognized tribes; and representatives of cultural, linguistic, and racial minority groups and the community of persons with disabilities. The working group shall make recommendations to the quality education council and to appropriate committees of the legislature by December 1, 2010. The recommendations shall take into consideration that access to the program for highly capable students is not an individual entitlement for any particular student. The recommendations shall seek to minimize underrepresentation of any particular demographic or socioeconomic group by better identification, not lower standards or quotas, and shall include the following:

(i) Standardized state-level identification procedures, standards, criteria, and benchmarks, including a definition or definitions of a highly capable student. Students who are both highly capable and are students of color, are poor, or have a disability must be addressed;

(ii) Appropriate programs and services that have been shown by research and practice to be effective with highly capable students but maintain options and flexibility for school districts, where possible;

(iii) Program administration, management, and reporting requirements for school districts;

(iv) Appropriate educator qualifications, certification requirements, and professional development and support for educators and other staff who are involved in programs for highly capable students;

(v) Self-evaluation models to be used by school districts to determine the effectiveness of the program and services provided by the school district for highly capable programs;

(vi) An appropriate state-level funding structure; and

(vii) Other topics deemed to be relevant by the working group.

(r) \$1,000,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for contracting with a college scholarship organization with expertise in conducting outreach to students concerning eligibility for the Washington college bound scholarship consistent with chapter 405, Laws of 2007.

(s) \$24,000 of the general fund—state appropriation for fiscal year 2010 and \$140,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for implementation of Substitute Senate Bill No. 6759 (requiring a plan for a voluntary program of early learning as a part of basic education). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection (1)(r) shall lapse.

(t) \$950,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for office of the attorney general costs related to *McCleary v. State of Washington*.

(2) (~~(\$12,836,000)~~) \$12,320,000 of the general fund—state appropriation for fiscal year 2010, (~~(\$12,407,000)~~) \$11,685,000 of the general fund—state appropriation for fiscal year 2011, and \$55,890,000 of the general fund—federal appropriation are for statewide programs.

## (a) HEALTH AND SAFETY

(i) \$2,541,000 of the general fund—state appropriation for fiscal year 2010 and \$2,541,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(ii) \$100,000 of the general fund—state appropriation for fiscal year 2010 and \$100,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for a school safety training program provided by the criminal justice training commission. The commission, in collaboration with the school safety center advisory committee, shall provide the school safety training for all school administrators and school safety personnel, including school safety personnel hired after the effective date of this section.

(iii) \$9,670,000 of the general fund—federal appropriation is provided for safe and drug free schools and communities grants for drug and violence prevention activities and strategies.

(iv) \$96,000 of the general fund—state appropriation for fiscal year 2010 and \$96,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the school safety center in the office of the superintendent of public instruction subject to the following conditions and limitations:

(A) The safety center shall: Disseminate successful models of school safety plans and cooperative efforts; provide assistance to schools to establish a comprehensive safe school plan; select models of cooperative efforts that have been proven successful; act as an information dissemination and resource center when an incident occurs in a school district either in Washington or in another state; coordinate activities relating to school safety; review and approve manuals and curricula used for school safety models and training; and develop and maintain a school safety information web site.

(B) The school safety center advisory committee shall develop a training program, using the best practices in school safety, for all school safety personnel.

(v) \$70,000 of the general fund—state appropriation for fiscal year 2010 ~~((and \$70,000 of the general fund—state appropriation for fiscal year 2011 are))~~ is provided solely for the youth suicide prevention program.

(vi) \$50,000 of the general fund—state appropriation for fiscal year 2010 and \$50,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for a nonviolence and leadership training program provided by the institute for community leadership.

## (b) TECHNOLOGY

(i) ~~(\$1,939,000)~~ \$1,842,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$1,939,000)~~ \$1,745,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for K-20 telecommunications network technical support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network.

(ii) \$1,475,000 of the general fund—state appropriation for fiscal year 2010, \$1,045,000 of the general fund—state appropriation for fiscal year 2011, and

\$435,000 of the general fund—federal appropriation are provided solely for implementing a comprehensive data system to include financial, student, and educator data. The office of the superintendent of public instruction will convene a data governance group to create a comprehensive needs-requirement document, conduct a gap analysis, and define operating rules and a governance structure for K-12 data collections. ~~((A preliminary report shall be submitted to the fiscal committees and the education policy committees of the house of representatives and senate by November 2009.~~

~~(iii) \$1,656,000 of the general fund—federal appropriation for fiscal year 2010 and \$2,483,000 of the general fund—federal appropriation for fiscal year 2011 of the American recovery and reinvestment act (ARRA) 2009 funds for education technology are provided solely for distribution to school districts, by formula, as provided in the ARRA and related federal guidelines. \$4,139,000 of the general fund—federal appropriation of the American recovery and reinvestment act (ARRA) 2009 funds for education technology shall be awarded to local education agencies through a competitive grant process.))~~

(c) GRANTS AND ALLOCATIONS

(i) \$1,329,000 of the general fund—state appropriation for fiscal year 2010 and \$1,329,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the special services pilot project to include up to seven participating districts. The office of the superintendent of public instruction shall allocate these funds to the district or districts participating in the pilot program according to the provisions of RCW 28A.630.016.

(ii) \$750,000 of the general fund—state appropriation for fiscal year 2010 and \$750,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the Washington state achievers scholarship program. The funds shall be used to support community involvement officers that recruit, train, and match community volunteer mentors with students selected as achievers scholars.

~~(iii) \$25,000 of the general fund—state appropriation for fiscal year 2010~~ ~~((and \$25,000 of the general fund—state appropriation for fiscal year 2011 are))~~ is provided solely for developing and disseminating curriculum and other materials documenting women's role in World War II.

(iv) \$175,000 of the general fund—state appropriation for fiscal year 2010 and \$175,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for incentive grants for districts and pilot projects to develop preapprenticeship programs. Incentive grant awards up to \$10,000 each shall be used to support the program's design, school/business/labor agreement negotiations, and recruiting high school students for preapprenticeship programs in the building trades and crafts.

(v) ~~(\$3,219,000)~~ \$2,898,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$3,220,000)~~ \$3,120,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the dissemination of the navigation 101 curriculum to all districts. The funding shall support electronic student planning tools and software for analyzing the impact of navigation 101 on student performance, as well as grants to a maximum of one hundred school districts each year, based on progress and need for the implementation of the navigation 101 program. The implementation grants shall be awarded to a cross-section of school districts reflecting a balance of

geographic and demographic characteristics. Within the amounts provided, the office of the superintendent of public instruction will create a navigation 101 accountability model to analyze the impact of the program.

(vi) ~~((\\$675,000))~~ \$627,000 of the general fund—state appropriation for fiscal year 2010 and ~~((\\$675,000))~~ \$337,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for implementation of a statewide program for comprehensive dropout prevention, intervention, and retrieval.

(vii) ~~((\\$50,000))~~ \$40,000 of the general fund—state appropriation for fiscal year 2010 ~~((and \$50,000 of the general fund—state appropriation for fiscal year 2011 are))~~ is provided solely for program initiatives to address the educational needs of Latino students and families. Using the full amounts of the appropriations under this subsection (2)(c)(vii), the office of the superintendent of public instruction shall contract with the Seattle community coalition of compaña quetzal to provide for three initiatives: (A) Early childhood education; (B) parent leadership training; and (C) high school success and college preparation programs.

(viii) ~~((\\$75,000))~~ \$60,000 of the general fund—state appropriation for fiscal year 2010 and \$75,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for a pilot project to encourage bilingual high school students to pursue public school teaching as a profession. Using the full amounts of the appropriation under this subsection, the office of the superintendent of public instruction shall contract with the Latino/a educational achievement project (LEAP) to work with school districts to identify and mentor not fewer than fifty bilingual students in their junior year of high school, encouraging them to become bilingual instructors in schools with high English language learner populations. Students shall be mentored by bilingual teachers and complete a curriculum developed and approved by the participating districts.

(ix) \$145,000 of the general fund—state appropriation for fiscal year 2010 and ~~((\\$145,000))~~ \$75,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to the office of the superintendent of public instruction to enhance the reading skills of students with dyslexia by implementing the findings of the dyslexia pilot program. Funds shall be used to provide information and training to classroom teachers and reading specialists, for development of a dyslexia handbook, and to take other statewide actions to improve the reading skills of students with dyslexia. The training program shall be delivered regionally through the educational service districts.

(x) \$97,000 of the general fund—state appropriation for fiscal year 2010 and \$97,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to support vocational student leadership organizations.

(xi) ~~((\\$25,000 of the general—state appropriation for fiscal year 2010 and \$25,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the communities in school program in Pierce county.))~~ \$150,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for drop-out prevention programs at the office of the superintendent of public instruction including the jobs for America's graduates (JAG) program.

\*Sec. 501 was partially vetoed. See message at end of chapter.



Sec. 502. 2009 c 564 s 502 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT**

General Fund—State Appropriation (FY 2010) . . . . .	(\$5,083,217,000)
	<u>\$5,126,153,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$5,103,543,000)
	<u>\$5,159,625,000</u>
TOTAL APPROPRIATION . . . . .	(\$10,186,760,000)
	<u>\$10,285,778,000</u>

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

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for certificated staff salaries for the 2009-10 and 2010-11 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (e) through (g) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (d) through (g) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii)(A)(I) ~~(Fifty three and two tenths certificated instructional staff units per thousand full-time equivalent students in grades K-4 for districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grades K-4 in digital or online learning programs defined in WAC 392-121-182.~~

~~(B) All other districts shall be allocated a minimum of forty-nine certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grades K through four, and shall be allocated additional certificated instructional staff units to equal the documented staffing level in grades K through four, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.~~

~~(C) Certificated instructional staff allocations in this subsection (2)(a)(ii) exceeding the statutory minimums established in RCW 28A.150.260 shall not be considered part of basic education.) For districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grades K through three in digital or online learning programs as defined in WAC 392-121-182, fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades K through three.~~

(II) For all other districts, a minimum of forty-nine certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grades K through three, with additional certificated instructional staff units to equal the

documented staffing level in grades K through three, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.

(B)(I) For districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grade four in digital or online learning programs defined in WAC 392-121-182: For the 2009-10 school year, fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grade four, and for the 2010-11 school year, forty-seven and forty-three one-hundredths certificated instructional staff units per thousand full-time equivalent students in grade four.

(II) For all other districts:

For the 2009-10 school year, a minimum of forty-six certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grade four, and additional certificated instructional staff units to equal the documented staffing level in grade four, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.

For the 2010-11 school year, a minimum of forty-six certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grade four, and additional certificated instructional staff units to equal the documented staffing level in grade four, up to a maximum of forty-seven and forty-three one-hundredths certificated instructional staff units per 1,000 FTE students;

(iii) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 5-12;

(iv) Certificated staff allocations in this subsection (2)(a) exceeding the statutory minimums established in RCW 28A.150.260 shall not be considered part of basic education;

(b) For school districts with a minimum enrollment of 250 full-time equivalent students whose full-time equivalent student enrollment count in a given month exceeds the first of the month full-time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full-time equivalent students been included in the normal enrollment count for that particular month;

(c)(i) On the basis of full-time equivalent enrollment in:

(A) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 19.5 full-time equivalent vocational students; ~~(and)~~

(B) Middle school vocational STEM programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.8 certificated administrative staff units for each 19.5 full-time equivalent vocational students; and

(C) Skills center programs meeting the standards for skills center funding established in January 1999 by the superintendent of public instruction with a waiver allowed for skills centers in current operation that are not meeting this standard until the 2010-11 school year, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(ii) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and

payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support; and

(iii) Indirect cost charges by a school district to vocational-secondary programs and vocational middle-school shall not exceed 15 percent of the combined basic education and vocational enhancement allocations of state funds;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students;

(g) For each nonhigh school district having an enrollment of more than seventy annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit; and

(h) For each nonhigh school district having an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 2009-10 and 2010-11 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(e) through (h) of this section, one classified staff unit for each 2.94 certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each 58.75 average annual full-time equivalent students; and

(c) For each nonhigh school district with an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 14.43 percent in the 2009-10 school year and 14.43 percent in the 2010-11 school year for certificated salary allocations provided under subsection (2) of this section, and a rate of ~~((+6.58))~~ 16.59 percent in the 2009-10 school year and ~~((+6.58))~~ 16.59 percent in the 2010-11 school year for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (g) of this section, there shall be provided a maximum of \$10,179 per certificated staff unit in the 2009-10 school year and a maximum of ~~((10,445))~~ \$10,424 per certificated staff unit in the 2010-11 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(A) of this section, there shall be provided a maximum of \$24,999 per certificated staff unit in the 2009-10 school year and a maximum of ~~((25,449))~~ \$25,399 per certificated staff unit in the 2010-11 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(B) of this section, there shall be provided a maximum of \$19,395 per certificated staff unit in the 2009-

10 school year and a maximum of (~~(\$19,744)~~) \$19,705 per certificated staff unit in the 2010-11 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$607.44 for the 2009-10 and 2010-11 school years per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported statewide for the prior school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) Funding in this section is sufficient to provide additional service year credits to educational staff associates pursuant to chapter 403, Laws of 2007.

(10)(a) The superintendent may distribute a maximum of (~~(\$7,288,000)~~) \$7,286,000 outside the basic education formula during fiscal years 2010 and 2011 as follows:

(i) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$567,000 may be expended in fiscal year 2010 and a maximum of (~~(\$577,000)~~) \$576,000 may be expended in fiscal year 2011;

(ii) For summer vocational programs at skills centers, a maximum of \$2,385,000 may be expended for the 2010 fiscal year and a maximum of \$2,385,000 for the 2011 fiscal year. 20 percent of each fiscal year amount may carry over from one year to the next;

(iii) A maximum of (~~(\$404,000)~~) \$403,000 may be expended for school district emergencies; and

(iv) A maximum of \$485,000 each fiscal year may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(b) Funding in this section is sufficient to fund a maximum of 1.6 FTE enrollment for skills center students pursuant to chapter 463, Laws of 2007.

(11) For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 4.0 percent from the 2008-09 school year to the 2009-10 school year and 4.0 percent from the 2009-10 school year to the 2010-11 school year.

(12) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (g) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education

formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

(13) General apportionment payments to the Steilacoom historical school district shall reflect changes to operation of the Harriet Taylor elementary school consistent with the timing of reductions in correctional facility capacity and staffing.

**Sec. 503.** 2009 c 564 s 503 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—  
BASIC EDUCATION EMPLOYEE COMPENSATION.** (1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:

(a) Salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional total base salary shown on LEAP Document 2 by the district's average staff mix factor for certificated instructional staff in that school year, computed using LEAP Document 1; and

(b) Salary allocations for certificated administrative staff units and classified staff units for each district shall be based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 2.

(2) For the purposes of this section:

(a) "LEAP Document 1" means the staff mix factors for certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on April 22, 2009, at 08:22 hours; and

(b) "LEAP Document 2" means the school year salary allocations for certificated administrative staff and classified staff and derived and total base salaries for certificated instructional staff as developed by the legislative evaluation and accountability program committee on April 22, 2009, at 08:22 hours.

(3) Incremental fringe benefit factors shall be applied to salary adjustments at a rate of 14.43 percent for school year 2009-10 and 14.43 percent for school year 2010-11 for certificated staff and for classified staff ~~((46.58))~~ 16.59 percent for school year 2009-10 and ~~((46.58))~~ 16.59 percent for the 2010-11 school year.

(4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations:

[Table of Total Base Salaries for Certificated Instructional Staff  
For School Year 2009-10]

[Years of Service]	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
[0]	34,237	35,162	36,120	37,080	40,161	42,145	41,047	44,128	46,115

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[1]	34,698	35,635	36,606	37,608	40,721	42,695	41,503	44,617	46,589
[2]	35,137	36,083	37,064	38,144	41,248	43,242	41,963	45,067	47,061
[3]	35,589	36,545	37,536	38,650	41,749	43,791	42,398	45,494	47,538
[4]	36,033	37,031	38,028	39,180	42,297	44,354	42,855	45,971	48,030
[5]	36,492	37,494	38,501	39,718	42,823	44,921	43,319	46,425	48,523
[6]	36,963	37,943	38,984	40,262	43,352	45,462	43,794	46,885	48,993
[7]	37,790	38,786	39,841	41,187	44,324	46,491	44,685	47,820	49,989
[8]	39,002	40,052	41,132	42,590	45,768	48,016	46,086	49,266	51,512
[9]		41,363	42,497	44,008	47,260	49,584	47,503	50,757	53,081
[10]			43,877	45,498	48,794	51,195	48,995	52,291	54,692
[11]				47,032	50,399	52,849	50,528	53,897	56,345
[12]				48,517	52,048	54,571	52,122	55,545	58,068
[13]					53,737	56,335	53,773	57,234	59,831
[14]					55,434	58,165	55,471	59,042	61,663
[15]					56,877	59,679	56,913	60,577	63,266
[16 or more]					58,014	60,871	58,051	61,788	64,531

[(Table of Total Base Salaries for Certificated Instructional Staff  
For School Year 2010-11)]

[Years of Service]	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
[0]	34,237	35,162	36,120	37,080	40,161	42,145	41,047	44,128	46,115
[1]	34,698	35,635	36,606	37,608	40,721	42,695	41,503	44,617	46,589
[2]	35,137	36,083	37,064	38,144	41,248	43,242	41,963	45,067	47,061
[3]	35,589	36,545	37,536	38,650	41,749	43,791	42,398	45,494	47,538
[4]	36,033	37,031	38,028	39,180	42,297	44,354	42,855	45,971	48,030
[5]	36,492	37,494	38,501	39,718	42,823	44,921	43,319	46,425	48,523
[6]	36,963	37,943	38,984	40,262	43,352	45,462	43,794	46,885	48,993
[7]	37,790	38,786	39,841	41,187	44,324	46,491	44,685	47,820	49,989
[8]	39,002	40,052	41,132	42,590	45,768	48,016	46,086	49,266	51,512
[9]		41,363	42,497	44,008	47,260	49,584	47,503	50,757	53,081
[10]			43,877	45,498	48,794	51,195	48,995	52,291	54,692
[11]				47,032	50,399	52,849	50,528	53,897	56,345
[12]				48,517	52,048	54,571	52,122	55,545	58,068
[13]					53,737	56,335	53,773	57,234	59,831
[14]					55,434	58,165	55,471	59,042	61,663
[15]					56,877	59,679	56,913	60,577	63,266
[16 or more]					58,014	60,871	58,051	61,788	64,531

[Table of Total Base Salaries for Certificated Instructional Staff  
For School Year 2010-11]

[Years of Service]	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 OR Ph.D.
[0]	34,048	34,968	35,920	36,875	39,939	41,913	40,820	43,885	45,860
[1]	34,506	35,439	36,403	37,400	40,496	42,459	41,274	44,370	46,332
[2]	34,943	35,884	36,859	37,933	41,020	43,004	41,731	44,818	46,802
[3]	35,393	36,343	37,329	38,437	41,518	43,549	42,164	45,243	47,276
[4]	35,834	36,826	37,818	38,964	42,064	44,110	42,618	45,718	47,765

[5]	<u>36,290</u>	<u>37,287</u>	<u>38,288</u>	<u>39,498</u>	<u>42,586</u>	<u>44,673</u>	<u>43,080</u>	<u>46,169</u>	<u>48,256</u>
[6]	<u>36,759</u>	<u>37,734</u>	<u>38,769</u>	<u>40,039</u>	<u>43,113</u>	<u>45,211</u>	<u>43,552</u>	<u>46,626</u>	<u>48,723</u>
[7]	<u>37,582</u>	<u>38,572</u>	<u>39,621</u>	<u>40,960</u>	<u>44,079</u>	<u>46,235</u>	<u>44,438</u>	<u>47,556</u>	<u>49,713</u>
[8]	<u>38,787</u>	<u>39,831</u>	<u>40,905</u>	<u>42,355</u>	<u>45,516</u>	<u>47,751</u>	<u>45,832</u>	<u>48,994</u>	<u>51,228</u>
[9]		<u>41,135</u>	<u>42,262</u>	<u>43,765</u>	<u>46,999</u>	<u>49,310</u>	<u>47,241</u>	<u>50,477</u>	<u>52,788</u>
[10]			<u>43,635</u>	<u>45,247</u>	<u>48,524</u>	<u>50,913</u>	<u>48,724</u>	<u>52,003</u>	<u>54,390</u>
[11]				<u>46,772</u>	<u>50,121</u>	<u>52,557</u>	<u>50,249</u>	<u>53,599</u>	<u>56,034</u>
[12]				<u>48,249</u>	<u>51,761</u>	<u>54,269</u>	<u>51,835</u>	<u>55,238</u>	<u>57,748</u>
[13]					<u>53,440</u>	<u>56,024</u>	<u>53,476</u>	<u>56,918</u>	<u>59,501</u>
[14]					<u>55,128</u>	<u>57,844</u>	<u>55,165</u>	<u>58,716</u>	<u>61,322</u>
[15]					<u>56,563</u>	<u>59,349</u>	<u>56,599</u>	<u>60,242</u>	<u>62,917</u>
[16 or more]					<u>57,693</u>	<u>60,535</u>	<u>57,731</u>	<u>61,447</u>	<u>64,174</u>

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

(i) Credits earned since receiving the masters degree; and

(ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(5) For the purposes of this section:

(a) "BA" means a baccalaureate degree.

(b) "MA" means a masters degree.

(c) "PHD" means a doctorate degree.

(d) "Years of service" shall be calculated under the same rules adopted by the superintendent of public instruction.

(e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.415.020 and 28A.415.023.

(6) No more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in this act, or any replacement schedules and documents, unless:

(a) The employee has a masters degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

(7) The certificated instructional staff base salary specified for each district in LEAP Document 2 and the salary schedules in subsection (4)(a) of this section include one learning improvement day for the 2009-10 school year and zero learning improvement days for the 2010-11 school year. A school district is eligible for the learning improvement day funds only if the learning improvement day has been added to the 180-day contract year. If fewer days are added, the additional learning improvement allocation shall be adjusted accordingly. The additional day shall be limited to specific activities identified in the state required school improvement plan related to improving student learning that are consistent with education reform implementation, and shall not be considered part of basic education. The principal in each school shall assure that the days are used to provide the necessary school-wide, all staff professional



development that is tied directly to the school improvement plan. The school principal and the district superintendent shall maintain documentation as to their approval of these activities. The length of a learning improvement day shall not be less than the length of a full day under the base contract. The superintendent of public instruction shall ensure that school districts adhere to the intent and purposes of this subsection.

(8) The salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2).

**Sec. 504.** 2009 c 564 s 504 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS**

General Fund—State Appropriation (FY 2010) . . . . .	(( <del>\$4,215,000</del> ))
	<u>(\$4,414,000)</u>
General Fund—State Appropriation (FY 2011) . . . . .	(( <del>\$14,172,000</del> ))
	<u>(\$1,806,000)</u>
General Fund—Federal Appropriation . . . . .	(( <del>\$6,000</del> ))
	<u>(\$1,000)</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$9,963,000</del> ))
	<u>(\$6,221,000)</u>

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

(1)(a) Additional salary adjustments as necessary to fund the base salaries for certificated instructional staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. Allocations for these salary adjustments shall be provided to all districts that are not grandfathered to receive salary allocations above the statewide salary allocation schedule, and to certain grandfathered districts to the extent necessary to ensure that salary allocations for districts that are currently grandfathered do not fall below the statewide salary allocation schedule.

(b) Additional salary adjustments to certain districts as necessary to fund the per full-time-equivalent salary allocations for certificated administrative staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. These adjustments shall ensure a minimum salary allocation for certificated administrative staff of \$57,986 in the 2009-10 school year and \$57,986 in the 2010-11 school year.

(c) Additional salary adjustments to certain districts as necessary to fund the per full-time-equivalent salary allocations for classified staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. These salary adjustments ensure a minimum salary allocation for classified staff of \$31,865 in the 2009-10 school year and \$31,865 in the 2010-11 school year.

(d) The appropriations in this subsection (1) include associated incremental fringe benefit allocations at rates 13.79 percent for the 2009-10 school year and 13.79 percent for the 2010-11 school year for certificated staff and ((~~13.08~~)) 13.09 percent for the 2009-10 school year and ((~~13.08~~)) 13.09 percent for the 2010-11 school year for classified staff.

(e) The appropriations in this section include the increased or decreased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act. Changes for general apportionment (basic

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education) are based on the salary allocation schedules and methodology in sections 502 and 503 of this act. Changes for special education result from changes in each district's basic education allocation per student. Changes for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in sections 502 and 503 of this act. The appropriations in this section provide incremental fringe benefit alterations based on formula adjustments as follows:

	School Year	
	2009-10	2010-11
Pupil Transportation (per weighted pupil mile)	\$0	\$0
Highly Capable (per formula student)	(\$1.49)	<del>(\$1.49)</del> <u>(\$2.98)</u>
Transitional Bilingual Education (per eligible bilingual student)	(\$3.93)	<del>(\$3.93)</del> <u>(\$7.86)</u>
Learning Assistance (per formula student)	(\$1.18)	<del>(\$1.18)</del> <u>(\$2.36)</u>

(f) The appropriations in this section include no salary adjustments for substitute teachers.

(2) ~~(\$44,188,000)~~ \$44,213,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is \$732.00 per month for the 2009-10 and 2010-11 school years. The appropriations in this section provide for a rate increase to \$745.00 per month for the 2009-10 school year and \$768.00 per month for the 2010-11 school year. The adjustments to health insurance benefits are at the following rates:

	School Year	
	2009-10	2010-11
Pupil Transportation (per weighted pupil mile)	\$0.12	\$0.33
Highly Capable (per formula student)	<del>(\$0.82)</del> <u>\$0.79</u>	\$2.22
Transitional Bilingual Education (per eligible bilingual student)	<del>(\$2.10)</del> <u>\$2.11</u>	\$5.83
Learning Assistance (per formula student)	\$0.54	\$1.49

(3) The rates specified in this section are subject to revision each year by the legislature.

**Sec. 505.** 2009 c 564 s 505 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$307,357,000)</del>
	<u>\$317,116,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$307,070,000)</del>
	<u>\$296,747,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$614,427,000)</del> <u>\$613,863,000</u>

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

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) A maximum of \$878,000 of this fiscal year 2010 appropriation and a maximum of ~~(\$894,000)~~ \$892,000 of the fiscal year 2011 appropriation may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) Allocations for transportation of students shall be based on reimbursement rates of \$48.15 per weighted mile in the 2009-10 school year and ~~(\$48.40)~~ \$48.37 per weighted mile in the 2010-11 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction multiplied by the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school multiplied by the per mile reimbursement rate for the school year multiplied by 1.29.

(4) The office of the superintendent of public instruction shall provide reimbursement funding to a school district only after the superintendent of public instruction determines that the school bus was purchased from the list established pursuant to RCW 28A.160.195(2) or a comparable competitive bid process based on the lowest price quote based on similar bus categories to those used to establish the list pursuant to RCW 28A.160.195.

(5) The superintendent of public instruction shall base depreciation payments for school district buses on the pre-sales tax five-year average of lowest bids in the appropriate category of bus. In the final year on the depreciation schedule, the depreciation payment shall be based on the lowest bid in the appropriate bus category for that school year.

(6) Funding levels in this section reflect reductions from the implementation of Substitute House Bill No. 1292 (authorizing waivers from the one hundred eighty-day school year requirement in order to allow four-day school weeks).

Sec. 506. 2009 c 564 s 506 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL FOOD SERVICE PROGRAMS**

General Fund—State Appropriation (FY 2010) . . . . .	\$3,159,000
General Fund—State Appropriation (FY 2011) . . . . .	\$3,159,000
General Fund—Federal Appropriation . . . . .	<del>(\$281,988,000)</del>
	<u>\$391,988,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$288,306,000)</del>
	<u>\$398,306,000</u>

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

(1) \$3,000,000 of the general fund—state appropriation for fiscal year 2010 and \$3,000,000 of the general fund—state appropriation for fiscal year 2011 are provided for state matching money for federal child nutrition programs.

(2) \$100,000 of the general fund—state appropriation for fiscal year 2010 and \$100,000 of the 2011 fiscal year appropriation are provided for summer food programs for children in low-income areas.

(3) \$59,000 of the general fund—state appropriation for fiscal year 2010 and \$59,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to reimburse school districts for school breakfasts served to students enrolled in the free or reduced price meal program pursuant to chapter 287, Laws of 2005 (requiring school breakfast programs in certain schools).

~~((4) \$1,588,000 of the general fund—federal appropriation of American recovery and reinvestment act of 2009 (ARRA) funds is provided solely for equipment assistance to school food authorities (SFAs) participating in the national school lunch program (NSLP). Local SFAs may apply to the office of the superintendent of public instruction to receive grants in accordance with provisions of the ARRA. As stipulated in the ARRA, priority will be given to SFAs for equipment for schools in which at least 50 percent of the students are eligible for free or reduced priced meals.))~~

Sec. 507. 2009 c 564 s 507 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL EDUCATION PROGRAMS**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$640,959,000)</del>
	<u>\$632,136,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$652,388,000)</del>
	<u>\$650,856,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$656,052,000)</del>
	<u>\$664,601,000</u>
Education Legacy Trust Account—State	
Appropriation . . . . .	\$756,000
TOTAL APPROPRIATION . . . . .	<del>(\$1,950,155,000)</del>
	<u>\$1,948,349,000</u>

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

(1) Funding for special education programs is provided on an excess cost basis, pursuant to RCW 28A.150.390. School districts shall ensure that special education students as a class receive their full share of the general apportionment allocation accruing through sections 502 and 504 of this act. To the extent a school district cannot provide an appropriate education for special education students under chapter 28A.155 RCW through the general apportionment allocation, it shall provide services through the special education excess cost allocation funded in this section.

- (2)(a) The superintendent of public instruction shall ensure that:
  - (i) Special education students are basic education students first;
  - (ii) As a class, special education students are entitled to the full basic education allocation; and
  - (iii) Special education students are basic education students for the entire school day.

(b) The superintendent of public instruction shall continue to implement the full cost method of excess cost accounting, as designed by the committee and recommended by the superintendent, pursuant to section 501(1)(k), chapter 372, Laws of 2006.

(3) Each fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(4) The superintendent of public instruction shall distribute state funds to school districts based on two categories: (a) The first category includes (i) children birth through age two who are eligible for the optional program for special education eligible developmentally delayed infants and toddlers, and (ii) students eligible for the mandatory special education program and who are age three or four, or five and not yet enrolled in kindergarten; and (b) the second category includes students who are eligible for the mandatory special education program and who are age five and enrolled in kindergarten and students age six through 21.

(5)(a) For the 2009-10 and 2010-11 school years, the superintendent shall make allocations to each district based on the sum of:

(i) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten, as defined in subsection (4) of this section, multiplied by the district's average basic education allocation per full-time equivalent student, multiplied by 1.15; and

(ii) A district's annual average full-time equivalent basic education enrollment multiplied by the funded enrollment percent determined pursuant to subsection (6)(b) of this section, multiplied by the district's average basic education allocation per full-time equivalent student multiplied by 0.9309.

(b) For purposes of this subsection, "average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 and shall not include enhancements, secondary vocational education, or small schools in the 2009-10 school year. In the 2010-11 school year, the per student allocation under this subsection (5)(b) shall include the same factors as in the 2009-10 school year, but shall also include the classified staff enhancements included in section 502(3)(b).

(6) The definitions in this subsection apply throughout this section.

(a) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(b) "Enrollment percent" means the district's resident special education annual average enrollment, excluding the birth through age four enrollment and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

Each district's general fund—state funded special education enrollment shall be the lesser of the district's actual enrollment percent or 12.7 percent.

(7) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be calculated in accordance with subsection (6)(b) of this section, and shall be

calculated in the aggregate rather than individual district units. For purposes of this subsection, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(8) To the extent necessary, (~~(\$73,668,000)~~) \$44,269,000 of the general fund—state appropriation and \$29,574,000 of the general fund—federal appropriation are provided for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided in subsection (5) of this section. If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in this subsection (8) in any fiscal year, the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall consider unmet needs for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas. In the determination of need, the committee shall also consider additional available revenues from federal sources. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards. In the determination of need, the committee shall require that districts demonstrate that they are maximizing their eligibility for all state and federal revenues related to services for special education-eligible students. Awards associated with (b) and (c) of this subsection shall not exceed the total of a district's specific determination of need.

(b) The committee shall then consider the extraordinary high cost needs of one or more individual special education students. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(c) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services. The safety net awards to school districts shall be adjusted to reflect amounts awarded under (b) of this subsection.

(d) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(e) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(f) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent in accordance with chapter 318, Laws of 1999. The state safety net oversight committee shall ensure that safety net documentation and awards are based on current medicaid revenue amounts.

(g) The office of the superintendent of public instruction, at the conclusion of each school year, shall recover safety net funds that were distributed prospectively but for which districts were not subsequently eligible.

(9) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules,

the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

(10) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

- (a) One staff from the office of superintendent of public instruction;
- (b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and
- (c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(11) The office of the superintendent of public instruction shall review and streamline the application process to access safety net funds, provide technical assistance to school districts, and annually survey school districts regarding improvement to the process.

(12) A maximum of \$678,000 may be expended from the general fund—state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(13) The superintendent shall maintain the percentage of federal flow-through to school districts at 85 percent. In addition to other purposes, school districts may use increased federal funds for high-cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(14) A school district may carry over from one year to the next year up to 10 percent of the general fund—state funds allocated under this program; however, carryover funds shall be expended in the special education program.

(15) \$262,000 of the general fund—state appropriation for fiscal year 2010 and \$251,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for two additional full-time equivalent staff to support the work of the safety net committee and to provide training and support to districts applying for safety net awards.

~~(16) ((\$221,357,000 of the general fund—federal appropriation of American recovery and reinvestment act of 2009 funds is provided solely for the individuals with disabilities education act (IDEA), Part B, for distribution to school districts. The funds' use is to be consistent with the current IDEA, Part B statutory and regulatory requirements.~~

~~(17))~~ \$50,000 of the general fund—state appropriation for fiscal year 2010, \$50,000 of the general fund—state appropriation for fiscal 2011, and \$100,000 of the general fund—federal appropriation shall be expended to support a special education ombudsman program within the office of superintendent of public instruction.

**Sec. 508.** 2009 c 564 s 508 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS**

General Fund—State Appropriation (FY 2010) . . . . .	\$8,394,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$8,395,000)</del>
	<u>\$8,319,000</u>

**Ch. 37 WASHINGTON LAWS, 2010 Sp. Sess.**

TOTAL APPROPRIATION . . . . .(~~\$16,789,000~~)  
\$16,713,000

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

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) \$3,355,000 of the general fund—state appropriation for fiscal year 2010 and \$3,355,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for regional professional development related to mathematics and science curriculum and instructional strategies. Funding shall be distributed among the educational service districts in the same proportion as distributions in the 2007-2009 biennium. Each educational service district shall use this funding solely for salary and benefits for a certificated instructional staff with expertise in the appropriate subject matter and in professional development delivery, and for travel, materials, and other expenditures related to providing regional professional development support. The office of superintendent of public instruction shall also allocate to each educational service district additional amounts provided in section 504 of this act for compensation increases associated with the salary amounts and staffing provided in this subsection (2).

(3) The educational service districts, at the request of the state board of education pursuant to RCW 28A.310.010 and 28A.310.340, may receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education post-site visit recommendations for school accreditation. The educational service districts may assess a cooperative service fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

**Sec. 509.** 2009 c 564 s 509 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE**

General Fund—State Appropriation (FY 2010) . . . . .(~~\$42,921,000~~)  
\$93,141,000

General Fund—State Appropriation (FY 2011) . . . . .(~~\$209,997,000~~)  
\$286,911,000

General Fund—Federal Appropriation . . . . .(~~\$176,284,000~~)  
\$157,043,000

TOTAL APPROPRIATION . . . . .(~~\$429,202,000~~)  
\$537,095,000

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

~~(\$176,284,000)~~ (1) \$157,043,000 of the general fund—federal appropriation for fiscal year 2010 is provided solely for American recovery and reinvestment act of 2009 (ARRA) fiscal stabilization funds to restore state reductions for local effort assistance payments.

(2) \$21,808,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for implementation of Substitute House Bill No. 2893



(school levies). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 510.** 2009 c 564 s 510 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$18,943,000)</del>
	<u>\$18,059,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$17,992,000)</del>
	<u>\$19,006,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$36,935,000)</del>
	<u>\$37,065,000</u>

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

(1) Each general fund—state fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution's annual average full-time equivalent student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

(4) The funded staffing ratios for education programs for juveniles age 18 or less in department of corrections facilities shall be the same as those provided in the 1997-99 biennium.

(5) ~~(\$329,000)~~ \$228,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$329,000)~~ \$228,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to maintain at least one certificated instructional staff and related support services at an institution whenever the K-12 enrollment is not sufficient to support one full-time equivalent certificated instructional staff to furnish the educational program. The following types of institutions are included: Residential programs under the department of social and health services for developmentally disabled juveniles, programs for juveniles under the department of corrections, and programs for juveniles under the juvenile rehabilitation administration.

(6) Ten percent of the funds allocated for each institution may be carried over from one year to the next.

**Sec. 511.** 2009 c 564 s 511 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$9,430,000)</del>
	<u>\$9,189,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$9,437,000)</del>
	<u>\$9,188,000</u>

**Ch. 37 WASHINGTON LAWS, 2010 Sp. Sess.**

TOTAL APPROPRIATION . . . . . ~~(\$18,867,000)~~  
\$18,377,000

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

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of \$401.08 per funded student for the 2009-10 school year and \$401.08 per funded student for the 2010-11 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. The number of funded students shall be a maximum of 2.314 percent of each district's full-time equivalent basic education enrollment.

(3) \$90,000 of the fiscal year 2010 appropriation and \$90,000 of the fiscal year 2011 appropriation are provided for the Washington destination imagination network and future problem-solving programs.

(4) \$170,000 of the fiscal year 2010 appropriation and \$170,000 of the fiscal year 2011 appropriation are provided for the centrum program at Fort Worden state park.

**Sec. 512.** 2009 c 564 s 512 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR MISCELLANEOUS PURPOSES UNDER THE ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT ACT AND THE NO CHILD LEFT BEHIND ACT**

General Fund—Federal Appropriation . . . . . ~~(\$43,450,000)~~  
\$43,886,000

**Sec. 513.** 2010 c 3 s 501 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—EDUCATION REFORM PROGRAMS**

General Fund—State Appropriation (FY 2010) . . . . . ~~(\$93,681,000)~~  
\$93,642,000

General Fund—State Appropriation (FY 2011) . . . . . ~~(\$102,512,000)~~  
\$99,313,000

General Fund—Federal Appropriation . . . . . \$152,626,000  
 Education Legacy Trust Account—State

Appropriation . . . . . ~~(\$95,112,000)~~  
\$102,881,000

TOTAL APPROPRIATION . . . . . ~~(\$443,931,000)~~  
\$448,462,000

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

(1) ~~(\$36,806,000)~~ \$35,804,000 of the general fund—state appropriation for fiscal year 2010, \$34,516,000 of the general fund—state appropriation for fiscal year 2011, \$1,350,000 of the education legacy trust account—state appropriation, and \$15,868,000 of the general fund—federal appropriation are provided solely for development and implementation of the Washington ~~((assessments of student learning (WASL)))~~ state assessment system, including:

(i) Development and implementation of retake assessments for high school students who are not successful in one or more content areas (~~(of the WASL)~~); and (ii) development and implementation of alternative assessments or appeals procedures to implement the certificate of academic achievement. The superintendent of public instruction shall report quarterly on the progress on development and implementation of alternative assessments or appeals procedures. Within these amounts, the superintendent of public instruction shall contract for the early return of 10th grade student (~~(WASL)~~) assessment results, on or around June 10th of each year.

(2) \$3,249,000 of the general fund—state appropriation for fiscal year 2010 and \$3,249,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the design of the state assessment system and the implementation of end of course assessments for high school math.

(3) Within amounts provided in subsections (1) and (2) of this section, the superintendent of public instruction, in consultation with the state board of education, shall develop a statewide high school end-of-course assessment measuring student achievement of the state science standards in biology to be implemented statewide in the 2011-12 school year. By December 1, 2010, the superintendent of public instruction shall recommend whether additional end-of-course assessments in science should be developed and in which content areas. Any recommendation for additional assessments must include an implementation timeline and the projected cost to develop and administer the assessments.

(4) \$1,014,000 of the education legacy trust account appropriation is provided solely for allocations to districts for salaries and benefits for the equivalent of two additional professional development days for fourth and fifth grade teachers during the 2008-2009 school year. The allocations shall be made based on the calculations of certificated instructional staff units for fourth and fifth grade provided in section 502 of this act and on the calculations of compensation provided in sections 503 and 504 of this act. Districts may use the funding to support additional days for professional development as well as job-embedded forms of professional development.

~~((4))~~ (5) \$3,241,000 of the education legacy trust fund appropriation is provided solely for allocations to districts for salaries and benefits for the equivalent of three additional professional development days for middle and high school math and science teachers during the 2008-2009 school year, as well as specialized training for one math and science teacher in each middle school and high school during the 2008-2009 school year. Districts may use the funding to support additional days for professional development as well as job-embedded forms of professional development.

~~((5) \$3,850,000)~~ (6) \$3,773,000 of the education legacy trust account—state appropriation is provided solely for a math and science instructional coaches program pursuant to chapter 396, Laws of 2007. Funding shall be used to provide grants to schools and districts to provide salaries, benefits, and professional development activities for up to twenty-five instructional coaches in middle and high school math and twenty-five instructional coaches in middle and high school science in each year of the biennium; and up to \$300,000 may be used by the office of the superintendent of public instruction to administer and coordinate the program.

~~((6) \$1,781,000)~~ (7) \$1,740,000 of the general fund—state appropriation for fiscal year 2010 and ~~((1,943,000))~~ \$1,775,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to allow approved middle and junior high school career and technical education programs to receive enhanced vocational funding. The office of the superintendent of public instruction shall provide allocations to districts for middle and junior high school students in accordance with the funding formulas provided in section 502 of this act. If Second Substitute Senate Bill No. 5676 is enacted the allocations are formula-driven, otherwise the office of the superintendent shall consider the funding provided in this subsection as a fixed amount, and shall adjust funding to stay within the amounts provided in this subsection.

~~((7))~~ (8) \$139,000 of the general fund—state appropriation for fiscal year 2010 and \$139,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for (a) staff at the office of the superintendent of public instruction to coordinate and promote efforts to develop integrated math, science, technology, and engineering programs in schools and districts across the state; and (b) grants of \$2,500 to provide twenty middle and high school teachers each year professional development training for implementing integrated math, science, technology, and engineering program in their schools.

~~((8) \$1,579,000)~~ (9) \$1,473,000 of the general fund—state appropriation for fiscal year 2010 and ~~((1,579,000))~~ \$395,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the Washington state leadership and assistance for science education reform (LASER) regional partnership activities coordinated at the Pacific science center, including instructional material purchases, teacher and principal professional development, and school and community engagement events. Funding shall be distributed to the various LASER activities in a manner proportional to LASER program spending during the 2007-2009 biennium.

~~((9) \$81,010,000)~~ (10) \$88,981,000 of the education legacy trust account—state appropriation is provided solely for grants for voluntary full-day kindergarten at the highest poverty schools, as provided in chapter 400, Laws of 2007. The office of the superintendent of public instruction shall provide allocations to districts for recipient schools in accordance with the funding formulas provided in section 502 of this act. Each kindergarten student who enrolls for the voluntary full-day program in a recipient school shall count as one-half of one full-time equivalent student for the purpose of making allocations under this subsection. Although the allocations are formula-driven, the office of the superintendent shall consider the funding provided in this subsection as a fixed amount, and shall limit the number of recipient schools so as to stay within the amounts appropriated each fiscal year in this subsection. The funding provided in this subsection is estimated to provide full-day kindergarten programs for 20 percent of kindergarten enrollment. Funding priority shall be given to schools with the highest poverty levels, as measured by prior year free and reduced priced lunch eligibility rates in each school. Additionally, as a condition of funding, school districts must agree to provide the full-day program to the children of parents who request it in each eligible school. For the purposes of calculating a school district levy base, funding provided in this subsection shall be considered a state block grant program under RCW 84.52.0531.

(a) Of the amounts provided in this subsection, a maximum of \$272,000 may be used for administrative support of the full-day kindergarten program within the office of the superintendent of public instruction.

(b) Student enrollment pursuant to this program shall not be included in the determination of a school district's overall K-12 FTE for the allocation of student achievement programs and other funding formulas unless specifically stated.

~~((10))~~ (11) \$700,000 of the general fund—state appropriation for fiscal year 2010 and \$900,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the development of a leadership academy for school principals and administrators. The superintendent of public instruction shall contract with an independent organization to design, field test, and implement a state-of-the-art education leadership academy that will be accessible throughout the state. Initial development of the content of the academy activities shall be supported by private funds. Semiannually the independent organization shall report on amounts committed by foundations and others to support the development and implementation of this program. Leadership academy partners, with varying roles, shall include the state level organizations for school administrators and principals, the superintendent of public instruction, the professional educator standards board, and others as the independent organization shall identify.

~~((11))~~ (12) \$105,754,000 of the general fund—federal appropriation is provided for preparing, training, and recruiting high quality teachers and principals under Title II of the no child left behind act.

~~((12) — \$1,546,000)~~ (13) \$1,960,000 of the general fund—state appropriation for fiscal year 2010 and ~~((3,046,000))~~ \$1,523,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to the office of the superintendent of public instruction for focused assistance. The office of the superintendent of public instruction shall conduct educational audits of low-performing schools and enter into performance agreements between school districts and the office to implement the recommendations of the audit and the community. Funding in this subsection ~~((may))~~ shall be used for focused assistance programs for individual schools ~~((as well as))~~ or school districts. The office of the superintendent of public instruction shall report to the fiscal committees of the legislature by September 1, 2011, providing an accounting of the uses of focused assistance funds during the 2009-11 fiscal biennium, including a list of schools served and the types of services provided.

~~((13) \$30,702,000 of the general fund—federal appropriation is provided for the reading first program under Title I of the no child left behind act.))~~

(14) \$1,667,000 of the general fund—state appropriation for fiscal year 2010 and \$1,667,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to eliminate the lunch co-pay for students in grades kindergarten through third grade that are eligible for reduced price lunch.

(15) \$5,285,000 of the general fund—state appropriation for fiscal year 2010 and \$5,285,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for: (a) The meals for kids program under RCW 28A.235.145 through 28A.235.155; (b) to eliminate the breakfast co-pay for students eligible for reduced price lunch; and (c) for additional assistance for school districts initiating a summer food service program.

(16) (~~(\$1,056,000)~~) \$1,003,000 of the general fund—state appropriation for fiscal year 2010 and \$1,056,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the Washington reading corps. The superintendent shall allocate reading corps members to low-performing schools and school districts that are implementing comprehensive, proven, research-based reading programs. Two or more schools may combine their Washington reading corps programs. Grants provided under this section may be used by school districts for expenditures from September 2009 through August 31, 2011.

(17) (~~(\$3,594,000)~~) \$3,269,000 of the general fund—state appropriation for fiscal year 2010 and \$3,594,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

(18) (~~(\$1,959,000)~~) \$1,861,000 of the general fund—state appropriation for fiscal year 2010 and \$1,959,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW.

(19) \$225,000 of the general fund—state appropriation for fiscal year 2010 and \$225,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the operation of the center for the improvement of student learning pursuant to RCW 28A.300.130.

(20) (~~(\$250,000)~~) \$246,000 of the education legacy trust account—state appropriation is provided solely for costs associated with the office of the superintendent of public instruction's statewide director of technology position.

(21)(a) (~~(\$28,270,000)~~) \$28,715,000 of the general fund—state appropriation for fiscal year 2010 and (~~(\$36,513,000)~~) \$36,168,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the following bonuses for teachers who hold valid, unexpired certification from the national board for professional teaching standards and who are teaching in a Washington public school, subject to the following conditions and limitations:

(i) For national board certified teachers, a bonus of \$5,000 per teacher beginning in the 2007-08 school year and adjusted for inflation in each school year thereafter in which Initiative 732 cost of living adjustments are provided (~~(- National board certified teachers who become public school principals shall continue to receive this bonus for as long as they are principals and maintain the national board certification)~~);

(ii) An additional \$5,000 annual bonus shall be paid to national board certified teachers who teach in either: (A) High schools where at least 50 percent of student headcount enrollment is eligible for federal free or reduced price lunch, (B) middle schools where at least 60 percent of student headcount enrollment is eligible for federal free or reduced price lunch, or (C) elementary

schools where at least 70 percent of student headcount enrollment is eligible for federal free or reduced price lunch;

(iii) The superintendent of public instruction shall adopt rules to ensure that national board certified teachers meet the qualifications for bonuses under (a)(ii) of this subsection for less than one full school year receive bonuses in a prorated manner; and

(iv) During the 2009-10 and 2010-11 school years, and within the available state and federal appropriations, certificated instructional staff who have met the eligibility requirements and have applied for certification from the national board for professional teaching standards may receive a conditional two thousand dollars or the amount set by the office of the superintendent of public instruction to contribute toward the current assessment fee, not including the initial up-front candidacy payment. The fee shall be an advance on the first annual bonus under RCW 28A.405.415. The assessment fee for national certification is provided in addition to compensation received under a district's salary schedule adopted in accordance with RCW 28A.405.200 and shall not be included in calculations of a district's average salary and associated salary limitation under RCW 28A.400.200. Recipients who fail to receive certification after three years are required to repay the assessment fee, not including the initial up-front candidacy payment, as set by the national board for professional teaching standards and administered by the office of the superintendent of public instruction. The office of the superintendent of public instruction shall adopt rules to define the terms for initial grant of the assessment fee and repayment, including applicable fees.

(b) Included in the amounts provided in this subsection are amounts for mandatory fringe benefits.

(22) ~~(\$2,750,000)~~ \$2,475,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$2,750,000)~~ \$912,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for secondary career and technical education grants pursuant to chapter 170, Laws of 2008. This funding may additionally be used to support FIRST Robotics programs. In fiscal year 2011, if equally matched by private donations, \$300,000 of the appropriation shall be used to support FIRST Robotics programs, including FIRST Robotics professional development.

(23) \$150,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the implementation of House Bill No. 2621 (K-12 school resource programs). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(24) \$300,000 of the general fund—state appropriation for fiscal year 2010 ~~((and \$300,000 of the general fund—state appropriation for fiscal year 2011 are))~~ is provided solely for the local farms-healthy kids program as described in chapter 215, Laws of 2008. The program is suspended in the 2011 fiscal year, and not eliminated.

~~((24))~~ (25) \$2,348,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$2,348,000)~~ \$2,000,000 of the general fund—state appropriation for fiscal year 2011 are ~~((appropriated))~~ provided solely for a beginning educator support program. School districts and/or regional consortia may apply for grant funding beginning in the 2009-10 school year. The superintendent shall implement this program in 5 to 15 school districts and/or

regional consortia. The program provided by a district and/or regional consortia shall include: A paid orientation; assignment of a qualified mentor; development of a professional growth plan for each beginning teacher aligned with professional certification; release time for mentors and new teachers to work together, and teacher observation time with accomplished peers. \$250,000 may be used to provide state-wide professional development opportunities for mentors and beginning educators. The superintendent of public instruction shall adopt rules to establish and operate a research-based beginning educator support program no later than August 31, 2009. OSPI must evaluate the program's progress and may contract for this work. A report to the legislature about the beginning educator support program is due November 1, 2010.

~~((25) \$4,400,000)~~ (26) \$4,290,000 of the education legacy trust account—state appropriation is provided solely for the development and implementation of diagnostic assessments, consistent with the recommendations of the Washington assessment of student learning work group.

~~((26) \$70,000 of the general fund—state appropriation for fiscal year 2010 is provided solely))~~ (27) Funding within this section is provided for implementation of Engrossed Substitute Senate Bill No. 5414 (statewide assessments and curricula).

~~((27))~~ (28) \$530,000 of the general fund—state appropriation for fiscal year 2010 and \$530,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the leadership internship program for superintendents, principals, and program administrators.

(29) Funding for the community learning center program, established in RCW 28A.215.060, and providing grant funding for the 21st century after-school program, is suspended and not eliminated.

(30) \$2,357,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6696 (education reform). Of the amount provided, \$142,000 is provided to the professional educators' standards board and \$120,000 is provided to the system of the educational service districts, to fulfill their respective duties under the bill.

Sec. 514. 2009 c 564 s 514 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$77,994,000)</del>
	<u>\$76,419,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$80,937,000)</del>
	<u>\$77,672,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$45,263,000)</del>
	<u>\$65,263,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$204,194,000)</del>
	<u>\$219,354,000</u>

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

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.



(2) The superintendent shall distribute a maximum of \$901.46 per eligible bilingual student in the 2009-10 school year and \$901.46 in the 2010-11 school year, exclusive of salary and benefit adjustments provided in section 504 of this act.

(3) The superintendent may withhold up to 1.5 percent of the school year allocations to school districts in subsection (2) of this section, and adjust the per eligible pupil rates in subsection (2) of this section accordingly, solely for the central provision of assessments as provided in RCW 28A.180.090 (1) and (2).

(4) \$70,000 of the amounts appropriated in this section are provided solely to track current and former transitional bilingual program students.

(5) The general fund—federal appropriation in this section is provided for migrant education under Title I Part C and English language acquisition, and language enhancement grants under Title III of the elementary and secondary education act.

Sec. 515. 2009 c 564 s 515 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$101,067,000)</del>
	<u>\$103,865,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$102,237,000)</del>
	<u>\$110,312,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$543,925,000)</del>
	<u>\$553,925,000</u>
Education Legacy Trust Account—State	
Appropriation . . . . .	\$47,980,000
TOTAL APPROPRIATION . . . . .	<del>(\$795,209,000)</del>
	<u>\$816,082,000</u>

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

(1) The general fund—state appropriations in this section are subject to the following conditions and limitations:

(a) The appropriations include such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b) Funding for school district learning assistance programs shall be allocated at maximum rates of \$281.71 per funded student for the 2009-10 school year and ~~(\$282.63)~~ \$283.00 per funded student for the 2010-11 school year exclusive of salary and benefit adjustments provided under section 504 of this act.

(c) A school district's funded students for the learning assistance program shall be the sum of the following as appropriate:

(i) The district's full-time equivalent enrollment in grades K-12 for the prior school year multiplied by the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced price lunch in the prior school year; and

(ii) If, in the prior school year, the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced price lunch exceeded forty percent, subtract forty percent from the district's percentage and multiply the

result by the district's K-12 annual average full-time equivalent enrollment for the prior school year.

(d) In addition to the amounts allocated in (b) and (c) of this subsection, an additional amount shall be allocated to school districts with high concentrations of poverty and English language learner students, subject to the following rules and conditions:

(i) To qualify for additional funding under this subsection, a district's October headcount enrollment in grades kindergarten through grade twelve must have at least twenty percent enrolled in the transitional bilingual instruction program based on an average of the program headcount taken in October and May of the prior school year; and must also have at least forty percent eligible for free or reduced price lunch based on October headcount enrollment in grades kindergarten through twelve in the prior school year.

(ii) Districts meeting the specifications in (d)(i) of this subsection shall receive additional funded students for the learning assistance program at the rates specified in subsection (1)(b) of this section. The number of additional funded student units shall be calculated by subtracting twenty percent from the district's percent transitional bilingual instruction program enrollment as defined in (d)(i) of this subsection, and the resulting percent shall be multiplied by the district's kindergarten through twelve annual average full-time equivalent enrollment for the prior school year.

(2) Allocations made pursuant to subsection (1) of this section shall be adjusted to reflect ineligible applications identified through the annual income verification process required by the national school lunch program, as recommended in the report of the state auditor on the learning assistance program dated February, 2010.

(3) The general fund—federal appropriation in this section is provided for Title I Part A allocations of the no child left behind act of 2001.

~~((3))~~ (4) A school district may carry over from one year to the next up to 10 percent of the general fund—state or education legacy trust funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.

~~((4))~~ (5) School districts are encouraged to coordinate the use of these funds with other federal, state, and local sources to serve students who are below grade level and to make efficient use of resources in meeting the needs of students with the greatest academic deficits.

~~((5))~~ (6) Within amounts appropriated in this section, funding is provided for the implementation of extended learning programs required in chapter 328, Laws of 2008.

~~((6) \$51,970,000 of the general fund—federal appropriation for fiscal year 2010 and \$77,955,000 of the general fund—federal appropriation for fiscal year 2011 of American recovery and reinvestment act of 2009 (ARRA) Title I, Part A funds are in addition to regular Title I, Part A allocations solely for allocation to eligible school districts in accordance with the guidelines of ARRA.~~

~~(7) \$48,981,000 of the general fund—federal appropriation from the American recovery and reinvestment act of 2009 (ARRA) is for school improvement. This consists of 4 percent, or \$5,413,000 of the Title I, Part A recovery funds which must be set aside for school improvement as well as \$43,568,000 in additional school improvement funds.)~~

**Sec. 516.** 2009 c 564 s 516 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STUDENT ACHIEVEMENT PROGRAMS**

General Fund—State Appropriation (FY 2010) .....	\$19,000
General Fund—State Appropriation (FY 2011) .....	(( <del>\$104,101,000</del> ))
	<u>\$25,730,000</u>
General Fund—Federal Appropriation .....	\$200,295,000
TOTAL APPROPRIATION .....	(( <del>\$304,396,000</del> ))
	<u>\$226,044,000</u>

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

(1) Funding for school district student achievement programs shall be allocated at a maximum rate of \$131.16 per FTE student for the 2009-10 school year and ((~~\$99.32~~)) \$0 per FTE student for the 2010-11 school year. For the purposes of this section, FTE student refers to the annual average full-time equivalent enrollment of the school district in grades kindergarten through twelve for the prior school year, as reported to the office of the superintendent of public instruction by August 31st of the previous school year.

(2) The appropriation is allocated for the following uses as specified in RCW 28A.505.210:

(a) To reduce class size by hiring certificated elementary classroom teachers in grades K-4 and paying nonemployee-related costs associated with those new teachers;

(b) To make selected reductions in class size in grades 5-12, such as small high school writing classes;

(c) To provide extended learning opportunities to improve student academic achievement in grades K-12, including, but not limited to, extended school year, extended school day, before-and-after-school programs, special tutoring programs, weekend school programs, summer school, and all-day kindergarten;

(d) To provide additional professional development for educators including additional paid time for curriculum and lesson redesign and alignment, training to ensure that instruction is aligned with state standards and student needs, reimbursement for higher education costs related to enhancing teaching skills and knowledge, and mentoring programs to match teachers with skilled, master teachers. The funding shall not be used for salary increases or additional compensation for existing teaching duties, but may be used for extended year and extended day teaching contracts;

(e) To provide early assistance for children who need prekindergarten support in order to be successful in school; or

(f) To provide improvements or additions to school building facilities which are directly related to the class size reductions and extended learning opportunities under (a) through (c) of this subsection (2).

(3) The superintendent of public instruction shall distribute the school year allocation according to the monthly apportionment schedule defined in RCW 28A.510.250.

(4) \$200,295,000 of the general fund—federal appropriation for fiscal year 2010 is provided solely for American recovery and reinvestment act of 2009

(ARRA) fiscal stabilization funds to restore state reductions for the student achievement program.

**Sec. 517.** 2009 c 564 s 518 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION.** (1) Appropriations made in this act to the office of the superintendent of public instruction shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act, except as expressly provided in subsection (2) of this section.

(2) The appropriations to the office of the superintendent of public instruction in this act shall be expended for the programs and amounts specified in this act. However, after May 1, 2010, unless specifically prohibited by this act and after approval by the director of financial management, the superintendent of public instruction may transfer state general fund appropriations for fiscal year 2010 among the following programs to meet the apportionment schedule for a specified formula in another of these programs: General apportionment; employee compensation adjustments; pupil transportation; special education programs; institutional education programs; transitional bilingual programs; and student achievement and learning assistance programs.

(3) The director of financial management shall notify the appropriate legislative fiscal committees in writing prior to approving any allotment modifications or transfers under this section.

#### PART VI HIGHER EDUCATION

**Sec. 601.** 2009 c 564 s 601 (uncodified) is amended to read as follows:

The appropriations in sections 605 through 611 of this act are subject to the following conditions and limitations:

(1) "Institutions" means the institutions of higher education receiving appropriations under sections 605 through 611 of this act.

(2) The legislature, the office of financial management, and other state agencies need consistent and accurate personnel data from institutions of higher education for policy planning purposes. Institutions of higher education shall report personnel data to the department of personnel for inclusion in the department's data warehouse. Uniform reporting procedures shall be established by the department of personnel for use by the reporting institutions, including provisions for common job classifications and common definitions of full-time equivalent staff. Annual contract amounts, number of contract months, and funding sources shall be consistently reported for employees under contract.

(3) In addition to waivers granted under the authority of RCW 28B.15.910, the governing boards and the state board may waive all or a portion of operating fees for any student. State general fund appropriations shall not be provided to replace tuition and fee revenue foregone as a result of waivers granted under this subsection.

(4) The colleges of education for institutions with appropriations in sections 606 through 611 shall develop a plan, by October 30, 2009, to increase the number of math and science teacher endorsements and certificates granted by the institution. The plan shall address the college's math and science teacher endorsement and certification completion goal for each of the next six years,

beginning with the 2010-2011 academic year, and shall be reported to the governor, the relevant policy committees of the legislature, the higher education coordinating board (HECB) and the professional educator standards board (PESB). Plan components may address: Student advising practices, increased outreach and recruitment efforts to under-represented populations, linkages with university mathematics and science departments, and implementation of redesigned, innovative endorsement and certification programs. To accomplish this work, enrollments may need to be shifted from low-need endorsement and certificate areas to math and science. A report shall be made each October 30th to the HECB and PESB regarding the degree to which plan goals have been met and activities undertaken to support those outcomes.

(5) In accordance with RCW 28B.10.920 through 28B.10.922, the state performance agreement committee and each public four-year institution of higher education shall develop performance agreements for the period September 1, 2009, through June 30, 2015. The agreements shall reflect the level of state, tuition, and other resources appropriated or authorized for each institution in this act and in the omnibus 2009-11 omnibus capital budget act, as well as reasonably anticipated changes in such resources for the two subsequent biennia as required to accomplish the higher education master plan as adopted by the legislature. The agreements shall build upon each institution's actual performance relative to the 2011 targets previously negotiated between the institution, the higher education coordinating board, and the office of financial management, and shall include measurable performance targets, benchmarks, and goals in areas including but not limited to:

- (a) Student enrollment levels, by campus;
- (b) Baccalaureate and advanced degree production;
- (c) Baccalaureate and advanced degree production in high employer-demand fields;
- (d) Undergraduate retention and graduation rates;
- (e) Time-to-degree for students entering as freshmen, and as upper-division transfers;
- (f) Efficiency to degree; and
- (g) Capital investment as required to (i) maintain existing capacity, and (ii) meet enrollment targets in accordance with the master plan as adopted by the legislature.

Each institution shall report progress toward its performance targets during the preceding academic year to the state performance agreement committee prior to November 1, 2010. The higher education coordinating board shall consolidate and summarize the institutional reports, and provide them to the relevant policy and fiscal committees of the legislature by December 1, 2010.

(6) To facilitate transparency and compliance with the American recovery and reinvestment act, the institutions of higher education receiving state and federal appropriations under sections 605 through 611 of this act shall allot anticipated state, federal, and tuition expenditures by budget program and fiscal year. The office of financial management shall notify the legislative ways and means committees of the proposed allotments at least ten days prior to their approval.

(7) To the extent permitted by the applicable personnel system rules, and to the extent collectively bargained with represented employees, institutions of higher education are encouraged to achieve the reductions in full-time-equivalent employment and payroll levels necessary to operate within this budget through strategies that will minimize impacts on employees, their families, their communities, and short- and longer-term accomplishment of institutional mission. Institutions are encouraged to utilize strategies such as reduced work-hours per day or week, voluntary leave without pay, and temporary furloughs that enable employees to maintain permanent employment status. Institutions are further encouraged to implement such strategies in ways that will enable employees to maintain full insurance benefits, full retirement service credit, and a living wage.

(8)(a) For institutions receiving appropriations in section 605 of this act the only allowable salary increases provided are those with normally occurring promotions and increases related to faculty and staff retention, to the extent permitted by Engrossed Substitute Senate Bill No. 5460, ~~(and)~~ House Bill No. 2328, and Substitute Senate Bill No. 6382. In fiscal year 2010 and fiscal year 2011, the state board for community and technical colleges may use salary and benefit savings from faculty turnover to provide salary increments and associated benefits for faculty who qualify through professional development and training.

(b) For employees under the jurisdiction of chapter 41.56 RCW, salary increases will be in accordance with the applicable collective bargaining agreement. However, an increase shall not be provided to any classified employee whose salary is above the approved salary range maximum for the class to which the employee's position is allocated.

(c) For each institution of higher education receiving appropriations under sections 606 through 611 of this act:

(i) The only allowable salary increases are those associated with normally occurring promotions and increases related to faculty and staff retention, to the extent permitted by Engrossed Substitute Senate Bill No. 5460 ~~(and)~~, House Bill No. 2328, and Substitute Senate Bill No. 6382; and

(ii) Institutions may provide salary increases from other sources to instructional and research faculty, exempt professional staff, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015, to the extent permitted by Engrossed Substitute Senate Bill No. 5460 ~~(and)~~, House Bill No. 2328, and Substitute Senate Bill No. 6382. Any salary increase granted under the authority of this subsection (8)(c)(ii) shall not be included in an institution's salary base for future state funding. It is the intent of the legislature that state general fund support for an institution shall not increase during the current or any future biennium as a result of any salary increases authorized under this subsection (8)(c)(ii).

**Sec. 602.** 2009 c 564 s 602 (uncodified) is amended to read as follows:

(1) Within the funds appropriated in this act, each institution of higher education is expected to enroll and educate at least the following numbers of full-time equivalent state-supported students per academic year:

	2009-10 Annual Average	2010-11 Annual Average
University of Washington	36,546	37,162
Washington State University	22,250	22,250
Central Washington University	(( <del>8,477</del> )) <u>8,469</u>	(( <del>8,734</del> )) <u>8,808</u>
Eastern Washington University	(( <del>8,469</del> )) <u>8,477</u>	(( <del>8,808</del> )) <u>8,734</u>
The Evergreen State College	4,213	4,213
Western Washington University	11,373	11,762
State Board for Community & Technical Colleges		
Adult Students	139,237	(( <del>139,237</del> )) <u>143,046</u>
Running Start Students	11,558	11,558

(2) In achieving or exceeding these enrollment targets, each institution shall seek to:

(a) Maintain and to the extent possible increase enrollment opportunities at branch campuses;

(b) Maintain and to the extent possible increase enrollment opportunities at university centers and other partnership programs that enable students to earn baccalaureate degrees on community college campuses; and

(c) Eliminate and consolidate programs of study for which there is limited student or employer demand, or that are not areas of core academic strength for the institution, particularly when such programs duplicate offerings by other in-state institutions.

(3) By September 1, 2009, each institution shall report to the higher education committees and the relevant fiscal committees of the legislature on its plans for achieving the objectives in this section.

(4) For purposes of monitoring and reporting statewide enrollment, the University of Washington and Washington State University shall notify the office of financial management of the number of full-time student equivalent enrollments budgeted for each of their campuses.

**Sec. 603.** 2009 c 564 s 605 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

General Fund—State Appropriation (FY 2010) . . . . .	(( <del>\$620,071,000</del> ))
	<u>\$631,804,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(( <del>\$642,509,000</del> ))
	<u>\$629,745,000</u>

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General Fund—Federal Appropriation . . . . .	\$17,171,000
Education Legacy Trust Account—State Appropriation . . . . .	<del>(\$95,125,000)</del>
	<u>\$95,035,000</u>
<u>Opportunity Express Account—State Appropriation . . . . .</u>	<u>\$18,556,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$1,374,876,000)</del>
	<u>\$1,392,311,000</u>

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

(1) ~~\$28,761,000 of the general fund—state appropriation for fiscal year 2010 ((and)), \$28,761,000 of the general fund—state appropriation for fiscal year 2011, and \$17,556,000 of the opportunity express account—state appropriation~~ are provided solely as special funds for training and related support services, including financial aid, as specified in RCW 28C.04.390. Funding is provided to support at least 6,200 full-time equivalent students in fiscal year 2010 and at least ~~((6,200))~~ 9,984 full-time equivalent students in fiscal year 2011.

(2) \$2,725,000 of the general fund—state appropriation for fiscal year 2010 and \$2,725,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for administration and customized training contracts through the job skills program. The state board shall make an annual report by January 1st of each year to the governor and to the appropriate policy and fiscal committees of the legislature regarding implementation of this section, listing the scope of grant awards, the distribution of funds by educational sector and region of the state, and the results of the partnerships supported by these funds.

(3) Of the amounts appropriated in this section, \$3,500,000 is provided solely for the student achievement initiative.

(4) When implementing the appropriations in this section, the state board and the trustees of the individual community and technical colleges shall minimize impact on academic programs, maximize reductions in administration, and shall at least maintain, and endeavor to increase, enrollment opportunities and degree and certificate production in high employer-demand fields of study at their academic year 2008-09 levels.

(5) Within the board's 2009-11 biennial budget allocation to Bellevue College, and pursuant to RCW 28B.50.810, the college may implement, on a tuition and fee basis, an additional applied baccalaureate degree in interior design. This program is intended to provide students with additional opportunities to earn baccalaureate degrees and to respond to emerging job and economic growth opportunities. The program reviews and approval decisions required by RCW 28B.50.810 (3) and (4) shall be completed by July 31, 2009, so that the degree may be offered during the 2009-10 academic year.

(6) In accordance with the recommendations of the higher education coordinating board's 2008 *Kitsap region higher education center study*, the state board shall facilitate development of university centers by allocating thirty 2-year and 4-year partnership full-time enrollment equivalencies to Olympic College and ten 2-year and 4-year partnership full-time enrollment equivalencies to Peninsula College. The colleges shall use the allocations to establish a partnership with a baccalaureate university or universities for delivery of upper



division degree programs in the Kitsap region. The Olympic and Peninsula Community College districts shall additionally work together to ensure coordinated development of these and other future baccalaureate opportunities through coordinated needs assessment, planning, and scheduling.

(7) By September 1, 2009, the state board for community and technical colleges, the higher education coordinating board, and the office of financial management shall review and to the extent necessary revise current 2009-11 performance measures and targets based on the level of state, tuition, and other resources appropriated or authorized in this act and in the omnibus 2009-11 omnibus capital budget act. The boards and the office of financial management shall additionally develop new performance targets for the 2011-13 and the 2013-15 biennia that will guide and measure the community and technical college system's contributions to achievement of the state's higher education master plan goals.

(8) \$2,250,000 of the general fund—state appropriation for fiscal year 2010 and \$2,250,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the hospital employee education and training program under which labor, management, and college partnerships develop or expand and evaluate training programs for incumbent hospital workers that lead to careers in nursing and other high-demand health care occupations. The board shall report student progress, outcomes, and costs to the relevant fiscal and policy committees of the legislature by November 2009 and November 2010.

(9) Community and technical colleges are not required to send mass mailings of course catalogs to residents of their districts. Community and technical colleges shall consider lower cost alternatives, such as mailing postcards or brochures that direct individuals to online information and other ways of acquiring print catalogs.

(10) \$1,112,000 of the general fund—state appropriation for fiscal year 2010 and \$1,113,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the state board to enhance online distance learning and open courseware technology. Funds shall be used to support open courseware, open textbooks, open licenses to increase access, affordability and quality of courses in higher education. The state board for community and technical colleges shall select the most appropriate courses to support open courseware based solely upon criteria of maximizing the value of instruction and reducing costs of textbooks and other instructional materials for the greatest number of students in higher education, regardless of the type of institution those students attend.

(11) \$158,000 of the general fund—state appropriation for fiscal year 2011 is provided solely to implement House Bill No. 2694 (B.S. in nursing/university center). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(12)(a) The labor education and research center is transferred from The Evergreen State College to south Seattle community college and shall begin operations on July 1, 2010.

(b) At least \$164,000 of the general fund—state appropriation for fiscal year 2011 shall be expended on the labor education and research center to provide outreach programs and direct educational and research services to labor unions and worker-centered organizations.

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(13) \$1,000,000 of the opportunity express account—state appropriation is provided solely for the opportunity grant program as specified in RCW 28B.50.271.

(14) \$1,750,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the state board for community and technical colleges to contract with the aerospace training and research center on Paine field in Everett, Washington to support industry-identified training in the aerospace sector.

(15) Sufficient amounts are provided in this section to implement the food stamp employment and training program under Second Substitute House Bill No. 2782 (security lifeline act).

\*Sec. 604. 2009 c 564 s 606 (uncodified) is amended to read as follows:

<b>FOR THE UNIVERSITY OF WASHINGTON</b>	
General Fund—State Appropriation (FY 2010) . . . . .	(\$269,552,000)
	<u>\$269,571,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$297,130,000)
	<u>\$271,092,000</u>
General Fund—Federal Appropriation . . . . .	(\$24,730,000)
	<u>\$43,971,000</u>
Education Legacy Trust Account—State Appropriation . . . . .	(\$54,408,000)
	<u>\$54,534,000</u>
Accident Account—State Appropriation . . . . .	(\$6,712,000)
	<u>\$6,750,000</u>
Medical Aid Account—State Appropriation . . . . .	(\$6,524,000)
	<u>\$6,540,000</u>
Biotoxin Account—State Appropriation . . . . .	(\$450,000)
	<u>\$449,000</u>
TOTAL APPROPRIATION . . . . .	(\$659,506,000)
	<u>\$652,907,000</u>

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

(1) In implementing the appropriations in this section, the president and regents shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) \$75,000 of the general fund—state appropriation for fiscal year 2010 and \$75,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for forestry research by the Olympic natural resources center.

(4) \$150,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for the William D. Ruckelshaus center for facilitation, support,

and analysis to support the nurse staffing steering committee in its work to apply best practices related to patient safety and nurse staffing.

(5) \$54,000 of the general fund—state appropriation for fiscal year 2010 and \$54,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the University of Washington geriatric education center to provide a voluntary adult family home certification program. In addition to the minimum qualifications required under RCW 70.128.120, individuals participating in the voluntary adult family home certification program shall complete fifty-two hours of class requirements as established by the University of Washington geriatric education center. Individuals completing the requirements of RCW 70.128.120 and the voluntary adult family home certification program shall be issued a certified adult family home license by the department of social and health services. The department of social and health services shall adopt rules implementing the provisions of this subsection.

(6) \$50,000 of the general fund—state appropriation for fiscal year 2010 and \$52,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the center for international trade in forest products in the college of forest resources.

**(7)(a) \$183,000 of the general fund—state appropriation for fiscal year 2011 is for the technology law and public policy clinic at the University of Washington school of law to prepare a comprehensive report identifying and analyzing trends in the telecommunications industry and pathways for telecommunications regulatory reform. The report must include, but not be limited to, a review of the following issues: (i) The taxation treatment of all telecommunications services that provide the same or functionally equivalent services; (ii) the character and degree of competition in the telecommunications market; (iii) the regulatory, legal, and economic barriers to adequate competition, actual or perceived, that exist; (iv) what changes could be made in policy, law, or administrative rule to address any actual or perceived barriers to competition; and (v) the role of the utilities and transportation commission in the oversight and regulation of telecommunications services.**

**(b) The technology law and public policy clinic shall consult with local governments, public utility districts, telecommunications service providers, the utilities and transportation commission, the department of revenue, and other stakeholders in preparing its analysis and report.**

**(c) By December 1, 2011, the technology law and public policy clinic shall issue a report to the legislature with recommendations on legislative action that may be necessary in order to effectuate telecommunications regulatory reform in Washington.**

(8) \$250,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for joint planning to increase the number of residency positions and programs in eastern Washington and Spokane within the existing Washington, Wyoming, Alaska, Montana, Idaho (WWAMI) regional medical education program partnership between the University of Washington school of medicine, Washington State University, and area physicians and hospitals. The joint planning efforts are to include preparation of applications for new residency programs in family medicine, internal medicine, obstetrics, psychiatry and general surgery; business plans for those new programs; and for increasing

the number of positions in existing programs among regional academic and hospital partners and networks. The results of the joint planning efforts, including the status of the application preparation and business plan, must be reported to the house of representatives committee on higher education and the senate committee on higher education and workforce development by December 1, 2010.

(9) \$25,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for implementation of chapter 164, Laws of 2010 (local government infrastructure). The University of Washington shall use a qualified researcher to report the percentage probability that the application's assumptions and estimates of jobs created and increased tax receipts will be achieved by the projects. In making this report, the qualified researcher shall work with the department of revenue and the applicants to develop a series of factors that are based on available economic metrics and sound principles.

\*Sec. 604 was partially vetoed. See message at end of chapter.

\*Sec. 605. 2009 c 564 s 607 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

General Fund—State Appropriation (FY 2010) . . . . .	(\$178,578,000)	
		\$169,462,000
General Fund—State Appropriation (FY 2011) . . . . .	(\$196,163,000)	
		\$178,283,000
General Fund—Federal Appropriation . . . . .		\$15,772,000
Education Legacy Trust Account—State Appropriation . . . . .	(\$34,696,000)	
		\$34,435,000
TOTAL APPROPRIATION . . . . .	(\$425,209,000)	
		\$397,952,000

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

(1) In implementing the appropriations in this section, the president and regents shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) When implementing reductions for fiscal year 2010 and fiscal year 2011, Washington State University shall minimize reductions to extension services and agriculture extension services. Agriculture extension includes:

(a) Faculty with extension appointments working within the following departments in the college of agricultural, human, and natural resource sciences with extension appointments: Animal sciences, crop and soil sciences, entomology, horticulture, and plant pathology;

(b) The portion of county extension educators' appointments assigned to the "agricultural programs" area;

(c) Staff with extension appointments and extension operating allocations located at the irrigated agriculture research and extension center (Prosser), northwest Washington research and extension center (Mt. Vernon), and tree fruit research and extension center (Wenatchee); and

(d) Extension contributions to the center for precision agricultural systems, center for sustaining agriculture and natural resources, and the agriculture weather network.

(4) \$75,000 of the general fund—state appropriation for fiscal year 2010 and \$75,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for research related to honeybee colony collapse disease.

**(5) \$100,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the small business development center. The center must, consistent with the scope, goals, deliverables, and timeline of work specified in the annual cooperative agreement with the United States small business administration:**

**(a) Develop and maintain a state comprehensive plan for the coordination and integration of small business and entrepreneurial development programs and the operations of a statewide small business and entrepreneurial development system. The plan must include but not be limited to setting measurable goals, objectives, and priorities:**

**(b) Advocate for the state's small business and entrepreneurial development system and for meeting the needs of small start-ups and existing entrepreneurs;**

**(c) Work with private and public entrepreneurial development and small business assistance providers to develop entrepreneurial training and small business assistance instructional materials and curricula that meet the particular entrepreneurial development and small business assistance needs of rural and low-income communities and small manufacturers interested in exporting; and**

**(d) Identify policies to reduce administrative and other barriers to efficient delivery and coordination of small business and entrepreneurial assistance.**

\*Sec. 605 was partially vetoed. See message at end of chapter.

**Sec. 606.** 2009 c 564 s 608 (uncodified) is amended to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

General Fund—State Appropriation (FY 2010) . . . . .	(( <del>\$34,685,000</del> ))
	<u>\$34,689,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(( <del>\$40,796,000</del> ))
	<u>\$36,666,000</u>
General Fund—Federal Appropriation . . . . .	\$5,522,000
Education Legacy Trust Account—State Appropriation . . . . .	(( <del>\$16,087,000</del> ))
	<u>\$16,041,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>((<del>\$97,090,000</del>))</b>
	<b><u>\$92,918,000</u></b>

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

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) At least \$200,000 of the general fund—state appropriation for fiscal year 2010 and at least \$200,000 of the general fund—state appropriation for fiscal year 2011 shall be expended on the northwest autism center.

Sec. 607. 2009 c 564 s 609 (uncodified) is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

General Fund—State Appropriation (FY 2010) . . . . .	(\$30,284,000)
	<u>\$30,289,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$37,580,000)
	<u>\$33,803,000</u>
General Fund—Federal Appropriation . . . . .	\$6,975,000
Education Legacy Trust Account—State Appropriation . . . . .	(\$19,076,000)
	<u>\$19,012,000</u>
TOTAL APPROPRIATION . . . . .	(\$93,915,000)
	<u>\$90,079,000</u>

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

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

Sec. 608. 2009 c 564 s 610 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

General Fund—State Appropriation (FY 2010) . . . . .	(\$20,512,000)
	<u>\$20,514,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(\$22,865,000)
	<u>\$18,505,000</u>
General Fund—Federal Appropriation . . . . .	\$2,366,000

Education Legacy Trust Account—State Appropriation . . . . .	(\$5,450,000)
	<u>\$5,417,000</u>
TOTAL APPROPRIATION . . . . .	(\$51,193,000)
	<u>\$46,802,000</u>

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

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the college shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3)(a) At least \$100,000 of the general fund—state appropriation for fiscal year 2010 (~~and at least \$100,000 of the general fund—state appropriation for fiscal year 2011~~) shall be expended on the labor education and research center.

(b) In fiscal year 2011 the labor education and research center shall be transferred from The Evergreen State College to south Seattle community college.

(4) \$100,000 of the general fund—state appropriation for fiscal year 2010 and \$100,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the Washington state institute for public policy to report to the legislature regarding efficient and effective programs and policies. The report shall calculate the return on investment to taxpayers from evidence-based prevention and intervention programs and policies that influence crime, K-12 education outcomes, child maltreatment, substance abuse, mental health, public health, public assistance, employment, and housing. The institute for public policy shall provide the legislature with a comprehensive list of programs and policies that improve these outcomes for children and adults in Washington and result in more cost-efficient use of public resources. The institute shall submit interim reports by December 15, 2009, and October 1, 2010, and a final report by June 30, 2011. The institute may receive additional funds from a private organization for the purpose of conducting this study.

(5) To the extent federal or private funding is available for this purpose, the Washington state institute for public policy and the center for reinventing public education at the University of Washington shall examine the relationship between participation in pension systems and teacher quality and mobility patterns in the state. The department of retirement systems shall facilitate researchers' access to necessary individual-level data necessary to effectively conduct the study. The researchers shall ensure that no individually identifiable information will be disclosed at any time. An interim report on project findings shall be completed by November 15, 2010, and a final report shall be submitted to the governor and to the relevant committees of the legislature by October 15, 2011.

(6) At least \$200,000 of the general fund—state appropriation for fiscal year 2010 and at least \$200,000 of the general fund—state appropriation for fiscal year 2011 shall be expended on the Washington center for undergraduate education.

(7) \$15,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for the Washington state institute for public policy to examine the need for and methods to increase the availability of nonfood items, such as personal hygiene supplies, soaps, paper products, and other items, to needy persons in the state. The study shall examine existing private and public programs that provide such products, and develop recommendations for the most cost-effective incentives for private and public agencies to increase local distribution outlets and local and regional networks of supplies. A final report shall be delivered to the legislature and the governor by December 1, 2009.

(8) \$17,000 of the general fund—state appropriation for fiscal year 2010 and \$42,000 of the general fund—state appropriation for fiscal year 2011 are provided to the Washington state institute for public policy to implement Second Substitute House Bill No. 2106 (child welfare outcomes). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(9) \$54,000 of the general fund—state appropriation for fiscal year 2010 and \$23,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to implement Substitute Senate Bill No. 5882 (racial disproportionality). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(10) \$75,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for the Washington state institute of public policy to evaluate the adequacy of and access to financial aid and independent living programs for youth in foster care. The examination shall include opportunities to improve efficiencies within these programs. The institute shall report its findings by December 1, 2009.

(11) \$75,000 of the general fund—state appropriation for fiscal year 2010 is provided solely for the Washington state institute for public policy to conduct an assessment of the general assistance unemployable program and other similar programs. The assessment shall include a review of programs in other states that provide similar services and will include recommendations on promising approaches that both improve client outcomes and reduce state costs. A report is due by December 1, 2009.

(12) To the extent funds are available, the Washington state institute for public policy is encouraged to continue the longitudinal analysis of long-term mental health outcomes directed in chapter 334, Laws of 2001 (mental health performance audit), to build upon the evaluation of the impacts of chapter 214, Laws of 1999 (mentally ill offenders); and to assess program outcomes and cost effectiveness of the children's mental health pilot projects as required by chapter 372, Laws of 2006.

(13) \$50,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the institute for public policy to provide research support to the council on quality education.

(14) At least \$119,207 of the general fund—state appropriation for fiscal year 2011 shall be expended on the longhouse center.



(15) At least \$103,146 of the general fund—state appropriation for fiscal year 2011 shall be expended on the Northwest Indian applied research institute.

**Sec. 609.** 2009 c 564 s 611 (uncodified) is amended to read as follows:

**FOR WESTERN WASHINGTON UNIVERSITY**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$43,141,000)</del>
	<u>\$43,146,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$52,752,000)</del>
	<u>\$48,391,000</u>
General Fund—Federal Appropriation . . . . .	\$8,885,000
Education Legacy Trust Account—State Appropriation . . . . .	<del>(\$13,036,000)</del>
	<u>\$12,917,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$117,814,000)</del>
	<u>\$113,339,000</u>

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

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

**Sec. 610.** 2009 c 564 s 612 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD—POLICY COORDINATION AND ADMINISTRATION**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$6,611,000)</del>
	<u>\$6,402,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$6,203,000)</del>
	<u>\$5,561,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$4,352,000)</del>
	<u>\$4,332,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$17,166,000)</del>
	<u>\$16,295,000</u>

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

(1) Within the funds appropriated in this section, the higher education coordinating board shall complete a system design planning project that defines how the current higher education delivery system can be shaped and expanded over the next ten years to best meet the needs of Washington citizens and businesses for high quality and accessible post-secondary education. The board shall propose policies and specific, fiscally feasible implementation recommendations to accomplish the goals established in the *2008 strategic*

master plan for higher education. The project shall specifically address the roles, missions, and instructional delivery systems both of the existing and of proposed new components of the higher education system; the extent to which specific academic programs should be expanded, consolidated, or discontinued and how that would be accomplished; the utilization of innovative instructional delivery systems and pedagogies to reach both traditional and nontraditional students; and opportunities to consolidate institutional administrative functions. The study recommendations shall also address the proposed location, role, mission, academic program, and governance of any recommended new campus, institution, or university center. During the planning process, the board shall inform and actively involve the chairs from the senate and house of representatives committees on higher education, or their designees. The board shall report the findings and recommendations of this system design planning project to the governor and the appropriate committees of the legislature by December 1, 2009.

(2) \$146,000 of the general fund—state appropriation for fiscal year 2010 and \$65,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the higher education coordinating board to administer Engrossed Second Substitute House Bill No. 2021 (revitalizing student financial aid). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(3) (~~(\$227,000)~~) \$167,000 of the general fund—state appropriation for fiscal year 2010 and (~~(\$11,000)~~) \$71,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to implement Engrossed Second Substitute House Bill No. 1946 (regarding higher education online technology). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(4) (~~(\$400,000)~~) \$350,000 of the general fund—state appropriation for fiscal year 2010 and (~~(\$400,000)~~) \$200,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the higher education coordinating board to contract with the Pacific Northwest university of health sciences to conduct training and education of health care professionals to promote osteopathic physician services in rural and underserved areas of the state.

Sec. 611. 2009 c 564 s 613 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD—  
FINANCIAL AID AND GRANT PROGRAMS**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$204,332,000)</del>
	<u>\$188,332,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$229,711,000)</del>
	<u>\$122,218,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$13,124,000)</del>
	<u>\$13,129,000</u>
Education Legacy Trust Account—State Appropriation . . . . .	<del>(\$88,062,000)</del>
	<u>\$116,060,000</u>
<u>Opportunity Pathways Account—State Appropriation . . . . .</u>	<u>\$73,500,000</u>

TOTAL APPROPRIATION .....((~~\$535,229,000~~))  
\$513,239,000

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

(1) (~~(\$191,704,000)~~) \$178,726,000 of the general fund—state appropriation for fiscal year 2010, (~~(\$232,929,000)~~) \$120,572,000 of the general fund—state appropriation for fiscal year 2011, (~~(\$80,190,000)~~) \$109,188,000 of the education legacy trust account appropriation, \$73,500,000 of the opportunity pathways appropriation, and (~~(\$2,446,000)~~) \$2,545,000 of the general fund—federal appropriation are provided solely for student financial aid payments under the state need grant; the state work study program including up to a four percent administrative allowance; the Washington scholars program; and the Washington award for vocational excellence. State need grant(~~(-)~~) and the Washington award for vocational excellence(~~(-, and state work study awards)~~) shall be adjusted to offset the cost of the resident undergraduate tuition increases, limited to those tuition increases authorized under this act. The Washington scholars program shall provide awards sufficient to offset ninety percent of the total tuition and fee award.

(2)(a) Within the funds appropriated in this section, eligibility for the state need grant shall include students with family incomes at or below 70 percent of the state median family income (MFI), adjusted for family size. Awards for all students shall be adjusted by the estimated amount by which Pell grant increases exceed projected increases in the noninstructional costs of attendance. Awards for students with incomes between 51 and 70 percent of the state median shall be prorated at the following percentages of the award amount granted to those with incomes below 51 percent of the MFI: 70 percent for students with family incomes between 51 and 55 percent MFI; 65 percent for students with family incomes between 56 and 60 percent MFI; 60 percent for students with family incomes between 61 and 65 percent MFI; and 50 percent for students with family incomes between 66 and 70 percent MFI.

(b) Grant awards for students at private four-year colleges shall be set at the same level as the student would receive if attending one of the public research universities.

(3) (~~(\$1,000,000 of the education legacy trust account—state appropriation is provided solely to encourage more students to teach secondary mathematics and science. \$500,000 of this amount is for the future teacher scholarship and conditional loan program. \$500,000 of this amount is provided to support state work study positions for students to intern in secondary schools and classrooms-))~~) To the maximum extent practicable, the board shall provide state work study subsidies only to resident students during the 2010-11 academic year. Additionally, in order to provide work opportunities to as many resident students as possible, the board is encouraged to increase the proportion of student wages that is to be paid by both proprietary and nonprofit, public, and private employers.

(4) \$3,872,000 of the education legacy trust account—state appropriation is provided solely for the passport to college scholarship program pursuant to chapter 28B.117 RCW. The higher education coordinating board shall contract with a college scholarship organization with expertise in managing scholarships

for low-income, high-potential students and foster care children and young adults to administer the program. Of the amount in this subsection, \$39,000 is provided solely for the higher education coordinating board for administration of the contract and the remaining shall be contracted out to the organization for the following purposes:

(a) \$384,000 is provided solely for program administration, and

(b) \$3,449,000 is provided solely for student financial aid for up to 151 students and to fund student support services. Funds are provided for student scholarships, provider training, and for incentive payments to the colleges they attend for individualized student support services which may include, but are not limited to, college and career advising, counseling, tutoring, costs incurred for students while school is not in session, personal expenses, health insurance, and emergency services.

(5) \$1,250,000 of the general fund—state appropriation for fiscal year 2010 (~~and \$1,250,000 of the general fund—state appropriation for fiscal year 2011 are~~) is provided solely for the health professional scholarship and loan program. The funds provided in this subsection shall be: (a) Prioritized for health care deliver sites demonstrating a commitment to serving the uninsured; and (b) allocated between loan repayments and scholarships proportional to current program allocations.

(6) For fiscal year 2010 and fiscal year 2011, the board shall defer loan or conditional scholarship repayments to the future teachers conditional scholarship and loan repayment program for up to one year for each participant if the participant has shown evidence of efforts to find a teaching job but has been unable to secure a teaching job per the requirements of the program.

(7) \$246,000 of the general fund—state appropriation for fiscal year 2010 and \$246,000 of the general fund—state appropriation for fiscal year 2011 are for community scholarship matching grants and its administration. To be eligible for the matching grant, nonprofit groups organized under section 501(c)(3) of the federal internal revenue code must demonstrate they have raised at least \$2,000 in new moneys for college scholarships after the effective date of this section. Groups may receive no more than one \$2,000 matching grant per year and preference shall be given to groups affiliated with scholarship America. Up to a total of \$46,000 per year of the amount appropriated in this section may be awarded to a nonprofit community organization to administer scholarship matching grants, with preference given to an organization affiliated with scholarship America.

(8) \$500,000 of the general fund—state appropriation for fiscal year 2010 and \$500,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for state need grants provided to students enrolled in three to five credit-bearing quarter credits, or the equivalent semester credits. Total state expenditures on this program shall not exceed the amounts provided in this subsection.

(9) (~~(\$3,000,000)~~) \$2,500,000 of the education legacy trust account—state appropriation is provided solely for the gaining early awareness and readiness for undergraduate programs project.

(10) \$75,000 of the general fund—state appropriation for fiscal year 2010 (~~and \$75,000 of the general fund—state appropriation for fiscal year 2011 are~~)

is provided solely for higher education student child care matching grants under chapter 28B.135 RCW.

(11) \$200,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for continuation of the leadership 1000 scholarship sponsorship and matching program.

(12) In 2010 and 2011, the board shall continue to designate Washington scholars and scholar-alternates and to recognize them at award ceremonies as provided in RCW 28A.600.150, but state funding is provided for award of only one scholarship per legislative district during the 2010-11 academic year. After the 2010-11 academic year, and as provided in RCW 28B.76.660, the board may distribute grants to these eligible students to the extent that funds are appropriated for this purpose.

Sec. 612. 2009 c 564 s 614 (uncodified) is amended to read as follows:

**FOR THE WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD**

General Fund—State Appropriation (FY 2010) . . . . .	(( <del>\$1,587,000</del> ))
	<u>\$1,465,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(( <del>\$1,556,000</del> ))
	<u>\$1,444,000</u>
General Fund—Federal Appropriation . . . . .	(( <del>\$54,262,000</del> ))
	<u>\$54,020,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$57,405,000</del> ))
	<u>\$56,929,000</u>

The appropriations in this section are subject to the following conditions and limitations: ((2))

(1) \$60,000 of the general fund—state appropriation for fiscal year 2010 and \$60,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) In 2010 and 2011, the board shall continue to designate recipients of the Washington award for vocational excellence and to recognize them at award ceremonies as provided in RCW 28C.04.535, but state funding is provided for award of only one scholarship per legislative district during the 2010-11 academic year. After the 2010-11 academic year, and as provided in RCW 28B.76.670, the board may distribute grants to these eligible students to the extent that funds are appropriated for this purpose.

Sec. 613. 2009 c 564 s 615 (uncodified) is amended to read as follows:

**FOR THE SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE**

General Fund—State Appropriation (FY 2010) . . . . .	\$1,598,000
General Fund—State Appropriation (FY 2011) . . . . .	(( <del>\$1,611,000</del> ))
	<u>\$1,490,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$3,209,000</del> ))
	<u>\$3,088,000</u>

The appropriations in this section are subject to the following conditions and limitations: Within existing resources, the Spokane intercollegiate research

and technology institute shall coordinate with the Washington technology center to identify gaps and overlaps in programs and evaluate strategies to reduce administrative overhead expenses per section 122(27) of this act.

Sec. 614. 2009 c 564 s 616 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF EARLY LEARNING**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$60,478,000)</del>
	<u>\$60,400,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$61,045,000)</del>
	<u>\$21,241,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$244,859,000)</del>
	<u>\$265,305,000</u>
Opportunity Pathways Account—State Appropriation . . . . .	<u>\$40,000,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$366,382,000)</del>
	<u>\$386,946,000</u>

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

(1) ~~(\$55,696,000)~~ \$54,878,000 of the general fund—state appropriation for fiscal year 2010 and ~~(\$55,696,000)~~ \$14,685,000 of the general fund—state appropriation for fiscal year 2011, and \$40,000,000 of the opportunity pathways account appropriation are provided solely for early childhood education and assistance program services. This appropriation temporarily reduces the number of slots for the 2009-11 fiscal biennium for the early childhood education and assistance program. The department shall reduce slots where providers serve both federal headstart and early childhood education and assistance program children, to the greatest extent possible, in order to achieve no reduction of slots across the state. The amounts in this subsection also reflect reductions to the administrative expenditures for the early childhood education and assistance program. The department shall reduce administrative expenditures, to the greatest extent possible, prior to reducing early childhood education and assistance program slots. Of these amounts, \$10,284,000 is a portion of the biennial amount of state matching dollars required to receive federal child care and development fund grant dollars.

(2) \$1,000,000 of the general fund—federal appropriation is provided to the department to contract with Thrive by Five, Washington for a pilot project for a quality rating and improvement system to provide parents with information they need to choose quality child care and education programs and to improve the quality of early care and education programs. The department in collaboration with Thrive by Five shall operate the pilot projects in King, Yakima, Clark, Spokane, and Kitsap counties. The department shall use child care development fund quality money for this purpose.

(3) \$425,000 of the general fund—state appropriation for fiscal year 2010, ~~(\$425,000)~~ \$213,000 of the general fund—state appropriation for fiscal year 2011, and \$850,000 of the general fund—federal appropriation are provided solely for child care resource and referral network services. The general fund—federal funding represents moneys from the American recovery and reinvestment act of 2009 (child care development block grant).

(4) \$750,000 of the general fund—state appropriation for fiscal year 2010, \$750,000 of the general fund—state appropriation for fiscal year 2011, and

\$1,500,000 of the general fund—federal appropriation are provided solely for the career and wage ladder program created by chapter 507, Laws of 2005. The general fund—federal funding represents moneys from the American recovery and reinvestment act of 2009 (child care development block grant).

(5) \$50,000 of the general fund—state appropriation for fiscal year 2010 and \$50,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for the department to work with stakeholders and the office of the superintendent of public instruction to identify and test a kindergarten assessment process and tools in geographically diverse school districts. School districts may participate in testing the kindergarten assessment process on a voluntary basis. The department shall report to the legislature on the kindergarten assessment process not later than January 15, 2011. Expenditure of amounts provided in this subsection is contingent on receipt of an equal match from private sources. As matching funds are made available, the department may expend the amounts provided in this subsection.

(6) \$1,600,000 of the general fund—federal appropriation is provided solely for the department to fund programs to improve the quality of infant and toddler child care through training, technical assistance, and child care consultation.

(7) \$200,000 of the general fund—state appropriation for fiscal year 2010 and \$200,000 of the general fund—state appropriation for fiscal year 2011 are provided solely to develop and provide culturally relevant supports for parents, family, and other caregivers.

(8) The legislature notes that the department of early learning is developing a plan for improving child care licensing and is consulting, as practicable, with parents, licensed child care providers, and stakeholders from the child care community. The plan shall outline the processes and specify the resources necessary for improvements such as continuing licenses, child care licensing technology, and weighted child care regulations, including development of risk-based decision making models and inclusive, evidence-based rule making. The department shall submit to the appropriate committees of the legislature a plan by January 15, 2011.

(9) The department is the lead agency for and recipient of the federal child care and development fund grant. Amounts within this grant shall be used to fund child care licensing, quality initiatives, agency administration, and other costs associated with child care subsidies. The department shall transfer a portion of this grant to the department of social and health services to partially fund the child care subsidies paid by the department of social and health services on behalf of the department of early learning.

(10) The department shall use child care development fund money to satisfy the federal audit requirement of the improper payments act (IPIA) of 2002. In accordance with the IPIA's rules, the money spent on the audits will not count against the five percent state limit on administrative expenditures.

(11) Within available amounts, the department in consultation with the office of financial management and the department of social and health services shall report quarterly enrollments and active caseload for the working connections child care program to the legislative fiscal committees. The report shall also identify the number of cases participating in both temporary assistance for needy families and working connections child care.

(12) The appropriations in this section reflect reductions in the appropriations for the department's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

(13) \$500,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for the department to contract with the private-public partnership established in chapter 43.215 RCW for home visitation programs. Of this amount, \$200,000 of the general fund—state appropriation for fiscal year 2011 is provided solely for expenditure into the home visiting services account created in Part IX of this act to be used for contracts for home visitation with the private-public partnership.

(14) In accordance to RCW 43.215.255(2) and 43.135.055, the department is authorized to increase child care center licensure fees by fifty-two dollars for the first twelve children and an additional four dollars per additional child in fiscal year 2011 for costs to the department for the licensure activity, including costs of necessary inspection.

Sec. 615. 2009 c 564 s 617 (uncodified) is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE BLIND**

General Fund—State Appropriation (FY 2010) . . . . .	\$5,902,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$5,908,000)</del>
	<u>\$5,985,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$1,928,000)</del>
	<u>\$1,942,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$13,738,000)</del>
	<u>\$13,829,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$271,000 of the general fund—private/local appropriation is provided solely for the school for the blind to offer short course programs, allowing students the opportunity to leave their home schools for short periods and receive intensive training. The school for the blind shall provide this service to the extent that it is funded by contracts with school districts and educational services districts.

Sec. 616. 2009 c 564 s 618 (uncodified) is amended to read as follows:

**FOR THE ((STATE SCHOOL FOR THE DEAF)) WASHINGTON STATE CENTER FOR CHILDHOOD DEAFNESS AND HEARING LOSS**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$8,592,000)</del>
	<u>\$8,593,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$8,656,000)</del>
	<u>\$8,782,000</u>
General Fund—Private/Local Appropriation . . . . .	\$526,000
TOTAL APPROPRIATION . . . . .	<del>(\$17,774,000)</del>
	<u>\$17,901,000</u>

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

(1) \$210,000 of the general fund—private/local appropriation is provided solely for the operation of the shared reading video outreach program. The



school for the deaf shall provide this service to the extent it is funded by contracts with school districts and educational service districts.

(2) \$25,000 of the general fund—state appropriation for fiscal year 2010 and \$25,000 of the general fund—state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute House Bill No. 1879 (deaf and hard of hearing). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

**Sec. 617.** 2009 c 564 s 619 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE ARTS COMMISSION**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$1,876,000)</del>
	<u>\$1,844,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$1,883,000)</del>
	<u>\$1,347,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$1,923,000)</del>
	<u>\$1,944,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$1,054,000)</del>
	<u>\$1,052,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$6,736,000)</del>
	<u>\$6,187,000</u>

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

**Sec. 618.** 2009 c 564 s 620 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

General Fund—State Appropriation (FY 2010) . . . . .	\$2,592,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$2,636,000)</del>
	<u>\$2,607,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$5,228,000)</del>
	<u>\$5,199,000</u>

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

**Sec. 619.** 2009 c 564 s 621 (uncodified) is amended to read as follows:

**FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY**

General Fund—State Appropriation (FY 2010) . . . . .	\$1,612,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$1,655,000)</del>
	<u>\$1,632,000</u>

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TOTAL APPROPRIATION .....((~~\$3,267,000~~))  
\$3,244,000

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

**PART VII  
SPECIAL APPROPRIATIONS**

**Sec. 701.** 2009 c 564 s 701 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT SUBJECT TO THE DEBT LIMIT**

General Fund—State Appropriation (FY 2010) .....((~~\$854,991,000~~))  
\$842,590,000  
General Fund—State Appropriation (FY 2011) .....((~~\$901,265,000~~))  
\$894,284,000  
State Building Construction Account—State  
Appropriation ..... \$11,707,000  
Columbia River Basin Water Supply Development Account—  
State Appropriation ..... ((~~\$92,000~~))  
\$117,000  
Hood Canal Aquatic Rehabilitation Bond Account—State  
Appropriation ..... \$11,000  
State Taxable Building Construction Account—State  
Appropriation ..... \$1,136,000  
Gardner-Evans Higher Education Construction Account—  
State Appropriation ..... \$260,000  
Debt-Limit Reimbursable Bond Retirement Account—State  
Appropriation ..... ((~~\$2,619,000~~))  
\$2,612,000  
TOTAL APPROPRIATION ..... ((~~\$1,772,081,000~~))  
\$1,752,717,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriations are for expenditure into the debt-limit general fund bond retirement account. The entire general fund—state appropriation for fiscal year 2010 shall be expended into the debt-limit general fund bond retirement account by June 30, 2010.

**Sec. 702.** 2009 c 564 s 703 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE**

General Fund—State Appropriation (FY 2010) . . . . .	(( <del>\$26,463,000</del> ))
	<u>\$26,436,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	(( <del>\$27,811,000</del> ))
	<u>\$27,773,000</u>
School Construction and Skill Centers Building	
Account—State Appropriation . . . . .	\$477,000
Nondebt-Limit Reimbursable Bond Retirement Account—	
State Appropriation . . . . .	(( <del>\$141,507,000</del> ))
	<u>\$140,872,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$196,258,000</del> ))
	<u>\$195,558,000</u>

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for expenditure into the nondebt-limit general fund bond retirement account. The entire general fund—state appropriation for fiscal year 2010 shall be expended into the nondebt-limit general fund bond retirement account by June 30, 2010.

**Sec. 703.** 2009 c 564 s 704 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES**

General Fund—State Appropriation (FY 2010) . . . . .	\$1,357,000
General Fund—State Appropriation (FY 2011) . . . . .	\$1,357,000
State Building Construction Account—State	
Appropriation . . . . .	\$1,273,000
Columbia River Basin Water Supply Development	
Account—State Appropriation . . . . .	(( <del>\$6,000</del> ))
	<u>\$9,000</u>
Hood Canal Aquatic Rehabilitation Bond Account—	
State Appropriation . . . . .	\$1,000
State Taxable Building Construction Account—State	
Appropriation . . . . .	\$72,000
Gardner-Evans Higher Education Construction	
Account—State Appropriation . . . . .	\$18,000
School Construction and Skill Centers Building	
Account—State Appropriation . . . . .	\$30,000
TOTAL APPROPRIATION . . . . .	(( <del>\$4,114,000</del> ))
	<u>\$4,117,000</u>

**Sec. 704.** 2009 c 564 s 708 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE—COUNTY PUBLIC HEALTH ASSISTANCE**

General Fund—State Appropriation (FY 2010) . . . . .	\$24,000,000
((General Fund—State Appropriation (FY 2011) . . . . .	\$24,000,000
TOTAL APPROPRIATION . . . . .	\$48,000,000))

The appropriations in this section are subject to the following conditions and limitations: The director of the department of ((community, trade, and economic development)) commerce shall distribute the appropriations to the

following counties and health districts in the amounts designated to support public health services, including public health nursing:

<b>Health District</b>	<b>FY 2010</b>	<b><del>(FY 2011</del></b>	<b>FY 2010-11 Biennium</b>
Adams County Health District	\$30,951	<del>\$30,951</del>	\$61,902
Asotin County Health District	\$67,714	<del>\$67,714</del>	\$135,428
Benton-Franklin Health District	\$1,165,612	<del>\$1,165,612</del>	\$2,331,224
Chelan-Douglas Health District	\$184,761	<del>\$184,761</del>	\$369,522
Clallam County Health and Human Services Department	\$141,752	<del>\$141,752</del>	\$283,504
Southwest Washington Health District	\$1,084,473	<del>\$1,084,473</del>	\$2,168,946
Columbia County Health District	\$40,529	<del>\$40,529</del>	\$81,058
Cowlitz County Health Department	\$278,560	<del>\$278,560</del>	\$557,120
Garfield County Health District	\$15,028	<del>\$15,028</del>	\$30,056
Grant County Health District	\$118,595	<del>\$118,596</del>	\$237,191
Grays Harbor Health Department	\$183,870	<del>183,870</del>	\$367,740
Island County Health Department	\$91,892	<del>\$91,892</del>	\$183,784
Jefferson County Health and Human Services	\$85,782	<del>\$85,782</del>	\$171,564
Seattle-King County Department of Public Health	\$9,531,747	<del>\$9,531,747</del>	\$19,063,494
Bremerton-Kitsap County Health District	\$554,669	<del>\$554,669</del>	\$1,109,338
Kittitas County Health Department	\$92,499	<del>\$92,499</del>	\$184,998
Klickitat County Health Department	\$62,402	<del>\$62,402</del>	\$124,804
Lewis County Health Department	\$105,801	<del>\$105,801</del>	\$211,602
Lincoln County Health Department	\$29,705	<del>\$29,705</del>	\$59,410
Mason County Department of Health Services	\$95,988	<del>\$95,988</del>	\$191,976
Okanogan County Health District	\$63,458	<del>\$63,458</del>	\$126,916

Pacific County Health Department	\$77,427	<del>\$77,427</del>	\$154,854
Tacoma-Pierce County Health Department	\$2,820,590	<del>\$2,820,590</del>	\$5,641,180
San Juan County Health and Community Services	\$37,531	<del>\$37,531</del>	\$75,062
Skagit County Health Department	\$223,927	<del>\$223,927</del>	\$447,854
Snohomish Health District	\$2,258,207	<del>\$2,258,207</del>	\$4,516,414
Spokane County Health District	\$2,101,429	<del>\$2,101,429</del>	\$4,202,858
Northeast Tri-County Health District	\$110,454	<del>\$110,454</del>	\$220,908
Thurston County Health Department	\$600,419	<del>\$600,419</del>	\$1,200,838
Wahkiakum County Health Department	\$13,773	<del>\$13,772</del>	\$27,545
Walla Walla County-City Health Department	\$172,062	<del>\$172,062</del>	\$344,124
Whatcom County Health Department	\$855,863	<del>\$855,863</del>	\$1,711,726
Whitman County Health Department	\$78,733	<del>\$78,733</del>	\$157,466
Yakima Health District	\$623,797	<del>\$623,797</del>	\$1,247,594
<b>TOTAL APPROPRIATIONS</b>	\$24,000,000	<del>\$24,000,000</del>	\$48,000,000))

NEW SECTION. Sec. 705. A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF HEALTH—COUNTY PUBLIC HEALTH ASSISTANCE**

General Fund—State Appropriation (FY 2011) . . . . . \$24,000,000

The appropriations in this section are subject to the following conditions and limitations: The director of the department of health shall distribute the appropriations to the following counties and health districts in the amounts designated to support public health services, including public health nursing:

<b>Health District</b>	<b>FY 2011</b>
Adams County Health District	\$30,951
Asotin County Health District	\$67,714
Benton-Franklin Health District	\$1,165,612
Chelan-Douglas Health District	\$184,761
Clallam County Health and Human Services Department	\$141,752

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Southwest Washington Health District	\$1,084,473
Columbia County Health District	\$40,529
Cowlitz County Health Department	\$278,560
Garfield County Health District	\$15,028
Grant County Health District	\$118,596
Grays Harbor Health Department	183,870
Island County Health Department	\$91,892
Jefferson County Health and Human Services	\$85,782
Seattle-King County Department of Public Health	\$9,531,747
Bremerton-Kitsap County Health District	\$554,669
Kittitas County Health Department	\$92,499
Klickitat County Health Department	\$62,402
Lewis County Health Department	\$105,801
Lincoln County Health Department	\$29,705
Mason County Department of Health Services	\$95,988
Okanogan County Health District	\$63,458
Pacific County Health Department	\$77,427
Tacoma-Pierce County Health Department	\$2,820,590
San Juan County Health and Community Services	\$37,531
Skagit County Health Department	\$223,927
Snohomish Health District	\$2,258,207
Spokane County Health District	\$2,101,429
Northeast Tri-County Health District	\$110,454
Thurston County Health Department	\$600,419
Wahkiakum County Health Department	\$13,772
Walla Walla County-City Health Department	\$172,062
Whatcom County Health Department	\$855,863
Whitman County Health Department	\$78,733
Yakima Health District	\$623,797
<b>TOTAL APPROPRIATIONS</b>	<b>\$24,000,000</b>

**Sec. 706.** 2009 c 564 s 710 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—  
CONTRIBUTIONS TO RETIREMENT SYSTEMS.** The appropriations in this section are subject to the following conditions and limitations: The appropriations for the law enforcement officers' and firefighters' retirement system shall be made on a monthly basis beginning July 1, 2009, consistent with chapter 41.45 RCW, and the appropriations for the judges and judicial retirement

systems shall be made on a quarterly basis consistent with chapters 2.10 and 2.12 RCW.

(1) There is appropriated for state contributions to the law enforcement officers' and firefighters' retirement system:

General Fund—State Appropriation (FY 2010) . . . . .	\$51,500,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$54,300,000)</del>
	<u>\$55,400,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$105,800,000)</del>
	<u>\$106,900,000</u>

(2) There is appropriated for contributions to the judicial retirement system:

General Fund—State Appropriation (FY 2010) . . . . .	\$11,570,000
General Fund—State Appropriation (FY 2011) . . . . .	<del>(\$12,860,000)</del>
	<u>\$10,860,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$24,430,000)</del>
	<u>\$22,430,000</u>

**Sec. 707.** 2009 c 564 s 717 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—CAPITOL BUILDING CONSTRUCTION ACCOUNT**

General Fund—State Appropriation (FY 2010) . . . . .	<del>(\$2,312,000)</del>
	<u>\$1,912,000</u>
General Fund—State Appropriation (FY 2011) . . . . .	\$3,615,000
TOTAL APPROPRIATION . . . . .	<del>(\$5,927,000)</del>
	<u>\$5,527,000</u>

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for expenditure into the capitol building construction account.

**\*NEW SECTION. Sec. 708.** *A new section is added to 2009 c 564 (uncodified) to read as follows:*

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—WASHINGTON MANAGEMENT SERVICES AND EXEMPT MANAGEMENT SERVICES REDUCTIONS**

General Fund—State Appropriation (FY 2011) . . . . .	(\$10,000,000)
Special Account Salary/Insurance Increase	
Account—State Revolving Account Appropriation . . . . .	(\$14,100,000)
TOTAL APPROPRIATION . . . . .	(\$24,100,000)

*The appropriations for state agencies are subject to the following conditions and limitations:*

*(1) Appropriations are adjusted to reflect changes to agency appropriations to reflect savings resulting from Washington management services and exempt management services reductions provided in section 2 of Engrossed Substitute Senate Bill No. 6503 (closing state agencies on specified dates): The office of financial management shall update agency appropriations schedules to reflect the changes to funding levels in this section as identified by agency and fund in LEAP documents TL1 - 2010 dated April 10, 2010. If the bill is not enacted by June 30, 2010, the appropriation reductions provided in this section shall lapse. To facilitate the transfer of*

*moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the special account retirement contribution increase revolving account in accordance with schedules provided by the office of financial management.*

*(2) Appropriations in this act reflect reduced appropriations resulting from the enactment of section 3 of Engrossed Substitute Senate Bill No. 6503.*

\*Sec. 708 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 709.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR SUNDRY CLAIMS.** The following sums, or so much thereof as may be necessary, are appropriated from the general fund, unless otherwise indicated, for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of financial management, except as otherwise provided, as follows:

(1) Reimbursement of criminal defendants acquitted on the basis of self-defense, pursuant to RCW 9A.16.110:

(a) Gerald S. Morrow, claim number 99970006	\$20,567
(b) Darrell R. Baumgart, claim number 99970007	\$4,528
(c) William Davis, claim number 99970008	\$8,093
(d) Gene T. Strader, claim number 99970009	\$33,875
(e) Cecilio Cortez, claim number 99970012	\$17,055
(f) Alexander D. Coble, claim number 99970013	\$302,110
(g) James W. Jolly, claim number 99970017	\$28,884
(h) James Jay Olsen, claim number 99970018	\$97,220
(i) Todd E. Miller, claim number 99970019	\$6,957
(j) Sean S. DeHart, claim number 99970021	\$52,062
(k) Thomas L. Raglin, Jr., claim number 99970022	\$4,360
(l) Matthew Smitham, claim number 99970016	\$8,100
(m) John R. Frederick, claim number 99970020	\$7,719
(n) Justin C. Federmeyer, claim number 99970023	\$29,728
(o) David R. Palmer, claim number 99970024	\$4,250
(p) Ian K. Berghoffer, claim number 99970026	\$33,455
(q) Darryl L. Koenen, claim number 99970027	\$23,077
(r) Lee J. Stites, claim number 99970028	\$7,502
(s) Bobby G. Ewing, claim number 99970029	\$51,093
(2) Payment of death benefit, pursuant to RCW 41.04.017:	
Estate of Erik Anderson, claim number 99970014	\$150,000

**NEW SECTION. Sec. 710.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**STRATEGIC PRINTING STRATEGY.** (1) The office of financial management shall work with the appropriate state agencies to generate savings of \$1,500,000 from the state general fund that can arise from a strategic printing strategy. From appropriations in this act, the office of financial management shall reduce general fund—state allotments by \$1,500,000 for fiscal year 2011 to reflect the savings from the strategic printing strategy. The allotment reductions shall be placed in unallotted status and remain unexpended.

(2) The office of financial management, with the assistance of the department of information services and the department of printing, shall conduct



an analysis of the state's printing processes to identify the most reasonable strategies of attaining a statewide savings target of \$1,500,000 without affecting direct program activities. The strategies shall include, but not be limited to, standardizing envelopes, utilizing print management, and streamlining processes. Pursuant to RCW 41.06.142(3), the strategies shall also include, on the approval of the office of financial management, pilot projects to authorize state agencies and institutions to directly acquire printing services. The analysis shall identify savings by agency and fund that will result from the implementation of a strategic printing strategy. The results of this analysis shall then be provided to the director of financial management and appropriate legislative committees by July 1, 2010. The director shall use the analysis as the basis to achieve the savings identified in subsection (1) of this section.

NEW SECTION. Sec. 711. A new section is added to 2009 c 564 (uncodified) to read as follows:

**INFORMATION TECHNOLOGY.** Pursuant to section 11, chapter 282, Laws of 2010 (state government technology use), the office of financial management shall work with the appropriate state agencies to generate savings of \$30,000,000 from technology efficiencies from the state general fund. From appropriations in this act, the office of financial management shall reduce general fund—state allotments by \$30,000,000 for fiscal year 2011. The office of financial management shall, utilizing existing fund balance, reduce the data processing revolving account rates in an amount to reflect up to half of the reductions identified in this section. The allotment reductions shall be placed in unallotted status and remain unexpended. Nothing in this section is intended to impact revenue collection efforts by the department of revenue.

NEW SECTION. Sec. 712. A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—  
EXTRAORDINARY CRIMINAL JUSTICE COSTS**

General Fund—State Appropriation (FY 2010) . . . . . \$620,000

The appropriation in this section is subject to the following conditions and limitations: The director of financial management shall distribute funds to Jefferson county (\$197,000), Skagit county (\$390,000), and Franklin county (\$33,000) for extraordinary criminal justice costs.

**Sec. 713.** 2009 c 564 s 720 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—  
CONTRIBUTIONS TO RETIREMENT SYSTEMS**

~~((General Fund—State Appropriation (FY 2010) . . . . . \$400,000  
General Fund—State Appropriation (FY 2011) . . . . . \$400,000  
Special Account Retirement System Contribution  
Increase Revolving Account Appropriation . . . . . \$1,000,000  
TOTAL APPROPRIATION . . . . . \$1,800,000~~

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

~~(1) The) Appropriations in this ((section are provided solely to increase))  
act include agency and institution appropriations and public school funding~~

allocations to reflect increased employer contribution rates in the public employees' retirement system and the school employees' retirement system as a result of the provisions of Substitute Senate Bill No. 6157 (calculating compensation for public retirement purposes). ((If the bill is not enacted by June 30, 2009, the amounts provided in this section shall lapse.

(2) To facilitate the transfer of moneys to dedicated funds and accounts, the state treasurer shall transfer sufficient moneys to each dedicated fund or account from the special account retirement contribution increase revolving account in accordance with schedules provided by the office of financial management.))

NEW SECTION. Sec. 714. A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—OPPORTUNITY EXPRESS ACCOUNT**

General Fund—State Appropriation (FY 2011) . . . . . \$18,556,000

The appropriation in this section is provided solely for expenditure into the opportunity express account—state.

**Sec. 715.** 2010 c 247 s 502 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—REVISED EMPLOYER HEALTH BENEFIT RATES**

Aeronautics Account—State . . . . .	<del>(\$3,000)</del>	<u>\$10,000</u>
State Patrol Highway Account—State . . . . .	<del>(\$618,000)</del>	<u>\$1,877,000</u>
Motorcycle Safety Education Account—State . . . . .	<del>(\$2,000)</del>	<u>\$5,000</u>
High Occupancy Toll Lanes Operations Account—State . . . . .	<del>(\$2,000)</del>	<u>\$5,000</u>
Rural Arterial Trust Account—State . . . . .	<del>(\$2,000)</del>	<u>\$5,000</u>
Wildlife Account—State . . . . .	<del>(\$2,000)</del>	<u>\$5,000</u>
Highway Safety Account—State . . . . .	<del>(\$261,000)</del>	<u>\$791,000</u>
Highway Safety Account—Federal . . . . .	<del>(\$6,000)</del>	<u>\$19,000</u>
Motor Vehicle Account—State . . . . .	<del>(\$1,076,000)</del>	<u>\$3,262,000</u>
Puget Sound Ferry Operations Account—State . . . . .	<del>(\$527,000)</del>	<u>\$1,601,000</u>
Urban Arterial Trust Account—State . . . . .	<del>(\$2,000)</del>	<u>\$5,000</u>
Transportation Improvement Account—State . . . . .	<del>(\$2,000)</del>	<u>\$5,000</u>
County Arterial Preservation Account—State . . . . .	<del>(\$2,000)</del>	<u>\$5,000</u>
Department of Licensing Services Account—State . . . . .	<del>(\$3,000)</del>	<u>\$10,000</u>

Multimodal Transportation Account—State . . . . .	(( <del>\$13,000</del> ))
	<u>\$39,000</u>
Tacoma Narrows Toll Bridge Account—State . . . . .	(( <del>\$3,000</del> ))
	<u>\$10,000</u>

Appropriations are adjusted to reflect changes to appropriations to reflect changes in the employer cost of providing health benefit coverage. The office of financial management shall update agency appropriations schedules to reflect the changes in funding levels in this section as identified by agency and fund in LEAP transportation document GLB-2010A. From the applicable accounts, the office of financial management shall adjust allotments to the respective agencies by an amount that conforms with funding adjustments enacted in the 2010 supplemental omnibus operating appropriations act. Any allotment reductions under this section must be placed in reserve status and remain unexpended.

**NEW SECTION. Sec. 716.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT COMPLIANCE**

Motor Vehicle Account—State Appropriation . . . . . \$2,425,000

The appropriation in this section is subject to the following conditions and limitations: The motor vehicle account appropriation is provided solely for the department of transportation program delivery management and support program's compliance with its national pollution discharge elimination system permit. The department's work may include the competition of system development, reporting, and planning to meet deadlines in the current biennium.

**\*NEW SECTION. Sec. 717.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—AGENCY REALLOCATION AND REALIGNMENT COMMISSION**

General Fund—State Appropriation (FY 2011) . . . . . \$250,000

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

*(1) The agency reallocation and realignment of Washington (ARROW) commission on restructuring state government is established, with members as provided in this section.*

*(a) The governor, the president of the senate, and the speaker of the house of representatives shall each appoint two members to the commission, each of whom shall have broad statewide policy and fiscal experience. Each appointing authority shall appoint a member to replace any member who resigns.*

*(b) The commission shall choose its chair from among its membership or may select a representative of the administering higher education institution as chair. The president of the senate and the speaker of the house, or their mutually selected designee, shall convene the initial meeting of the commission and shall preside until a chair is chosen.*

*(2) The commission shall:*

*(a) Review budget, revenue, and caseload forecasts and estimates over the ensuing six-year period;*

*(b) Examine current operations and organization of state government, assuming no expansion of current funding sources; and*

*(c) Evaluate operational and organizational restructuring possibilities to find cost savings and efficiencies in order to maintain or enhance governmental functions with fewer resources.*

*(3) The commission may make proposals to:*

*(a) Adopt methods and procedures for reducing expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions;*

*(b) Eliminate duplication and overlapping of services, activities, and functions, and time-consuming or wasteful practices;*

*(c) Consolidate services, activities, and functions of a similar nature;*

*(d) Abolish services, activities, and functions to improve the efficient operation of government;*

*(e) Eliminate state departments and agencies, create new state departments and agencies, reorganize existing state departments and agencies, and transfer functions and responsibilities among state departments and agencies;*

*(f) Define or redefine the duties and responsibilities of state officers; and*

*(g) Revise present provisions for continuing appropriations of state funds of whatever kind for whatever purpose, eliminate any such existing provisions, or adopt new provisions.*

*(4) Staffing and administrative support to the commission shall be provided by a university or college that volunteers to do so.*

*(5) Commissioners are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 from funds appropriated to the commission.*

*(6) The expenses of the commission shall be paid out of funds appropriated to the commission, funds made available by the university or college administering the commission, and gifts, grants, and donations.*

*(7) The commission shall report its findings and recommendations, including proposed legislation, to the appropriate committees of the legislature. Recommendations may be in bill form as proposed legislation, as appropriations or revenue proposals, revisions to administrative rules, or other appropriate formats.*

*(8) The office of the code reviser shall assist the commission with bill drafting as needed.*

*(9) This section expires June 30, 2011.*

\*Sec. 717 was vetoed. See message at end of chapter.

## PART VIII OTHER TRANSFERS AND APPROPRIATIONS

Sec. 801. 2009 c 564 s 801 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION**

General Fund Appropriation for fire insurance	
premium distributions . . . . .	<del>(\$8,268,000)</del>
	<u>\$7,572,000</u>
General Fund Appropriation for public utility	
district excise tax distributions . . . . .	<del>(\$48,771,000)</del>
	<u>\$47,342,000</u>
General Fund Appropriation for prosecuting	
attorney distributions . . . . .	\$6,281,000
General Fund Appropriation for boating	
safety and education distributions . . . . .	\$4,854,000
General Fund Appropriation for other tax	
distributions . . . . .	\$50,000
General Fund Appropriation for habitat conservation	
program distributions . . . . .	\$3,000,000
Death Investigations Account Appropriation for distribution	
to counties for publicly funded autopsies . . . . .	\$2,544,000
Aquatic Lands Enhancement Account Appropriation for	
harbor improvement revenue distribution . . . . .	\$170,000
Timber Tax Distribution Account Appropriation for	
distribution to "timber" counties . . . . .	<del>(\$69,288,000)</del>
	<u>\$36,651,000</u>
County Criminal Justice Assistance Appropriation . . . . .	<del>(\$66,374,000)</del>
	<u>\$68,528,000</u>
Municipal Criminal Justice Assistance	
Appropriation . . . . .	<del>(\$25,622,000)</del>
	<u>\$27,175,000</u>
City-County Assistance Account Appropriation for local	
government financial assistance distribution . . . . .	<del>(\$28,564,000)</del>
	<u>\$27,366,000</u>
Liquor Excise Tax Account Appropriation for liquor	
excise tax distribution . . . . .	<del>(\$50,950,000)</del>
	<u>\$58,268,000</u>
Streamline Sales and Use Tax Account Appropriation for	
distribution to local taxing jurisdictions to mitigate	
the unintended revenue redistribution effect of the	
sourcing law changes . . . . .	<del>(\$65,038,000)</del>
	<u>\$50,056,000</u>
Columbia River Water Delivery Account Appropriation for the	
Confederated Tribes of the Colville Reservation . . . . .	<del>(\$7,308,000)</del>
	<u>\$7,315,000</u>
Columbia River Water Delivery Account Appropriation for the	
Spokane Tribe of Indians . . . . .	<del>(\$4,676,000)</del>
	<u>\$4,644,000</u>
Liquor Revolving Account Appropriation for liquor	
profits distribution . . . . .	<del>(\$80,435,000)</del>
	<u>\$68,741,000</u>

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Liquor Revolving Account Appropriation for additional liquor profits distribution to local governments.....	\$18,677,000
TOTAL APPROPRIATION .....	( <del>(\$490,870,000)</del> )
	<u>\$439,234,000</u>

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

NEW SECTION. Sec. 802. A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE STATE TREASURER—TRANSFERS.** If the forecast adopted by the state economic and revenue forecast council in March 2011 anticipates that less than one hundred thirteen million five hundred thousand dollars of state lottery revenue will be deposited into the opportunity pathways account in fiscal year 2011, the state treasurer shall transfer sufficient funds from the state general fund to the opportunity pathways account to assure that deposits into the opportunity pathways account total one hundred thirteen million five hundred thousand dollars in fiscal year 2011.

\***Sec. 803.** 2009 c 564 s 805 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—TRANSFERS**

State Treasurer's Service Account: For transfer to the state general fund, ( <del>(\$10,400,000)</del> ) <u>\$16,400,000</u> for fiscal year 2010 and ( <del>(\$10,400,000)</del> ) <u>\$16,400,000</u> for fiscal year 2011 .....	( <del>(\$20,800,000)</del> )
	<u>\$32,800,000</u>
Waste Reduction, Recycling and Litter Control Account: For transfer to the state general fund, ( <del>(\$2,000,000)</del> ) <u>\$3,000,000</u> for fiscal year 2010 and ( <del>(\$2,000,000)</del> ) <u>\$3,000,000</u> for fiscal year 2011 .....	( <del>(\$4,000,000)</del> )
	<u>\$6,000,000</u>
State Toxics Control Account: For transfer to the state general fund, \$15,340,000 for fiscal year 2010 and ( <del>(\$14,400,000)</del> ) <u>\$17,780,000</u> for fiscal year 2011 .....	( <del>(\$29,740,000)</del> )
	<u>\$33,120,000</u>
Local Toxics Control Account: For transfer to the state general fund, \$37,060,000 for fiscal year 2010 and ( <del>(\$36,000,000)</del> ) <u>\$48,759,000</u> for fiscal year 2011 .....	( <del>(\$73,060,000)</del> )
	<u>\$85,819,000</u>
Education Construction Account: For transfer to the state general fund, ( <del>(\$93,362,000)</del> ) <u>\$105,228,000</u> for fiscal year 2010 and ( <del>(\$100,401,000)</del> ) <u>\$106,451,000</u> for fiscal year 2011 .....	( <del>(\$193,763,000)</del> )
	<u>\$211,679,000</u>

Aquatics Lands Enhancement Account: For transfer to the state general fund, ( <del>(\$5,050,000)</del> ) <u>\$8,520,000</u> for fiscal year 2010 and \$5,050,000 for fiscal year 2011 .....	( <del>(\$10,100,000)</del> ) <u>\$13,570,000</u>
Drinking Water Assistance Account: For transfer to the drinking water assistance repayment account .....	\$28,600,000
Economic Development Strategic Reserve Account: For transfer to the state general fund, \$2,500,000 for fiscal year 2010 and \$2,500,000 for fiscal year 2011 .....	\$5,000,000
<b><i>Tobacco Settlement Account: For transfer to the state general fund, in an amount not to exceed by more than (<del>(\$26,000,000)</del>) <u>\$42,200,000</u> the actual amount of the annual payment to the tobacco settlement account .....</i></b>	<b><i>(<del>(\$204,098,000)</del>) <u>\$220,298,000</u></i></b>
<b><i>Tobacco Settlement Account: For transfer to the life sciences discovery fund, in an amount not to exceed (<del>(\$26,000,000)</del>) <u>\$42,200,000</u> less than the actual amount of the strategic contribution supplemental payment to the tobacco settlement account .....</i></b>	<b><i>(<del>(\$39,170,000)</del>) <u>\$22,970,000</u></i></b>
General Fund: For transfer to the streamline sales and use tax account, ( <del>(\$31,447,000)</del> ) <u>\$24,274,000</u> for fiscal year 2010 and ( <del>(\$33,591,000)</del> ) <u>24,182,000</u> for fiscal year 2011 .....	( <del>(\$65,038,000)</del> ) <u>\$48,456,000</u>
State Convention and Trade Center Account: For transfer to the state convention and trade center operations account, \$1,000,000 for fiscal year 2010 and \$3,100,000 for fiscal year 2011 .....	\$4,100,000
Tobacco Prevention and Control Account: For transfer to the state general fund for fiscal year 2010 .....	\$1,961,000
Nisqually Earthquake Account: For transfer to the disaster response account for fiscal year 2010 .....	\$500,000
Judicial Information Systems Account: For transfer to the state general fund, ( <del>(\$2,500,000)</del> ) <u>\$3,250,000</u> for fiscal year 2010 and ( <del>(\$2,500,000)</del> ) <u>\$3,250,000</u> for fiscal year 2011 .....	( <del>(\$5,000,000)</del> ) <u>\$6,500,000</u>
Department of Retirement Systems Expense Account: For transfer to the state general fund, <u>\$1,000,000</u> for <u>fiscal year 2010</u> and <u>\$1,500,000</u> for fiscal year 2011 .....	( <del>(\$1,500,000)</del> ) <u>\$2,500,000</u>
State Emergency Water Projects Account: For transfer to the state general fund, \$390,000 for fiscal year 2011 .....	\$390,000

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The Charitable, Educational, Penal, and Reformatory Institutions Account: For transfer to the state general fund, \$5,550,000 for fiscal year 2010 and \$5,550,000 for fiscal year 2011 . . . . .	\$11,100,000
Energy Freedom Account: For transfer to the state general fund, <del>(\$2,978,000)</del> <u>\$4,038,000</u> for fiscal year 2010 and \$2,978,000 for fiscal year 2011 . . . . .	<del>(\$5,956,000)</del> <u>\$7,016,000</u>
Thurston County Capital Facilities Account: For transfer to the state general fund, <del>(\$4,194,000)</del> <u>\$8,604,000</u> for fiscal year 2010 and <del>(\$4,194,000)</del> <u>\$5,538,000</u> for fiscal year 2011 . . . . .	<del>(\$8,388,000)</del> <u>\$14,142,000</u>
Public Works Assistance Account: For transfer to the state general fund, <del>(\$184,000,000)</del> <u>\$279,640,000</u> for fiscal year 2010 and <del>(\$184,000,000)</del> <u>\$229,560,000</u> for fiscal year 2011 . . . . .	<del>(\$368,000,000)</del> <u>\$509,200,000</u>
Budget Stabilization Account: For transfer to the state general fund for fiscal year 2010 . . . . .	\$45,130,000
<b><u>Budget Stabilization Account: For transfer to the state general fund for fiscal year 2010 if House Bill No. 3197 is not enacted by June 30, 2010.</u></b> . . . . .	<b><u>\$95,986,000</u></b>
<b><u>Liquor Revolving Account: For transfer to the state general fund, \$31,000,000 for fiscal year 2010 and <del>(\$31,000,000)</del> \$25,500,000 for fiscal year 2011</u></b> . . . . .	<b><u>(\$62,000,000)</u></b> <b><u>\$56,500,000</u></b>
Public Works Assistance Account: For transfer to the city-county assistance account, \$5,000,000 on July 1, 2009, and \$5,000,000 on July 1, 2010 . . . . .	\$10,000,000
Public Works Assistance Account: For transfer to the drinking water assistance account, <del>(\$4,000,000)</del> <u>\$6,930,000</u> for fiscal year 2010 and \$4,000,000 for fiscal year 2011 . . . . .	<del>(\$8,000,000)</del> <u>\$10,930,000</u>
<u>Shared Game Lottery Account: For transfer to the education legacy trust account, \$3,600,000 for fiscal year 2010 and \$2,400,000 for fiscal year 2011</u> . . . . .	<u>\$6,000,000</u>
<u>State Lottery Account: For transfer to the education legacy trust account, \$9,500,000 for fiscal year 2010 and \$9,500,000 for fiscal year 2011</u> . . . . .	<u>\$19,000,000</u>
<u>College Faculty Awards Trust Fund: For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash balance of the fund</u> . . . . .	<u>\$4,000,000</u>



<u>Washington Distinguished Professorship Trust Fund:</u>	
<u>For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash balance of the fund.</u>	<u>\$6,000,000</u>
<u>Washington Graduate Fellowship Trust Account:</u>	
<u>For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash balance of the fund.</u>	<u>\$2,000,000</u>
<u>GET Ready for Math and Science Scholarship Account:</u>	
<u>For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash balance not comprised of or needed to match private contributions.</u>	<u>\$1,800,000</u>
<u>Financial Services Regulation Account: For transfer to the state general fund.</u>	
<u>\$2,000,000 for fiscal year 2010 and \$2,000,000 for fiscal year 2011.</u>	<u>\$4,000,000</u>
<u>Data Processing Revolving Fund: For transfer to the state general fund.</u>	
<u>\$5,632,000 for fiscal year 2010.</u>	<u>\$5,632,000</u>
<u>Public Service Revolving Account: For transfer to the state general fund.</u>	
<u>\$8,000,000 for fiscal year 2010 and \$7,000,000 for fiscal year 2011.</u>	<u>\$15,000,000</u>
<u>Water Quality Capital Account: For transfer to the state general fund.</u>	
<u>\$278,000 for fiscal year 2011.</u>	<u>\$278,000</u>
<u>Performance Audits of Government Account:</u>	
<u>For transfer to the state general fund, \$10,000,000 for fiscal year 2010 and \$5,000,000 for fiscal year 2011.</u>	<u>\$15,000,000</u>
<u>Job Development Account: For transfer to the state general fund, \$20,930,000 for fiscal year 2010.</u>	<u>\$20,930,000</u>
<u>Savings Incentive Account: For transfer to the state general fund, \$10,117,000 for fiscal year 2010.</u>	<u>\$10,117,000</u>
<u>Education Savings Account: For transfer to the state general fund, \$100,767,000 for fiscal year 2010.</u>	<u>\$100,767,000</u>
<u>Cleanup Settlement Account: For transfer to the state efficiency and restructuring account for fiscal year 2011.</u>	<u>\$39,480,000</u>
<u>Disaster Response Account: For transfer to the state drought preparedness account, \$4,000,000 for fiscal year 2010.</u>	<u>\$4,000,000</u>
<u>Washington State Convention and Trade Center Account:</u>	
<u>For transfer to the state general fund, \$10,000,000 for fiscal year 2011. The transfer in this section</u>	

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<u>shall occur on June 30, 2011, only if by that date the Washington state convention and trade center is not transferred to a public facilities district pursuant to Substitute Senate Bill No. 6889 (convention and trade center)</u> .....	\$10,000,000
<u>Institutional Welfare/Betterment Account: For transfer to the state general fund, \$2,000,000 for fiscal year 2010 and \$2,000,000 for fiscal year 2011</u> .....	\$4,000,000
<b><u>Insurance Commissioners Regulatory Account: For transfer to the state general fund, \$5,000,000 on June 30, 2010, and \$5,000,000 on June 30, 2011</u></b> .....	<b>\$10,000,000</b>
<u>Future Teacher Conditional Scholarship Account: For transfer to the state general fund, \$2,150,000 for fiscal year 2010 and \$2,150,000 for fiscal year 2011</u> .....	\$4,300,000
<u>Fingerprint Identification Account: For transfer to the state general fund, \$800,000 for fiscal year 2011</u> .....	\$800,000
<u>Prevent or Reduce Owner-Occupied Foreclosure Program Account: For transfer to the financial education public-private partnership account for fiscal year 2010, an amount not to exceed the actual cash balance of the fund as of June 30, 2010.</u> .....	\$300,000

\*Sec. 803 was partially vetoed. See message at end of chapter.

Sec. 804. 2010 c 247 s 407 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—ADMINISTRATIVE TRANSFERS**

(1) Tacoma Narrows Toll Bridge Account—State Appropriation: For transfer to the Motor Vehicle Account—State .....	\$5,288,000
(2) Motor Vehicle Account—State Appropriation: For transfer to the Puget Sound Ferry Operations Account—State .....	(((\$54,000,000)) \$54,100,000
(3) Recreational Vehicle Account—State Appropriation: For transfer to the Motor Vehicle Account—State .....	\$2,000,000
(4) License Plate Technology Account—State Appropriation: For transfer to the Highway Safety Account—State .....	\$2,750,000
(5) Multimodal Transportation Account—State Appropriation: For transfer to the Puget Sound Ferry Operations Account—State .....	\$9,000,000
(6) Highway Safety Account—State Appropriation: For transfer to the Multimodal Transportation Account—State .....	\$18,750,000
(7) Department of Licensing Services Account—State Appropriation: For transfer to the Motor Vehicle Account—State .....	\$1,300,000

(8) Advanced Right-of-Way Account: For transfer to the Motor Vehicle Account—State . . . . . \$14,000,000  
 (9)~~((10))~~ State Route Number 520 Civil Penalties Account—State Appropriation: For transfer to the State Route Number 520 Corridor Account—State . . . . . \$190,000  
~~((11))~~ (10) Advanced Environmental Mitigation Revolving Account—State Appropriation: For transfer to the Motor Vehicle Account—State . . . . . \$5,000,000  
~~((12))~~ (11) Regional Mobility Grant Program Account—State Appropriation: For transfer to the Multimodal Transportation Account—State . . . . . \$4,000,000  
~~((13))~~ (12) Motor Vehicle Account—State Appropriation: For transfer to the State Patrol Highway Account—State . . . . . ~~(\$4,000,000)~~  
\$5,600,000

~~((14))~~ (13) The transfers identified in this section are subject to the following conditions and limitations:

(a) The amount transferred in subsection (1) of this section represents repayment of operating loans and reserve payments provided to the Tacoma Narrows toll bridge account from the motor vehicle account in the 2005-07 fiscal biennium. However, if Engrossed Substitute Senate Bill No. 6499 is enacted by June 30, 2010, the transfer in subsection (1) of this section shall not occur.

(b) Any cash balance in the waste tire removal account in excess of one million dollars must be transferred to the motor vehicle account for the purpose of road wear-related maintenance on state and local public highways.

(c) The transfer in subsection ~~((10))~~ (9) of this section represents toll revenue collected from toll violations.

**PART IX  
MISCELLANEOUS**

**Sec. 901.** 2010 c 3 s 601 (uncodified) is amended to read as follows:

NEW HIRES. (1) From the effective date of this section until July 1, 2011, state agencies of the legislative, executive, and judicial branches shall not establish new staff positions or fill vacant existing staff positions except as specifically authorized by this section.

(2) The following activities of state agencies are exempt from subsection (1) of this section:

(a) Direct custody, supervision, and patient care in corrections, juvenile rehabilitation, institutional care of veterans, the mentally ill, developmentally disabled, state hospitals, the special commitment center, and the schools for the blind and the deaf;

(b) Direct protective services to children and other vulnerable populations in the department of social and health services;

(c) Washington state patrol investigative services and field enforcement;

(d) Hazardous materials response and emergency cleanup;

(e) Emergency public health and patient safety response and the public health laboratory;

(f) Military operations and emergency management within the military department;

(g) Firefighting;

(h) Enforcement officers in the department of fish and wildlife, the liquor control board, the gambling commission, and the department of natural resources;

(i) Park rangers at the parks and recreation commission;

(j) Seasonal employment by natural resources agencies to the extent that employment levels do not exceed the prior fiscal year;

(k) Seasonal employment in the department of transportation maintenance programs to the extent that employment levels do not exceed the prior fiscal year;

(l) Employees hired on a seasonal basis by the department of agriculture for inspection and certification of agricultural products and for insect detection;

(m) Activities directly related to tax and fee collection, revenue generation, auditing, and recovery;

(n) In institutions of higher education, any positions directly related to academic programs, as well as positions not funded from state funds or tuition, positions that are filled by enrolled students at their own institution as student workers, positions in campus police and security, positions related to emergency management and response, and positions related to student health care and counseling;

(o) Operations of the state lottery and liquor control board business enterprises;

(p) The unemployment insurance program of the employment security department; and

(q) Activities that are necessary to receive or maintain federal funds by the state.

(3) The exemptions specified in subsection (2) of this section do not require the establishment of new staff positions or the filling of vacant staff positions in the activities specified.

(4) Exceptions to this section may be granted under section 605 of this act.

(5) Also exempted from this section are positions related to facility realignments in the department of corrections, positions related to the transfer of programs between state agencies assumed in this act, and disability determination staff funded solely by federal funds.

***\*NEW SECTION. Sec. 902. A new section is added to 2009 c 564 (uncodified) to read as follows:***

***AGENCY STAFFING (1) By July 1, 2010, all state agencies must prepare and submit to the office of financial management staffing plans for fiscal year 2011. The first plan must list, by month and by job class, the number of budgeted FTEs, salaries, and benefits for the state general fund. The second plan must list, by month and by job class, the number of budgeted FTEs, salaries, and benefits for the total of all other allotted funds. The plans must be submitted at the same organizational level of detail as funds are appropriated to the agency. Agency allotments and staffing plans submitted to the office of financial management must be consistent.***

*(2) Agencies may only allot FTEs to the extent that the funding allotment contains sufficient funding to fully support those positions. To the extent that allotted FTEs would exceed available funding to support those positions, agencies shall request that the office of financial management revise their full-time equivalent staff allotment to the funded level; legislative and judicial agencies shall report the revised level to the office of financial management. The office of financial management shall summarize, by agency, the changes made under this subsection and provide that information to the appropriate fiscal committees of the legislature by October 1, 2010.*

*(3) Each agency shall report to the office of financial management the number of FTEs filled, by job class, as of July 1, 2010. The information must be provided at the same level of detail as is contained in the staffing plan. For any positions that are vacant on that date, the agency shall list the date that position was last filled. The office of financial management shall summarize information provided under this subsection and report to the appropriate fiscal committees of the legislature by October 1, 2010.*

\*Sec. 902 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 903.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**STATE HOUSING FINANCE COMMISSION—FORECLOSURE REVIEW.** In an effort to reduce the number of residential foreclosures while protecting the interests of both borrowers and beneficiaries, the state housing finance commission shall conduct a review of the effectiveness of RCW 61.24.031, which requires a beneficiary or authorized agent to contact the borrower before issuing a notice of default for the purposes of assessing the borrower's financial ability to repay the debt and discussing alternatives to foreclosure. The commission's review of the process shall, at a minimum, examine whether the contact requirement has resulted in an increase in the number of loan modifications and whether additional statutory provisions, such as mandatory mediation, are needed to produce effective communication between beneficiaries and borrowers. The state housing finance commission shall report its findings and any recommendations for legislation to the appropriate committees of the legislature by November 30, 2010.

NEW SECTION. **Sec. 904.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**COLLECTIVE BARGAINING AGREEMENT—WSRCC ADULT FAMILY HOME PROVIDERS.** Appropriations in this act reflect the collective bargaining agreement reached between the governor and the Washington state residential care council of adult family homes under the provisions of chapter 41.56 RCW.

NEW SECTION. **Sec. 905.** A new section is added to 2009 c 564 (uncodified) to read as follows:

For purposes of RCW 43.88.110(7), any cash deficit in existence at the close of fiscal year 2010 shall be liquidated over the remainder of the 2009-2011 fiscal biennium.

**Sec. 906.** 2009 c 564 s 914 (uncodified) is amended to read as follows:

**COMPENSATION—INSURANCE BENEFITS.** Appropriations for state agencies in this act are sufficient for nonrepresented and represented state employee health benefits for state agencies, including institutions of higher education and are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$745 per eligible employee for fiscal year 2010. For fiscal year 2011 the monthly employer funding rate shall not exceed (~~(\$768)~~) \$850 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065. During the 2009-11 fiscal biennium, the board may only authorize benefit plans and premium contributions for an employee and the employee's dependents that are the same, regardless of an employee's status as represented or nonrepresented under the personnel system reform act of 2002.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(d) The conditions in this section apply to benefits for nonrepresented employees, employees represented by the super coalition, and represented employees outside of the super coalition, including employees represented under chapter 47.64 RCW.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2010, through the remainder of the 2009-11 fiscal biennium, the subsidy shall be \$182.89.

(3) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit into the public employees' and retirees' insurance account established in RCW 41.05.120 the following amounts:

(a) For each full-time employee, \$59.59 per month beginning September 1, 2009, and (~~(\$64.90)~~) \$62.48 beginning September 1, 2010;

(b) For each part-time employee, who at the time of the remittance is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, \$59.59 each month beginning September 1, 2009, and (~~(\$64.90)~~) \$62.48 beginning September 1, 2010, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives. The remittance requirements specified in this subsection shall not apply to employees

of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

**Sec. 907.** 2010 c 247 s 503 (uncodified) is amended to read as follows:

**COMPENSATION—INSURANCE BENEFITS.** Appropriations for state agencies in this act are sufficient for nonrepresented and represented state employee health benefits for state agencies, and are subject to the following conditions and limitations:

(1)(a) Unless otherwise provided in the 2010 supplemental omnibus operating appropriations act, the monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$745 per eligible employee for fiscal year 2010. For fiscal year 2011, the monthly employer funding rate shall not exceed (~~(\$795)~~) \$850 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments; increases in point-of-service cost sharing; the implementation of managed competition; or make other changes to benefits consistent with RCW 41.05.065. During the 2009-11 fiscal biennium, the board may only authorize benefit plans and premium contributions for an employee and the employee's dependents that are the same, regardless of an employee's status as represented or nonrepresented under the personnel system reform act of 2002.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(d) The conditions in this section apply to benefits for nonrepresented employees, employees represented by the super coalition, and represented employees outside of the super coalition, including employees represented under chapter 47.64 RCW.

(2) Unless otherwise provided in the 2010 supplemental omnibus operating appropriations act, the health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2010, through December 31, 2010, the subsidy shall be \$182.89. Beginning January 1, 2011, the subsidy shall be \$182.89 per month.

***\*NEW SECTION. Sec. 908. A new section is added to 2009 c 564 (uncodified) to read as follows:***

***(1) During the 2009-2011 fiscal biennium, every state agency shall implement processes to make all renewal notices available to customers via electronic means by July 1, 2012. The appropriations in this act provide funding for this purpose.***

***(2) Every state agency shall encourage customers to opt-in for an electronic renewal notice in lieu of physical renewal notice.***

***(3) For purposes of this section:***

*(a) "Renewal notices" includes, but is not limited to, notices for the renewal of licenses, registrations, and permits; and*

*(b) "State agency" includes every state office, department, division, bureau, board, and commission of the state.*

\*Sec. 908 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 909.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**CORE FUNCTIONS OF GOVERNMENT REVIEW.** (1) The legislature intends to evaluate whether the state agencies and activities are performing in the most efficient manner.

(2) By August 1, 2010, the joint legislative audit and review committee must select one of the priorities of government results and determine the relative priority of each activity based on the activity's contribution to the overall objectives of the priorities of government results area.

(3) The state auditor must select at least one but not more than four of the highest priority activities identified under subsection (2) of this section to be the subject of performance audits. The activities must be selected for performance audits under this subsection based on the evidence that the program or activity would likely benefit from the evaluation or review. The performance audit shall be conducted using generally accepted government auditing standards and may include an evaluation of: (a) Ways to improve performance, streamline operations, and provide cost-effective service to citizens; (b) programs and services that can be eliminated, reduced, consolidated, or enhanced; and (c) gaps and overlaps in the programs and services and recommendations for improving, eliminating, blending, or separating functions to correct gaps or overlaps.

(4) The state auditor must select at least one of the lowest priority activities identified in subsection (2) of this section to be the subject of an activity assessment. The assessment must address the following questions:

(a) Does the activity continue to serve the purpose for which it was created?

(b) In comparison to other programs and priorities, does this purpose continue to merit the use of the state's limited resources?

(c) Does this activity continue to contribute to the priorities of government identified?

(d) Are there better alternatives for the use of these resources or to accomplish the objective of the activity?

(5) The performance audits conducted under subsection (3) of this section and the assessments under subsection (4) of this section must be completed by June 30, 2011.

**Sec. 910.** RCW 13.06.050 and 1993 c 415 s 7 are each amended to read as follows:

No county shall be entitled to receive any state funds provided by this chapter until its application and plan are approved, and unless and until the minimum standards prescribed by the department of social and health services are complied with and then only on such terms as are set forth in this section. In addition, any county making application for state funds under this chapter that also operates a juvenile detention facility must have standards of operations in place that include: Intake and admissions, medical and health care, communication, correspondence, visiting and telephone use, security and



control, sanitation and hygiene, juvenile rights, rules and discipline, property, juvenile records, safety and emergency procedures, programming, release and transfer, training and staff development, and food service.

(1) For the 2009-2011 fiscal biennium, the distribution of funds to a county or a group of counties (~~shall~~) may be based on criteria including but not limited to the county's per capita income, regional or county at-risk populations, juvenile crime or arrest rates, rates of poverty, size of racial minority populations, existing programs, and the effectiveness and efficiency of consolidating local programs towards reducing commitments to state correctional facilities for offenders whose standard range disposition does not include commitment of the offender to the department and reducing reliance on other traditional departmental services.

(2) The secretary will reimburse a county upon presentation and approval of a valid claim pursuant to the provisions of this chapter based on actual performance in meeting the terms and conditions of the approved plan and contract. Funds received by participating counties under this chapter shall not be used to replace local funds for existing programs.

(3) The secretary, in conjunction with the human rights commission, shall evaluate the effectiveness of programs funded under this chapter in reducing racial disproportionality. The secretary shall investigate whether implementation of such programs has reduced disproportionality in counties with initially high levels of disproportionality. The analysis shall indicate which programs are cost-effective in reducing disproportionality in such areas as alternatives to detention, intake and risk assessment standards pursuant to RCW 13.40.038, alternatives to incarceration, and in the prosecution and adjudication of juveniles. The secretary shall report his or her findings to the legislature by December 1, 1994, and December 1 of each year thereafter.

NEW SECTION. Sec. 911. A new section is added to 2009 c 564 (uncodified) to read as follows:

(1) Except for the activities and organizations provided in subsection (2) of this section, all small agencies with fewer than 176 FTEs shall utilize the office of financial management small agency client services for budget, accounting, and payroll services. The director of financial management shall define the transition process and specific agency requirements.

(2) The following activities and organizations are not subject to the requirements of subsection (1) of this section:

(a) The processing of invoices and budgeting provided for conservation districts by agencies established under chapters 89.08 and 89.10 RCW;

(b) The accounting requirements of the state housing finance commission and its affiliates established under chapters 43.180, 28B.07, and 43.340 RCW; and

(c) The accounting requirements of the health care facilities authority established under chapter 70.37 RCW, and the economic development finance authority established under chapter 43.163 RCW.

**Sec. 912.** RCW 15.76.115 and 2001 2nd sp.s. c 16 s 1 are each amended to read as follows:

The fair fund is created in the custody of the state treasury. All moneys received by the department of agriculture for the purposes of this fund and from

RCW 67.16.105(4) shall be deposited into the fund. At the beginning of fiscal year 2002 and each fiscal year thereafter, the state treasurer shall transfer into the fair fund from the general fund the sum of two million dollars, except for fiscal year 2011 the state treasurer shall transfer into the fair fund from the general fund the sum of one million one hundred three thousand dollars. Expenditures from the fund may be used only for assisting fairs in the manner provided in this chapter. Only the director of agriculture or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

**Sec. 913.** RCW 28A.300.380 and 2000 c 84 s 2 are each amended to read as follows:

(1) The superintendent of public instruction shall maintain support for statewide coordination for career and technical student organizations by providing program staff support that is available to assist in meeting the needs of career and technical student organizations and their members and students. ~~((The superintendent shall provide at least one full-time equivalent program staff for purposes of implementing this section.))~~ The superintendent may provide additional support to the organizations through contracting with independent coordinators.

(2) Career and technical student organizations eligible for technical assistance and other support services under this section are organizations recognized as career and technical student organizations by:

(a) The United States department of education; or

(b) The superintendent of public instruction, if such recognition is recommended by the Washington association for career and technical education.

(3) Career and technical student organizations eligible for technical assistance and other support services under this section include, but are not limited to: The national FFA organization; family, career, and community leaders of America; skillsUSA; distributive education clubs of America; future business leaders of America; and the technology student association.

**Sec. 914.** RCW 28B.50.837 and 2009 c 564 s 1803 are each amended to read as follows:

(1) The Washington community and technical college exceptional faculty awards program is established. The program shall be administered by the college board. The college faculty awards trust fund hereby created shall be administered by the state treasurer.

(2) Funds appropriated by the legislature for the community and technical college exceptional faculty awards program shall be deposited in the college faculty awards trust fund. At the request of the college board, the treasurer shall release the state matching funds to the local endowment fund of the college or its foundation. No appropriation is necessary for the expenditure of moneys from the fund. Expenditures from the fund may be used solely for the exceptional faculty awards program. During the ~~((2007-2009))~~ 2009-2011 fiscal biennium, the legislature may transfer from the college faculty awards trust fund to the state general fund such amounts as reflect the excess fund balance in the account ~~((fund))~~.

**Sec. 915.** RCW 28B.76.565 and 2009 c 564 s 1805 are each amended to read as follows:

Funds appropriated by the legislature for the distinguished professorship program shall be deposited in the distinguished professorship trust fund. At the request of the higher education coordinating board under RCW 28B.76.575, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund. During the ~~((2007-2009))~~ 2009-2011 fiscal biennium, the legislature may transfer from the distinguished professorship trust fund to the state general fund such amounts as reflect the excess fund balance in the account ~~((fund))~~.

**Sec. 916.** RCW 28B.76.610 and 2009 c 564 s 1806 are each amended to read as follows:

Funds appropriated by the legislature for the graduate fellowship program shall be deposited in the graduate fellowship trust fund. At the request of the higher education coordinating board under RCW 28B.76.620, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund. During the ~~((2007-2009))~~ 2009-2011 fiscal biennium, the legislature may transfer from the graduate fellowship trust fund to the state general fund such amounts as reflect the excess fund balance in the account ~~((fund))~~.

**Sec. 917.** RCW 28B.102.080 and 2007 c 396 s 9 are each amended to read as follows:

(1) The future teachers conditional scholarship account is created in the custody of the state treasurer. An appropriation is not required for expenditures of funds from the account. The account is not subject to allotment procedures under chapter 43.88 RCW except for moneys used for program administration.

(2) The board shall deposit in the account all moneys received for the future teachers conditional scholarship and loan repayment program and for conditional loan programs under chapter 28A.660 RCW. The account shall be self-sustaining and consist of funds appropriated by the legislature for the future teachers conditional scholarship and loan repayment program, private contributions to the program, receipts from participant repayments from the future teachers conditional scholarship and loan repayment program, and conditional loan programs established under chapter 28A.660 RCW. Beginning July 1, 2004, the board shall also deposit into the account: (a) All funds from the institution of higher education loan account that are traceable to any conditional scholarship program for teachers or prospective teachers established by the legislature before June 10, 2004; and (b) all amounts repaid by individuals under any such program.

(3) Expenditures from the account may be used solely for conditional loans and loan repayments to participants in the future teachers conditional scholarship and loan repayment program established by this chapter, conditional scholarships for participants in programs established in chapter 28A.660 RCW, and costs associated with program administration by the board.

(4) Disbursements from the account may be made only on the authorization of the board.

(5) During the 2009-2011 fiscal biennium, the legislature may transfer from the future teachers conditional scholarship account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 918.** RCW 28B.105.110 and 2009 c 564 s 1807 and 2009 c 564 s 920 are each reenacted and amended to read as follows:

(1) The GET ready for math and science scholarship account is created in the custody of the state treasurer.

(2) The board shall deposit into the account all money received for the GET ready for math and science scholarship program from appropriations and private sources. The account shall be self-sustaining.

(3) Expenditures from the account shall be used for scholarships to eligible students and for purchases of GET units. Purchased GET units shall be owned and held in trust by the board. Expenditures from the account shall be an equal match of state appropriations and private funds raised by the program administrator. During the 2009-2011 fiscal biennium, expenditures from the account not to exceed five percent may be used by the program administrator to carry out the provisions of RCW 28B.105.090.

(4) With the exception of the operating costs associated with the management of the account by the treasurer's office as authorized in chapter 43.79A RCW, the account shall be credited with all investment income earned by the account.

(5) Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW.

(6) Disbursements from the account shall be made only on the authorization of the board.

(7) During the 2007-2009 fiscal biennium, the legislature may transfer state appropriations to the GET ready for math and science scholarship account that have not been matched by private contributions to the state general fund.

(8) During the 2009-2011 fiscal biennium, the legislature may transfer from the GET ready for math and science scholarship account to the state general fund such amounts as have not been donated from or matched by private contributions.

**Sec. 919.** RCW 38.52.105 and 2005 c 422 s 2 are each amended to read as follows:

The disaster response account is created in the state treasury. Moneys may be placed in the account from legislative appropriations and transfers, federal appropriations, or any other lawful source. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for support of state agency and local government disaster response and recovery efforts and to reimburse the workers' compensation funds and self-insured employers under RCW 51.16.220. ~~((During the 2001-03 biennium, funds from the account may also be used for costs associated with national security preparedness activities.))~~ During the 2009-2011 fiscal biennium, the legislature may transfer from the disaster response account to the state drought preparedness account such amounts as reflect the excess fund balance of the account to support expenditures related to a state drought declaration.

**\*Sec. 920.** *RCW 43.17.390 and 2009 c 564 s 931 are each amended to read as follows:*

*Starting ~~((in 2012))~~ June 30, 2010, and at least once every three years thereafter, each agency with more than three hundred full-time equivalent employees shall apply to the Washington state quality award, or similar*

*organization, for an independent assessment of its quality management, accountability, and performance system. The assessment shall evaluate the effectiveness of all elements of its management, accountability, and performance system, including: Leadership, strategic planning, customer focus, analysis and information, employee performance management, and process improvement. The purpose of the assessment is to recognize best practice and identify improvement opportunities.*

\*Sec. 920 was vetoed. See message at end of chapter.

**Sec. 921.** RCW 43.20A.725 and 2004 c 254 s 1 are each amended to read as follows:

(1) The department, through the sole authority of the office or its successor organization, shall maintain a program whereby an individual of school age or older who possesses a hearing or speech impairment is provided with telecommunications equipment, software, and/or peripheral devices, digital or otherwise, that is determined by the office to be necessary for such a person to access and use telecommunications transmission services effectively.

(2) The department, through the sole authority of the office or its successor organization, shall maintain a program where telecommunications relay services of a human or electronic nature will be provided to connect hearing impaired, deaf-blind, or speech impaired persons with persons who do not have a hearing or speech impairment. Such telecommunications relay services shall provide the ability for an individual who has a hearing or speech impairment to engage in voice, tactile, or visual communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech impairment to communicate using voice or visual communication services by wire or radio subject to subsection (4)(b) of this section.

(3) The telecommunications relay service and equipment distribution program may operate in such a manner as to provide communications transmission opportunities that are capable of incorporating new technologies that have demonstrated benefits consistent with the intent of this chapter and are in the best interests of the citizens of this state.

(4) The office shall administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services according to this section. The relay service contract shall be awarded to an individual company registered as a telecommunications company by the utilities and transportation commission, to a group of registered telecommunications companies, or to any other company or organization determined by the office as qualified to provide relay services, contingent upon that company or organization being approved as a registered telecommunications company prior to final contract approval. The relay system providers and telecommunications equipment vendors shall be selected on the basis of cost-effectiveness and utility to the greatest extent possible under the program and technical specifications established by the office.

(a) To the extent funds are available under the then-current rate and not otherwise held in reserve or required for other purposes authorized by this chapter, the office may award contracts for communications and related services and equipment for hearing impaired or speech impaired individuals accessing or

receiving services provided by, or contracted for, the department to meet access obligations under Title 2 of the federal Americans with disabilities act or related federal regulations.

(b) The office shall perform its duties under this section with the goal of achieving functional equivalency of access to and use of telecommunications services similar to the enjoyment of access to and use of such services experienced by an individual who does not have a hearing or speech impairment only to the extent that funds are available under the then-current rate and not otherwise held in reserve or required for other purposes authorized by this chapter.

(5) The program shall be funded by a telecommunications relay service (TRS) excise tax applied to each switched access line provided by the local exchange companies. The office shall determine, in consultation with the office's program advisory committee, the budget needed to fund the program on an annual basis, including both operational costs and a reasonable amount for capital improvements such as equipment upgrade and replacement. The budget proposed by the office, together with documentation and supporting materials, shall be submitted to the office of financial management for review and approval. The approved budget shall be given by the department in an annual budget to the department of revenue no later than March 1st prior to the beginning of the fiscal year. The department of revenue shall then determine the amount of telecommunications relay service excise tax to be placed on each switched access line and shall inform local exchange companies and the utilities and transportation commission of this amount no later than May 1st. The department of revenue shall determine the amount of telecommunications relay service excise tax to be collected in the following fiscal year by dividing the total of the program budget, as submitted by the office, by the total number of switched access lines in the prior calendar year, as reported to the department of revenue under chapter 82.14B RCW, and shall not exercise any further oversight of the program under this subsection other than administering the collection of the telecommunications relay service excise tax as provided in RCW 82.72.010 through 82.72.090. The telecommunications relay service excise tax shall not exceed nineteen cents per month per access line. The telecommunications relay service excise tax shall be separately identified on each ratepayer's bill with the following statement: "Funds federal ADA requirement." All proceeds from the telecommunications relay service excise tax shall be put into a fund to be administered by the office through the department. During the 2009-2011 fiscal biennium, the funds may also be used to provide individualized employment services and employment-related counseling to people with disabilities, and technical assistance to employers about the employment of people with disabilities. "Switched access line" has the meaning provided in RCW 82.14B.020.

(6) The telecommunications relay service program and equipment vendors shall provide services and equipment consistent with the requirements of federal law for the operation of both interstate and intrastate telecommunications services for the hearing impaired or speech impaired. The department and the utilities and transportation commission shall be responsible for ensuring compliance with federal requirements and shall provide timely notice to the legislature of any legislation that may be required to accomplish compliance.

(7) The department shall adopt rules establishing eligibility criteria, ownership obligations, financial contributions, and a program for distribution to individuals requesting and receiving such telecommunications devices distributed by the office, and other rules necessary to administer programs and services consistent with this chapter.

**Sec. 922.** RCW 43.43.839 and 1995 c 169 s 2 are each amended to read as follows:

The fingerprint identification account is created in the custody of the state treasurer. All receipts from incremental charges of fingerprint checks requested for noncriminal justice purposes and electronic background requests shall be deposited in the account. Receipts for fingerprint checks by the federal bureau of investigation may also be deposited in the account. Expenditures from the account may be used only for the cost of record checks. Only the chief of the state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. No appropriation is required for expenditures prior to July 1, 1997. After June 30, 1997, the account shall be subject to appropriation. During the 2009-2011 fiscal biennium, the legislature may transfer from the fingerprint identification account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 923.** RCW 43.43.944 and 2007 c 520 s 6034 are each amended to read as follows:

(1) The fire service training account is hereby established in the state treasury. 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) General fund—state moneys appropriated into the account by the legislature.

(2) Moneys in the account may be appropriated only for fire service training. 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. During the ~~((2007-2009))~~ 2009-2011 fiscal biennium, the legislature may appropriate funds from this account for school fire prevention activities within the Washington state patrol ~~((and additional sanitary wastewater treatment capacity at the state fire service training center)).~~

(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.

**Sec. 924.** RCW 43.60A.185 and 2006 c 343 s 8 are each amended to read as follows:

The veterans innovations program account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures

from the account may be used only for purposes of the veterans innovations program. During the 2009-2011 fiscal biennium, the funds may be used for contracting for veterans' claims assistance services.

**Sec. 925.** RCW 43.131.406 and 2006 c 343 s 11 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2017:

- (1) 2006 c 343 s 1 (uncodified);
- (2) RCW 43.60A.160 and 2006 c 343 s 3;
- (3) RCW 43.60A.165 and 2006 c 343 s 4;
- (4) RCW 43.60A.170 and 2006 c 343 s 5;
- (5) RCW 43.60A.175 and 2006 c 343 s 6;
- (6) RCW 43.60A.180 and 2006 c 343 s 7; and
- (7) RCW 43.60A.185 and section 924 of this act and 2006 c 343 s 8.

*\*Sec. 926. RCW 43.70.110 and 2009 c 403 s 5 are each amended to read as follows:*

*(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.*

*(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.*

*(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:*

*(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202, until June 30, 2013;*

*(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and*

*(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and acupuncturists*



*licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112. During the 2009-2011 fiscal biennium, five dollars of the current twenty-dollar fee received from registered nurses under this subsection may be expended by the department of health exclusively for the purposes of funding approved treatment programs for impaired registered nurses, registered nursing license processing functions, and disciplinary activities related to registered nurses.*

*(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.*

\*Sec. 926 was vetoed. See message at end of chapter.

**Sec. 927.** RCW 43.78.030 and 1994 c 82 s 1 are each amended to read as follows:

The public printer shall print and bind the session laws, the journals of the two houses of the legislature, all bills, resolutions, documents, and other printing and binding of either the senate or house, as the same may be ordered by the legislature; and such forms, blanks, record books, and printing and binding of every description as may be ordered by all state officers, boards, commissions, and institutions, and the supreme court, and the court of appeals and officers thereof, as the same may be ordered on requisition, from time to time, by the proper authorities. This section shall not apply to the printing of the supreme court and the court of appeals reports, to the printing of bond certificates or bond offering disclosure documents, to the printing of educational publications of the state historical societies, or to any printing done or contracted for by institutions of higher education: PROVIDED, That institutions of higher education, in consultation with the public printer, develop vendor selection procedures comparable to those used by the public printer for contracted printing jobs. Where any institution or institution of higher learning of the state is or may become equipped with facilities for doing such work, it may do any printing: (1) For itself, or (2) for any other state institution when such printing is done as part of a course of study relative to the profession of printer. Any printing and binding of whatever description as may be needed by any institution or agency of the state department of social and health services not at Olympia, or the supreme court or the court of appeals or any officer thereof, the estimated cost of which shall not exceed one thousand dollars, may be done by any private printing company in the general vicinity within the state of Washington so ordering, if in the judgment of the officer of the agency so ordering, the saving in time and processing justifies the award to such local private printing concern.

Beginning on July 1, 1989, and on July 1 of each succeeding odd-numbered year, the dollar limit specified in this section shall be adjusted as follows: The office of financial management shall calculate such limit by adjusting the previous biennium's limit by an appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest fifty dollars.

During the 2009-2011 fiscal biennium, this section does not apply to pilot printing projects authorized by the office of financial management to allow state agencies and institutions to directly acquire printing services.

**Sec. 928.** RCW 43.79.460 and 2009 c 518 s 21 are each amended to read as follows:

(1) The savings incentive account is created in the custody of the state treasurer. The account shall consist of all moneys appropriated to the account by the legislature. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account.

(2) Within the savings incentive account, the state treasurer may create subaccounts to be credited with incentive savings attributable to individual state agencies, as determined by the office of financial management in consultation with the legislative fiscal committees. Moneys deposited in the subaccounts may be expended only on the authorization of the agency's executive head or designee and only for the purpose of one-time expenditures to improve the quality, efficiency, and effectiveness of services to customers of the state, such as one-time expenditures for employee training, employee incentives, technology improvements, new work processes, or performance measurement. Funds may not be expended from the account to establish new programs or services, expand existing programs or services, or incur ongoing costs that would require future expenditures.

(3) For purposes of this section, "incentive savings" means state general fund appropriations that are unspent as of June 30th of a fiscal year, excluding any amounts included in across-the-board reductions under RCW 43.88.110 and excluding unspent appropriations for:

(a) Caseload and enrollment in entitlement programs, except to the extent that an agency has clearly demonstrated that efficiencies have been achieved in the administration of the entitlement program. "Entitlement program," as used in this section, includes programs for which specific sums of money are appropriated for pass-through to third parties or other entities;

(b) Enrollments in state institutions of higher education;

(c) A specific amount contained in a condition or limitation to an appropriation in the biennial appropriations act, if the agency did not achieve the specific purpose or objective of the condition or limitation;

(d) Debt service on state obligations; and

(e) State retirement system obligations.

(4) The office of financial management, after consulting with the legislative fiscal committees, shall report the amount of savings incentives achieved.

(5) For fiscal year 2009, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2008. For fiscal year 2010, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2009.

**Sec. 929.** RCW 43.79.465 and 2009 c 4 s 903 are each amended to read as follows:

The education savings account is created in the state treasury. The account shall consist of all moneys appropriated to the account by the legislature.

(1) Ten percent of legislative appropriations to the education savings account shall be distributed as follows: (a) Fifty percent to the distinguished professorship trust fund under RCW 28B.76.565; (b) seventeen percent to the

graduate fellowship trust fund under RCW 28B.76.610; and (c) thirty-three percent to the college faculty awards trust fund under RCW 28B.50.837.

(2) The remaining moneys in the education savings account may be appropriated solely for (a) common school construction projects that are eligible for funding from the common school construction account, (b) technology improvements in the common schools, (c) during the 2001-03 fiscal biennium, technology improvements in public higher education institutions, ~~((and))~~ (d) during the 2007-2009 fiscal biennium, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the excess fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2008, and (e) for fiscal year 2010, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent general fund appropriations for fiscal year 2009.

**Sec. 930.** RCW 43.89.010 and 2000 2nd sp.s. c 4 s 7 are each amended to read as follows:

The chief of the Washington state patrol is hereby authorized to establish a communications network which will inter-connect the law enforcement agencies of the state and its political subdivisions into a unified written communications system. The chief of the Washington state patrol is authorized to lease or purchase such facilities and equipment as may be necessary to establish and maintain the communications network.

(1) The communications network shall be used exclusively for the official business of the state, and the official business of any city, county, city and county, or other public agency.

(2) This section does not prohibit the occasional use of the state's communications network by any other state or public agency thereof when the messages transmitted relate to the enforcement of the criminal laws of the state.

(3) The chief of the Washington state patrol shall fix the monthly operational charge to be paid by any department or agency of state government, or any city, county, city and county, or other public agency participating in the communications network: PROVIDED, That in computing charges to be made against a city, county, or city and county the state shall bear at least fifty percent of the costs of such service as its share in providing a modern unified communications network to the law enforcement agencies of the state. Of the fees collected pursuant to this section, one-half shall be deposited in the motor vehicle fund and one-half shall be deposited in the state patrol highway account. However, for the 2009-2011 fiscal biennium the fees collected pursuant to this section shall be deposited in the state general fund.

(4) The chief of the Washington state patrol is authorized to arrange for the connection of the communications network with the law enforcement communications system of any adjacent state, or the Province of British Columbia, Canada.

**Sec. 931.** RCW 43.105.080 and 1999 c 80 s 8 are each amended to read as follows:

There is created a revolving fund to be known as the data processing revolving fund in the custody of the state treasurer. The revolving fund shall be used for the acquisition of equipment, software, supplies, and services and the

payment of salaries, wages, and other costs incidental to the acquisition, development, operation, and administration of information services, telecommunications, systems, software, supplies and equipment, including the payment of principal and interest on bonds issued for capital projects, by the department, Washington State University's computer services center, the department of personnel's personnel information systems division, the office of financial management's financial systems management group, and other users as jointly determined by the department and the office of financial management. The revolving fund is subject to the allotment procedure provided under chapter 43.88 RCW. Disbursements from the revolving fund for the services component of the department are not subject to appropriation. Disbursements for the strategic planning and policy component of the department are subject to appropriation. All disbursements from the fund are subject to the allotment procedures provided under chapter 43.88 RCW. The department shall establish and implement a billing structure to assure all agencies pay an equitable share of the costs.

During the 2009-2011 fiscal biennium, the legislature may transfer from the data processing revolving account to the state general fund such amounts as reflect the excess fund balance associated with the information technology pool.

As used in this section, the word "supplies" shall not be interpreted to delegate or abrogate the division of purchasing's responsibilities and authority to purchase supplies as described in RCW 43.19.190 and 43.19.200.

**Sec. 932.** RCW 43.155.050 and 2009 c 564 s 940 are each amended to read as follows:

(1) The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. During the 2009-2011 fiscal biennium, the legislature may transfer from the public works assistance account to the general fund and the city-county assistance account such amounts as reflect the excess fund balance of the account.

(2) The job development fund is hereby established in the state treasury. Moneys in the job development fund may be spent only after appropriation. During the 2009-2011 fiscal biennium, the legislature may transfer from the job development fund to the general fund such amounts as reflect the excess fund balance of the fund.

NEW SECTION. Sec. 933. A new section is added to chapter 43.215 RCW to read as follows:

(1)(a) The home visiting services account is created in the custody of the state treasurer. Revenues to the account shall consist of appropriations by the legislature and all other sources deposited in the account.

(b) Expenditures from the account shall be used for state matching funds for the purposes of the program established in this section including administrative expenses. Only the director or the director's designee may authorize expenditures from the account. Authorizations for expenditures may be given only after private funds are committed and available.

(c) Expenditures from the account are exempt from the appropriations and allotment provisions of chapter 43.88 RCW. However, amounts used for program administration by the department are subject to the allotment and budgetary controls of chapter 43.88 RCW, and an appropriation is required for these expenditures.

(2) The department must expend moneys from the account to provide state matching funds for partnership activities to implement home visiting services and administer the infrastructure necessary to develop, support, and evaluate evidence-based, research-based, and promising home visiting programs.

(3) Activities eligible for funding through the account include, but are not limited to:

(a) Home visiting services that achieve one or more of the following: (i) Enhancing child development and well-being by alleviating the effects on child development of poverty and other known risk factors; (ii) reducing the incidence of child abuse and neglect; or (iii) promoting school readiness for young children and their families; and

(b) Development and maintenance of the infrastructure for home visiting programs, including training, quality improvement, and evaluation.

(4) Beginning July 1, 2010, the department shall contract with the nongovernmental private-public partnership designated in RCW 43.215.070 to administer programs funded through the home visiting services account. The department shall monitor performance and provide periodic reports on the use outcomes of the home visiting services account.

(5) The nongovernmental private-public partnership shall, in the administration of the programs:

(a) Fund programs through a competitive bid process; and

(b) Convene an advisory committee of early learning and home visiting experts, including one representative from the department, to advise the partnership regarding research and the distribution of funds from the account to eligible programs.

(6) To promote continuity for families receiving home visiting services through programs funded on the effective date of this section, those programs funded under chapter 43.121 RCW shall be funded through June 30, 2012, based on availability of funds and the achievement of stated performance goals. This section does not require any program to receive continuous funding beyond June 30, 2012. Organizations that may receive program funding include local health departments; nonprofit, neighborhood-based, community, regional, or statewide organizations; and federally recognized Indian tribes located in the state.

**Sec. 934.** RCW 43.320.110 and 2005 c 518 s 932 are each amended to read as follows:

There is created a local fund known as the "financial services regulation fund" which shall consist of all moneys received by the divisions of the department of financial institutions, except for the division of securities which shall deposit thirteen percent of all moneys received, except as provided in RCW 43.320.115, and which shall be used for the purchase of supplies and necessary equipment; the payment of salaries, wages, and utilities; the establishment of reserves; and other incidental costs required for the proper regulation of individuals and entities subject to regulation by the department. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

During the (~~2005-2007~~) 2009-2011 fiscal biennium, the legislature may transfer from the financial services regulation fund to the state general fund such amounts as reflect the excess fund balance of the fund.

**Sec. 935.** RCW 43.320.165 and 2009 c 386 s 2 are each amended to read as follows:

The prevent or reduce owner-occupied foreclosure program account is created in the custody of the state treasurer. All receipts from the appropriation in section 4, chapter 322, Laws of 2008 as well as receipts from private contributions and all other sources that are specifically designated for the prevent or reduce owner-occupied foreclosure program must be deposited into the account. Expenditures from the account may be used solely for the purpose of preventing or reducing owner-occupied foreclosures through the prevent or reduce owner-occupied foreclosure program as described in RCW 43.320.160. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. During the 2009-2011 fiscal biennium, the legislature may transfer from the prevent or reduce owner-occupied foreclosure program account to the financial education public-private partnership account such amounts as reflect the excess fund balance of the account.

**Sec. 936.** RCW 46.09.170 and 2009 c 564 s 944 and 2009 c 187 s 2 are each reenacted and amended to read as follows:

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

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

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

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and the maintenance of nonhighway roads;

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

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

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

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

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

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

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

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

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

(4) During the 2009-2011 fiscal biennium, the legislature may appropriate such amounts as reflect the excess fund balance in the NOVA account to the department of natural resources to install consistent off-road vehicle signage at department-managed recreation sites, and to implement the recreation opportunities on department-managed lands in the Reiter block and Ahtanum state forest, and to the state parks and recreation commission. The legislature finds that the appropriation of funds from the NOVA account during the 2009-2011 fiscal biennium for maintenance and operation of state parks ~~(and)~~ or to improve accessibility for boaters and off-road vehicle users at state parks will

benefit boaters and off-road vehicle users and others who use nonhighway and nonmotorized recreational facilities. ~~((This appropriation is))~~ The appropriations under this subsection are not required to follow the specific distribution specified in subsection (2) of this section.

*\*Sec. 937. RCW 48.02.190 and 2009 c 161 s 1 are each amended to read as follows:*

*(1) As used in this section:*

*(a) "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 shall consist of all insurers as defined in RCW 48.01.050. "Class two" organizations shall consist of all organizations registered under provisions of chapters 48.44 and 48.46 RCW. "Class three" organizations shall consist of self-funded multiple employer welfare arrangements as defined in RCW 48.125.010.*

*(b)(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 shall be determined in the same manner as premiums taxable in this state are determined under RCW 48.14.090.*

*(c) "Regulatory surcharge" means the fees imposed by this section.*

*(2) The annual cost of operating the office of insurance commissioner shall be determined by legislative appropriation. A pro rata share of the cost shall be charged to all organizations as a regulatory surcharge. Each class of organization shall contribute a sufficient amount to the insurance commissioner's regulatory account to pay the reasonable costs, including overhead, of regulating that class of organization.*

*(3) The regulatory surcharge shall be calculated separately for each class of organization. The regulatory surcharge collected from each organization shall be that portion of the cost of operating the insurance commissioner's office, 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 shall be one thousand dollars.*



*(4) The commissioner shall annually, on or before June 1st, calculate and bill each organization for the amount of the regulatory surcharge. The regulatory surcharge shall be due and payable no later than June 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 surcharge within the time specified, the commissioner may use the regulatory surcharge factors for the prior year as the basis for the regulatory surcharge 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 June 30th shall pay the same penalties as the penalties for failure to pay taxes when due under RCW 48.14.060. The regulatory surcharge required by this section is in addition to all other taxes and fees now imposed or that may be subsequently imposed.*

*(5) All moneys collected shall be deposited in the insurance commissioner's regulatory account in the state treasury which is hereby created.*

*(6) Unexpended funds in the insurance commissioner's regulatory account at the close of a fiscal year shall be carried forward in the insurance commissioner's regulatory account to the succeeding fiscal year and shall be used to reduce future regulatory surcharges.*

*(7)(a) Each insurer may annually collect regulatory surcharges remitted in preceding years by means of a policyholder surcharge on premiums charged for all kinds of insurance. The recoupment shall be at a uniform rate reasonably calculated to collect the regulatory surcharge 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 surcharge is 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 shall 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 surcharge from its insured. In such a case, the insurer may recoup the regulatory surcharge through its rates, if the following requirements are met:*

*(i) The insurer remits the amount of surcharge not collected by election under this subsection; and*

*(ii) The surcharge is not considered a premium for any purpose, including the premium tax or agents' commission.*

*(8) During the 2009-2011 fiscal biennium, the legislature may transfer from the insurance commissioner's regulatory account to the state general fund such amounts as reflect the excess fund balance in the account.*

*\*Sec. 937 was vetoed. See message at end of chapter.*

**Sec. 938.** RCW 67.40.040 and 2008 c 329 s 917 and 2008 c 328 s 6011 are each reenacted and amended to read as follows:

(1) The proceeds from the sale of the bonds authorized in RCW 67.40.030, proceeds of the taxes imposed under RCW 67.40.090 and 67.40.130, and all other moneys received by the state convention and trade center from any public or private source which are intended to fund the acquisition, design, construction, expansion, exterior cleanup and repair of the Eagles building, conversion of various retail and other space to meeting rooms, purchase of the land and building known as the McKay Parcel, development of low-income housing, or renovation of the center, and those expenditures authorized under RCW 67.40.170 shall be deposited in the state convention and trade center account hereby created in the state treasury and in such subaccounts as are deemed appropriate by the directors of the corporation.

(2) Moneys in the account, including unanticipated revenues under RCW 43.79.270, shall be used exclusively for the following purposes in the following priority:

(a) For reimbursement of the state general fund under RCW 67.40.060;

(b) After appropriation by statute:

(i) For payment of expenses incurred in the issuance and sale of the bonds issued under RCW 67.40.030;

(ii) For expenditures authorized in RCW 67.40.170, and during the ~~((2007-2009))~~ 2009-2011 fiscal biennium, ~~((the legislature may transfer from the state convention and trade center account to the Washington housing trust account such amounts as reflect the excess fund balance in the account; and during the 2007-2009 biennium;))~~ the legislature may transfer from the state convention and trade center account to the general fund such amounts as reflect the excess fund balance in the account;

(iii) For acquisition, design, and construction of the state convention and trade center;

(iv) For debt service for the acquisition, design, and construction and retrofit of the museum of history and industry museum property or other future expansions of the convention center as approved by the legislature; and

(v) For reimbursement of any expenditures from the state general fund in support of the state convention and trade center; and

(c) For transfer to the state convention and trade center operations account.

(3) The corporation shall identify with specificity those facilities of the state convention and trade center that are to be financed with proceeds of general obligation bonds, the interest on which is intended to be excluded from gross income for federal income tax purposes. The corporation shall not permit the extent or manner of private business use of those bond-financed facilities to be inconsistent with treatment of such bonds as governmental bonds under applicable provisions of the Internal Revenue Code of 1986, as amended.

(4) In order to ensure consistent treatment of bonds authorized under RCW 67.40.030 with applicable provisions of the Internal Revenue Code of 1986, as amended, and notwithstanding RCW 43.84.092, investment earnings on bond proceeds deposited in the state convention and trade center account in the state treasury shall be retained in the account, and shall be expended by the corporation for the purposes authorized under chapter 386, Laws of 1995 and in a manner consistent with applicable provisions of the Internal Revenue Code of 1986, as amended.

(5) Subject to the conditions in subsection (6) of this section, starting in fiscal year 2008, and except for the 2009-2011 fiscal biennium in which no transfers shall be made, the state treasurer shall transfer:

(a) The sum of four million dollars, or as much as may be available pursuant to conditions set forth in this section, from the state convention and trade center account to the tourism enterprise account, with the maximum transfer being four million dollars per fiscal year; and

(b) The sum of five hundred thousand dollars, or as much as may be available pursuant to conditions set forth in this section, from the state convention and trade center account to the tourism development and promotion account, with the maximum transfer being five hundred thousand dollars per fiscal year.

(6)(a) Funds required for debt service payments and reserves for bonds issued under RCW 67.40.030; for debt service authorized under RCW 67.40.170; and for the issuance and sale of financial instruments associated with the acquisition, design, construction, and retrofit of the museum of history and industry museum property or for other future expansions of the center, as approved by the legislature, shall be maintained within the state convention and trade center account.

(b) Except for during the 2009-2011 fiscal biennium, during which no reserve shall be retained, no less than six million one hundred fifty thousand dollars per year shall be retained in the state convention and trade center account for funding capital maintenance as required by the center's long-term capital plan, facility enhancements, unanticipated replacements, and operating reserves for the convention center operation. This amount shall be escalated annually as follows:

(i) Four percent for annual inflation for capital maintenance, repairs, and replacement;

(ii) An additional two percent for enhancement to the facility; and

(iii) An additional three percent for growth in expenditure due to aging of the facility and the need to maintain an operating reserve.

(c) Sufficient funds shall be reserved within the state convention and trade center account to fund operating appropriations for the annual operation of the convention center.

***\*Sec. 939. RCW 66.08.170 and 2009 c 564 s 947 are each amended to read as follows:***

***There shall be a fund, known as the "liquor revolving fund", which shall consist of all license fees, permit fees, penalties, forfeitures, and all other moneys, income, or revenue received by the board. The state treasurer shall be custodian of the fund. All moneys received by the board or any employee thereof, except for change funds and an amount of petty cash as fixed by the board within the authority of law shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the liquor revolving fund. During the 2009-2011 fiscal biennium, the legislature may transfer funds from the liquor revolving (~~account~~ fund) fund to the state general fund and may direct an additional amount of liquor profits to be distributed to local governments. Neither the transfer of funds nor the additional distribution of liquor profits to local governments during the 2009-2011 fiscal biennium may reduce the excess fund distributions that***

*otherwise would occur under RCW 66.08.190. Licensee sales are exempt from any increases to the price of liquor made by the board during the 2009-2011 fiscal biennium for the purpose of implementing any transfers to the state general fund or additional distribution of liquor profits. This exemption includes price increases implemented for such purposes during the 2009-2011 fiscal biennium prior to the effective date of this section but applies only to sales made on or after July 1, 2010. Disbursements from the revolving fund shall be on authorization of the board or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control the liquor revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund.*

\*Sec. 939 was vetoed. See message at end of chapter.

**Sec. 940.** RCW 67.70.044 and 2009 c 576 s 1 are each amended to read as follows:

(1) Pursuant to RCW 67.70.040(1)(a), the commission may enter into the multistate agreement establishing a shared game lottery known as "The Big Game," that was entered into by party state lotteries in August 1996 and subsequently amended and a shared game lottery known as "Powerball."

(2) The shared game lottery account is created as a separate account outside the state treasury. The account is managed, maintained, and controlled by the commission and consists of all revenues received from the sale of shared game lottery tickets or shares, and all other moneys credited or transferred to it from any other fund or source under law. The account is allotted according to chapter 43.88 RCW. During the 2009-2011 fiscal biennium, the legislature may transfer from the shared game lottery account to the education legacy trust account such amounts as reflect the excess fund balance of the account.

**Sec. 941.** RCW 67.70.230 and 1985 c 375 s 4 are each amended to read as follows:

There is hereby created and established a separate account, to be known as the state lottery account. Such account shall be managed, maintained, and controlled by the commission and shall consist of all revenues received from the sale of lottery tickets or shares, and all other moneys credited or transferred thereto from any other fund or source pursuant to law. The account shall be a separate account outside the state treasury. No appropriation is required to permit expenditures and payment of obligations from the account. During the 2009-2011 fiscal biennium, the legislature may transfer from the state lottery account to the education legacy trust account such amounts as reflect the excess fund balance of the account.

**Sec. 942.** RCW 70.105D.070 and 2009 c 564 s 951 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered

under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship;

(xii) Development and demonstration of alternative management technologies designed to carry out the hazardous waste management priorities of RCW 70.105.150; ~~(and)~~

(xiii) During the 2009-2011 fiscal biennium, shoreline update technical assistance; ~~and~~

(xiv) During the 2009-2011 fiscal biennium, multijurisdictional permitting teams.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority:

(i) Remedial actions;

(ii) Hazardous waste plans and programs under chapter 70.105 RCW;

(iii) Solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(iv) Funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and

(v) Cleanup and disposal of hazardous substances from abandoned or derelict vessels, defined for the purposes of this section as vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel, that pose a threat to human health or the environment.

(b) Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that is a Puget Sound partner, as defined in RCW 90.71.010, along with any project that is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, shall, except as conditioned by RCW 70.105D.120, receive priority for any available funding for any grant or funding programs or sources that use a competitive bidding process. During the 2007-2009 fiscal biennium, moneys in the account may also be used for grants to local governments to retrofit public sector diesel equipment and for storm water planning and implementation activities.

(c) To expedite cleanups throughout the state, the department shall partner with local communities and liable parties for cleanups. The department is authorized to use the following additional strategies in order to ensure a healthful environment for future generations:

(i) The director may alter grant-matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:

(A) Funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;

(B) Funding would create new substantial economic development, public recreational, or habitat restoration opportunities that would not otherwise occur; or

(C) Funding would create an opportunity for acquisition and redevelopment of vacant, orphaned, or abandoned property under RCW 70.105D.040(5) that would not otherwise occur;

(ii) The use of outside contracts to conduct necessary studies;

(iii) The purchase of remedial action cost-cap insurance, when necessary to expedite multiparty clean-up efforts.

(d) To facilitate and expedite cleanups using funds from the local toxics control account, during the 2009-2011 fiscal biennium the director may establish grant-funded accounts to hold and disperse local toxics control account funds and funds from local governments to be used for remedial actions.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) Except during the 2009-2011 fiscal biennium, one percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. No

grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation, or, after January 1, 2010, for projects designed to address the restoration of Puget Sound, funded in a competitive grant process, that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(7) The department shall adopt rules for grant or loan issuance and performance.

(8) During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the local toxics control account to either the state general fund or the oil spill prevention account, or both such amounts as reflect excess fund balance in the account.

(9) During the 2009-2011 fiscal biennium, the local toxics control account may also be used for a standby rescue tug at Neah Bay, local government shoreline update grants, private and public sector diesel equipment retrofit, and oil spill prevention, preparedness, and response activities.

(10) During the 2009-2011 fiscal biennium, the legislature may transfer from the state toxics control account to the state general fund such amounts as reflect the excess fund balance in the account.

**Sec. 943.** RCW 74.31.030 and 2007 c 356 s 4 are each amended to read as follows:

(1) By July 30, 2007, the department shall designate a staff person who shall be responsible for the following:

(a) Coordinating policies, programs, and services for individuals with traumatic brain injuries; and

(b) Providing staff support to the council created in RCW 74.31.020.

(2) The department shall provide data and information to the council established under RCW 74.31.020 that is requested by the council and is in the possession or control of the department.

(3) By December 1, 2007, the department shall provide a preliminary report to the legislature and the governor, and shall provide a final report by December 1, 2008, containing recommendations for a comprehensive statewide plan to address the needs of individuals with traumatic brain injuries, including the use of public-private partnerships and a public awareness campaign. The comprehensive plan should be created in collaboration with the council and should consider the following:

(a) Building provider capacity and provider training;

(b) Improving the coordination of services;

(c) The feasibility of establishing agreements with private sector agencies to develop services for individuals with traumatic brain injuries; and

(d) Other areas the council deems appropriate.

(4) By December 1, 2007, the department shall:

(a) Provide information and referral services to individuals with traumatic brain injuries until the statewide referral and information network is developed.

The referral services may be funded from the traumatic brain injury account established under RCW 74.31.060; ~~((and))~~

(b) Encourage and facilitate the following:

(i) Collaboration among state agencies that provide services to individuals with traumatic brain injuries;

(ii) Collaboration among organizations and entities that provide services to individuals with traumatic brain injuries; and

(iii) Community participation in program implementation; and

(c) During the 2009-2011 fiscal biennium:

(i) Secure funding to develop housing specifically for traumatic brain injured individuals by leveraging federal and private fund sources;

(ii) Expand support group services with an emphasis on persons returning from active military duty with traumatic brain injury and their families;

(iii) Establish training and outreach to first responders and emergency medical staff for care related to traumatic brain injury; and

(iv) Improve awareness of health insurance coverage options and promote best practices in private health insurance coverage.

(5) By December 1, 2007, and by December 1st each year thereafter, the department shall issue a report to the governor and the legislature containing the following:

(a) A summary of action taken by the department to meet the needs of individuals with traumatic brain injuries; and

(b) Recommendations for improvements in services to address the needs of individuals with traumatic brain injuries.

**Sec. 944.** RCW 74.31.060 and 2007 c 356 s 7 are each amended to read as follows:

The traumatic brain injury account is created in the state treasury. Two dollars of the fee imposed under RCW 46.63.110(7)(c) must be deposited into the account. Moneys in the account may be spent only after appropriation, and may be used only to provide a public awareness campaign and services relating to traumatic brain injury under RCW 74.31.040 and 74.31.050, for information and referral services, and for costs of required department staff who are providing support for the council and information and referral services under RCW 74.31.020 and 74.31.030. During the 2009-2011 fiscal biennium, money in the account may also be spent on long-term care services and the services authorized in RCW 74.31.030(4)(c). The secretary of the department of social and health services has the authority to administer the funds.

**Sec. 945.** RCW 70.93.180 and 2009 c 564 s 950 are each amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the "waste reduction, recycling, and litter control account". Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) Fifty percent to the department of ecology, for use by the departments of ecology, natural resources, revenue, transportation, and corrections, and the parks and recreation commission, for use in litter collection programs, to be distributed under RCW 70.93.220. The amount to the department of ecology shall also be used for a central coordination function for litter control efforts



statewide, for the biennial litter survey under RCW 70.93.200(8), and for statewide public awareness programs under RCW 70.93.200(7). The amount to the department shall also be used to defray the costs of administering the funding, coordination, and oversight of local government programs for waste reduction, litter control, and recycling, so that local governments can apply one hundred percent of their funding to achieving program goals. The amount to the department of revenue shall be used to enforce compliance with the litter tax imposed in chapter 82.19 RCW;

(b) Twenty percent to the department for local government funding programs for waste reduction, litter control, and recycling activities by cities and counties under RCW 70.93.250, to be administered by the department of ecology; and

(c) Thirty percent to the department of ecology for waste reduction and recycling efforts.

(2) All taxes imposed in RCW 82.19.010 and fines and bail forfeitures collected or received pursuant to this chapter shall be deposited in the waste reduction, recycling, and litter control account and used for the programs under subsection (1) of this section.

(3) Not less than five percent and no more than ten percent of the amount appropriated into the waste reduction, recycling, and litter control account every biennium shall be reserved for capital needs, including the purchase of vehicles for transporting crews and for collecting litter and solid waste. Capital funds shall be distributed among state agencies and local governments according to the same criteria provided in RCW 70.93.220 for the remainder of the funds, so that the most effective waste reduction, litter control, and recycling programs receive the most funding. The intent of this subsection is to provide funds for the purchase of equipment that will enable the department to account for the greatest return on investment in terms of reaching a zero litter goal.

(4) During the 2009-2011 fiscal biennium, the legislature may transfer from the waste reduction, recycling, and litter control account to the state general fund such amounts as reflect the excess fund balance of the account. ~~(For purposes of subsection (1) of this section, this transfer shall be treated as an expenditure for litter collection.)~~ Additionally, during the 2009-2011 fiscal biennium, subsection (1)(a), (b), and (c) of this section is suspended.

NEW SECTION. Sec. 946. A new section is added to chapter 43.79 RCW to read as follows:

The legislature recognizes that efforts to restructure state operations to achieve greater efficiency are often impeded by the lack of a financing tool to support the transition and phase-down of state operations. The state efficiency and restructuring account is established in the state treasury to finance efforts to restructure state operations and achieve budget savings. Moneys from the account may be expended only after appropriation. As directed by the legislature, the state treasurer must transfer funds from specified accounts into the state efficiency and restructuring account to support appropriations from that account. The state treasurer must maintain a record of such transfers and must calculate repayment obligations to any accounts providing surplus funds for a term of eight years at an interest rate that is five tenths of a percent higher than the interest rate that the account would have earned without the transfer. The state treasurer must submit a report of all such repayment obligations to the

office of financial management by September 1st of each year. The governor's budget request under RCW 43.88.060 must include sufficient funds to meet the biennial repayment obligation.

**Sec. 947.** RCW 70.105D.130 and 2008 c 106 s 1 are each amended to read as follows:

(1) The cleanup settlement account is created in the state treasury. The account is not intended to replace the state toxics control account established under RCW 70.105D.070. All receipts from the sources identified in subsection (2) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as identified in subsection (4) of this section.

(2) The following receipts must be deposited into the cleanup settlement account:

(a) Receipts from settlements or court orders that direct payment to the account and resolve a person's liability or potential liability under this chapter for either or both of the following:

(i) Conducting future remedial action at a specific facility, if it is not feasible to require the person to conduct the remedial action based on the person's financial insolvency, limited ability to pay, or insignificant contribution under RCW 70.105D.040(4)(a);

(ii) Assessing or addressing the injury to natural resources caused by the release of a hazardous substance from a specific facility; and

(b) Receipts from investment of the moneys in the account.

(3) If a settlement or court order does not direct payment of receipts described in subsection (2)(a) of this section into the cleanup settlement account, then the receipts from any payment to the state must be deposited into the state toxics control account.

(4) Expenditures from the cleanup settlement account may only be used to conduct remedial actions at the specific facility or to assess or address the injury to natural resources caused by the release of hazardous substances from that facility for which the moneys were deposited in the account. Conducting remedial actions or assessing or addressing injury to natural resources includes direct expenditures and indirect expenditures such as department oversight costs. During the 2009-2011 fiscal biennium, the legislature may transfer excess fund balances in the account into the state efficiency and restructuring account. Transfers of excess fund balances made under this section shall be made only to the extent amounts transferred with required repayments do not impair the ten-year spending plan administered by the department of ecology for environmental remedial actions dedicated for any designated clean-up site associated with the Everett smelter and Tacoma smelter, including plumes, or former Asarco mine sites. The cleanup settlement account must be repaid with interest under provisions of the state efficiency and restructuring account.

(5) The department shall track moneys received, interest earned, and moneys expended separately for each facility.

(6) After the department determines that all remedial actions at a specific facility, and all actions assessing or addressing injury to natural resources caused by the release of hazardous substances from that facility, are completed, including payment of all related costs, any moneys remaining for the specific

facility must be transferred to the state toxics control account established under RCW 70.105D.070.

(7) The department shall provide the office of financial management and the fiscal committees of the legislature with a report by October 31st of each year regarding the activity within the cleanup settlement account during the previous fiscal year.

**Sec. 948.** RCW 70.146.100 and 2007 c 233 s 1 are each amended to read as follows:

(1) The water quality capital account is created in the state treasury. Moneys in the water quality capital account may be spent only after appropriation.

(2) Expenditures from the water quality capital account may only be used: (a) To make grants or loans to public bodies, including grants to public bodies as cost-sharing moneys in any case where federal, local, or other moneys are made available on a cost-sharing basis, for the capital component of water pollution control facilities and activities; (b) for purposes of assisting a public body to obtain an ownership interest in water pollution control facilities; or (c) to defray any part of the capital component of the payments made by a public body to a service provider under a service agreement entered into under RCW 70.150.060. During the 2009-2011 fiscal biennium, the legislature may transfer from the water quality capital account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 949.** RCW 79.105.150 and 2009 c 564 s 959 are each amended to read as follows:

(1) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to the lands; and for volunteer cooperative fish and game projects. During the 2009-2011 fiscal biennium, the aquatic lands enhancement account may also be used for scientific research as part of the adaptive management process. During the 2009-11 fiscal biennium, the legislature may transfer from the aquatic lands enhancement account to the state general fund such amounts as reflect excess fund balance of the account.

(2) In providing grants for aquatic lands enhancement projects, the recreation and conservation funding board shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications;

(b) Utilize the statement of environmental benefits, consideration, except as provided in RCW 79.105.610, of whether the applicant is a Puget Sound partner, as defined in RCW 90.71.010, whether a project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, and except as otherwise provided in RCW 79.105.630, and effective one calendar year following the development and statewide availability of model evergreen

community management plans and ordinances under RCW 35.105.050, whether the applicant is an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030 in its prioritization and selection process; and

(c) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants.

(3) To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270.

(4) The department shall consult with affected interest groups in implementing this section.

(5) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

**Sec. 950.** RCW 80.01.080 and 2006 c 3 s 2 are each amended to read as follows:

There is created in the state treasury a public service revolving fund. Regulatory fees payable by all types of public service companies shall be deposited to the credit of the public service revolving fund. Except for expenses payable out of the pipeline safety account, all expense of operation of the Washington utilities and transportation commission shall be payable out of the public service revolving fund.

During the ~~((2003-2005))~~ 2009-2011 fiscal biennium, the legislature may transfer from the public service revolving fund to the state general fund such amounts as reflect the excess fund balance of the fund.

~~((Due to the extraordinarily high winter energy costs, during the 2005-2007 fiscal biennium, no more than seven million six hundred thousand dollars, as appropriated in section 1, chapter 3, Laws of 2006, shall be payable out of the public service revolving fund to provide energy assistance to customers in accordance with the low income energy assistance program.))~~

**Sec. 951.** RCW 80.36.430 and 2009 c 564 s 960 are each amended to read as follows:

(1) The Washington telephone assistance program shall be funded by a telephone assistance excise tax on all switched access lines and by funds from any federal government or other programs for this purpose. Switched access lines are defined in RCW 82.14B.020. The telephone assistance excise tax shall be applied equally to all residential and business access lines not to exceed fourteen cents per month. The department shall submit an approved annual budget for the Washington telephone assistance program to the department of revenue no later than March 1st prior to the beginning of each fiscal year. The department of revenue shall then determine the amount of telephone assistance excise tax to be placed on each switched access line and shall inform local exchange companies and the utilities and transportation commission of this amount no later than May 1st. The department of revenue shall determine the amount of telephone assistance excise tax by dividing the total of the program budget funded by the telephone assistance excise tax, as submitted by the department, by the total number of switched access lines in the prior calendar

year. The telephone assistance excise tax shall be separately identified on each ratepayer's bill as the "Washington telephone assistance program." All money collected from the telephone assistance excise tax shall be transferred to a telephone assistance fund administered by the department.

(2) Local exchange companies shall bill the fund for their expenses incurred in offering the telephone assistance program, including administrative and program expenses. The department shall disburse the money to the local exchange companies. The department is exempted from having to conclude a contract with local exchange companies in order to effect this reimbursement. The department shall recover its administrative costs from the fund. The department may specify by rule the range and extent of administrative and program expenses that will be reimbursed to local exchange companies.

(3) The department shall enter into an agreement with the department of ~~((community, trade, and economic development))~~ commerce for an amount not to exceed eight percent of the prior fiscal year's total revenue for the administrative and program expenses of providing community service voice mail services. The community service voice mail service may include toll-free lines in community action agencies through which recipients can access their community service voice mailboxes at no charge.

(4) During the 2009-2011 biennium, the department shall enter into an agreement with the ~~((military department))~~ WIN 211 organization for ~~((one million dollars to))~~ operational support ~~((the WIN 211 program))~~.

**Sec. 952.** RCW 82.14.495 and 2009 c 4 s 907 are each amended to read as follows:

(1) The streamlined sales and use tax mitigation account is created in the state treasury. The state treasurer shall transfer into the account from the general fund amounts as directed in RCW 82.14.500. Expenditures from the account may be used only for the purpose of mitigating the negative fiscal impacts to local taxing jurisdictions as a result of RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020. During the ~~((2007-2009))~~ 2009-2011 fiscal biennium, the legislature may transfer from the streamlined sales and use tax mitigation account to the state general fund such amounts as reflect the excess fund balance of the account.

(2) Beginning July 1, 2008, the state treasurer, as directed by the department, shall distribute the funds in the streamlined sales and use tax mitigation account to local taxing jurisdictions in accordance with RCW 82.14.500.

(3) The definitions in this subsection apply throughout this section and RCW 82.14.390 and 82.14.500.

(a) "Agreement" means the same as in RCW 82.32.020.

(b) "Local taxing jurisdiction" means counties, cities, transportation authorities under RCW 82.14.045, public facilities districts under chapters 36.100 and 35.57 RCW, public transportation benefit areas under RCW 82.14.440, and regional transit authorities under chapter 81.112 RCW, that impose a sales and use tax.

(c) "Loss" or "losses" means the local sales and use tax revenue reduction to a local taxing jurisdiction resulting from the sourcing provisions in RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020.

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(d) "Net loss" or "net losses" means a loss offset by any voluntary compliance revenue.

(e) "Voluntary compliance revenue" means the local sales tax revenue gain to each local taxing jurisdiction reported to the department from persons registering through the central registration system authorized under the agreement.

(f) "Working day" has the same meaning as in RCW 82.45.180.

**Sec. 953.** RCW 83.100.230 and 2008 c 329 s 924 are each amended to read as follows:

The education legacy trust 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 deposit into the student achievement fund and for expanding access to higher education through funding for new enrollments and financial aid, and other educational improvement efforts. During the ~~((2007-2009))~~ 2009-2011 fiscal biennium, moneys in the account may also be transferred into the state general fund.

NEW SECTION. **Sec. 954.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**JOINT LEGISLATIVE SELECT COMMITTEE ON HEALTH REFORM IMPLEMENTATION.**

The joint legislative select committee on health reform implementation is established. The joint legislative select committee on health reform implementation shall be co-chaired by the chairs of the health committees of the senate and the house of representatives, and leadership of the two largest caucuses in the senate and the house of representatives shall each appoint two additional legislators to serve on the committee. The co-chairs may direct the formation of advisory committees, if desired, to focus on specific topic areas, such as insurance regulation, access and expansion of public and private programs, and workforce issues, and may invite interested stakeholders and additional experts to advise the committee. All participation in the joint select committee and any advisory committees is without compensation.

This section expires June 30, 2011.

NEW SECTION. **Sec. 955.** 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. 956.** Section 910 of this act expires June 30, 2011.

NEW SECTION. **Sec. 957.** Section 935 of this act expires June 30, 2011.

NEW SECTION. **Sec. 958.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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Passed by the Senate April 12, 2010.

Passed by the House April 12, 2010.

Approved by the Governor May 4, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 5, 2010.

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

"I am returning, without my approval as to Sections 109; 117, page 17, lines 10-11; 127(27); 127(28); 127(31); 127(36); 127(38); 127(39); 129, page 35, lines 19-20; 129(3); 129(6); 131(2); 201(7); 204(3)(f); 205(1)(m); 205(1)(n); 205(1)(o); 205(1)(p); 205(1)(r); 205(1)(s); 206(20); 206(21); 207(2); 207(11); 209(14); 209(35); 209(38); 209(39); 209(40); 209(41); 209(42); 209(47); 212(6); 212(7); 214(7); 214(8); 221(21); 221(28); 223(2)(h); 303(3); 303(4); 304(4); 306(2); 308(15); 501(1)(b); 501(1)(f)(iv); 604(7); 605(5); 708; 717; 803, page 281, line 38, and page 282, lines 1-11; 803, page 283, lines 20-22; 803, page 283, lines 23-27; 803, page 285, lines 28-31; 902; 908; 920; 926; 937; and 939, Engrossed Substitute Senate Bill 6444 entitled:

"AN ACT Relating to fiscal matters."

I am vetoing the following appropriation items because of concerns with policy or technical issues relating to the legislative provisions:

**Section 109, page 10, Supreme Court, Change to Fiscal Year 2011 General Fund-State Appropriation**

The reduced appropriation to the Supreme Court in this section will impede the Court's capacity to hear cases in a timely manner. The Court will work with the Legislature to implement budget reductions in the 2011 Supplemental Budget; therefore, I have vetoed Section 109.

**Section 117, page 17, lines 10-11, Lieutenant Governor, Reduction to Private/Local Appropriation**

The \$2,000 reduction in the existing private/local fund appropriation would require the agency to turn away grant funds from a local school district. For this reason, I have vetoed Section 117, lines 10-11.

**Section 127(27), page 30, Department of Commerce, Microenterprise Development Organizations**

This proviso prohibits the Department of Commerce from reducing the funding for microenterprise development organizations by more than ten percent this biennium. This restriction limits the agency's ability to manage necessary budget reductions. For this reason, I have vetoed Section 127(27).

**Section 127(28), pages 30-31, Department of Commerce, Workgroup to Study Gaps in State Commercialization Programs**

This proviso requires the Department of Commerce to convene a work group to study the gaps and overlaps in programs that commercialize research and technology initiatives. This group must prepare a report to the Legislature no later than December 1, 2010, that identifies any gaps and overlaps, evaluates strategies to reduce administrative expenses, and recommends changes that would amplify and accelerate innovation-driver job creation in the state. No funding was provided for the review and study. For this reason, I have vetoed Section 127(28). However, I am directing the Department of Commerce to conduct as much of a review as is possible within its existing resources because I believe the information required by the proviso will be useful.

**Section 127(31), pages 31-32, Department of Commerce, Separate Budget Request for the Economic Development Commission**

This proviso requires the Economic Development Commission, currently funded through the Department of Commerce, to develop a separate budget request and work plan. It also creates an account for the receipt of gifts, donations, sponsorships, or contributions from which only the Commission or its designee may authorize expenditures. Because the Economic Development Commission is part of the Department of Commerce, its budget and work plan is and should remain part of the Department's budget requests. In addition, it is inappropriate to establish an account in an appropriations bill. For these reasons, I have vetoed Section 127(31).

**Section 127(36), page 34, Department of Commerce, New Account for Washington Technology Center**

This proviso creates the Investing in Innovation Account to be used only by the Washington Technology Center in carrying out the Investing in Innovation Grants Program and other innovation and commercialization activities. Since the Center is a non-profit organization, not a public agency, it cannot administer a state account. In addition, it is inappropriate to establish an account in an appropriations bill. For these reasons, I have vetoed Section 127(36).

**Section 127(38), page 34, Department of Commerce, Washington State Quality Award Training for Small Manufacturers and Other Businesses**

This subsection provides \$50,000 in General Fund-State funding for Washington State Quality Award Council training for small manufacturers and other businesses/organizations engaged in continuous quality improvement, performance measurement, strategic planning, and other approaches that enhance productivity. The state's current and projected fiscal environment necessitates spending on only the most essential state programs and activities, and spending \$50,000 on this activity will provide minimal benefit to Washington's small businesses. For this reason, I have vetoed Section 127(38).

**Section 127(39), page 34, Department of Commerce, Appropriation to Manufacturing Innovation and Modernization Account**

This subsection provides \$50,000 in General Fund-State funding for deposit into the Manufacturing Innovation and Modernization Account, which provides vouchers to small manufacturers to purchase consulting services from a qualified manufacturing extension partner affiliate. To date, no small manufacturers have taken advantage of this program, and approximately \$150,000 remains in the account. Given the state's current and projected fiscal environment and the lack of demand for these services, an additional deposit of funds into this account does not seem warranted. For this reason, I have vetoed Section 127(39).

**Section 129, page 35, lines 19-20, Office of Financial Management, Change to Fiscal Year 2011 General Fund-State Appropriation**

The reduction to the Fiscal Year 2011 appropriation is vetoed in order to retain sufficient funds to conduct two critical budget-related studies: an independent assessment of placements in residential habilitation centers in Section 129(6) and an analysis and strategic business plan for the Consolidated State Data Center and Office in Section 129(7). Insufficient funds were provided to prepare a valuable study, and no new funds were provided for the Data Center study. The agency will still implement all administrative reductions assumed in the budget as passed, and the additional spending authority will be used to accomplish the new work assigned to the agency. For these reasons, I have vetoed Section 129, lines 19-20.

**Section 129(3), pages 36-37, Office of Financial Management, Washington State Quality Award Training**

This subsection provides \$25,000 in General Fund-State funding for the Office of Financial Management to contract with the Washington State Quality Award Program to provide training for state managers and employees. The state's current and projected fiscal environment necessitates spending on only the most essential requirements. For this reason, I have vetoed Section 129(3).

**Section 129(6), page 38, Office of Financial Management**

The \$200,000 appropriation for this study is divided between two fiscal years so the Office of Financial Management will not be able to use half of the money, making it impossible to satisfactorily complete the review as envisioned. Therefore, I am vetoing section 129(6). In order to assess the status of people who currently live in residential habilitation centers, I am directing the Department of Social and Health Services to conduct assessments in a similar manner as is done for people in community residential programs. The assessments shall include interviews with all residential habilitation center residents or guardians of residents to determine the optimum setting for these individuals and shall include the option and choice to remain in a residential habilitation center. The Office of Financial Management shall contract with an independent consultant to review the assessments and determine whether there are funded options available in the community for residential habilitation center residents who indicate an interest in moving to a community placement and whether appropriate services and resources in the community exist or can be developed to provide adequate care for people with developmental disabilities. The consultant shall provide a report to me and the Legislature by December 1, 2010. For these reasons, I have vetoed Section 129(6).

**Section 131(2), page 40, Department of Personnel, Employee Satisfaction Synopsis and Workforce Management Assessment**

This proviso requires the Department of Personnel to provide a synopsis of survey data regarding state employee satisfaction and an assessment of career and executive work force management concerns. There is a technical problem with an incorrect reference to Section 119(4) instead of Section 123(4). For this reason, I am vetoing Section 131(2), but directing the Department to comply with the intent of the proviso to the degree possible within existing resources.

**Section 201(7), pages 58-59, Department of Social and Health Services, Audit and Oversight Improvement**

This proviso requires multiple changes to the Department's audit and oversight programs. This requirement would create a significant administrative burden, and no funding was provided for this purpose. For this reason, I have vetoed Section 201(7).

**Section 204(3)(f), pages 81-82, Department of Social and Health Services, Report on Mental Health Services for Children**

The Department of Social and Health Services is directed to provide a report on improving services for children who are at greatest risk of requiring long-term inpatient and residential care due to the severity of their emotional impairments. The proviso requires the Family Policy Council to prepare an inventory of current publicly funded efforts in Washington to identify children at risk of emotional impairments and to provide intervention before a mental disorder manifests itself. In light of national health care reform and the state's efforts to reorganize in response, requiring that a report be prepared by October 1, 2010, will not give the Department sufficient time to respond to health care reform, formulate a redesigned plan to address children's mental health, and work with the federal government. As the Department is currently involved in litigation regarding children's mental health, and because I believe that all aspects of the public children's mental health system need to be evaluated in light of national health care reform and because a deadline of October 1 does not provide sufficient time to respond, I have vetoed Section 204(3)(f).

**Section 205(1)(m), page 88, Department of Social and Health Services, County Employment Funding**

This proviso prohibits the Department of Social and Health Services from reducing expenditures for contracts with counties for employment assistance for people with developmental disabilities. This restriction limits the Department's ability to manage necessary budget reductions. Therefore, I have vetoed Section 205(1)(m).

**Section 205(1)(n), page 88, Department of Social and Health Services Developmental Disabilities Program, Agency Provider Savings and Hourly Rates**

The Department of Social and Health Services is directed to report on the fiscal impact of Chapter 571, Laws of 2009 (Substitute House Bill 2361) and the relative hourly costs of agency providers and individual providers. However, no funding is provided for this purpose. Therefore, I have vetoed Section 205(1)(n).

**Section 205(1)(o), pages 88-89, Department of Social and Health Services Developmental Disabilities Program, Workgroup on Administrative Burdens for the Homecare Industry**

The Department of Social and Health Services is directed to convene a new work group to address administrative burdens on the homecare industry and to report on its findings. However, no funding is provided. Therefore, I have vetoed Section 205(1)(o).

**Section 205(1)(p), page 89, Department of Social and Health Services, Report on Placements for Residential Clients**

This proviso requires a quarterly report on all placements for residential clients in the community protection and expanded community programs in the Division of Developmental Disabilities. Because of the cost involved, I have vetoed Section 205(1)(p) and am directing the Department of Social and Health Services to continue providing the quarterly reports, which cover only new residential clients added to the programs in the current biennium.

**Section 205(1)(r), page 89, Department of Social and Health Services, Self-Advocate Support**

This proviso directs the Department of Social and Health Services to spend an additional \$100,000 to provide instruction in self-advocacy to families of individuals with developmental disabilities. In these difficult economic times, it is not prudent to expand services. For this reason, I have vetoed Section 205(1)(r).

**Section 205(1)(s), pages 89-90, Department of Social and Health Services, Community Support**

The Department of Social and Health Services is directed to spend an additional \$100,000 for parent-to-parent networks and community support groups for people with developmental disabilities. In a time when we are reducing other valuable core services of state government, we cannot afford to expand these services. For this reason, I have vetoed Section 205(1)(s).

**Section 206(20), page 97, Department of Social and Health Services Aging and Adult Services Program, Agency Provider Savings and Hourly Rates**

The Department of Social and Health Services is directed to report on the fiscal impact of Chapter 571, Laws of 2009 (Substitute House Bill 2361) and the relative hourly costs of agency providers and individual providers. However, no funding is provided. Therefore, I have vetoed Section 206(20).

**Section 206(21), pages 97-98, Department of Social and Health Services Aging and Adult Services Program, Workgroup on Administrative Burdens for the Homecare Industry**

The Department of Social and Health Services is directed to convene a new work group to address administrative burdens for the homecare industry and to report on its findings. However, no funding is provided. Therefore, I have vetoed Section 206(21).

**Section 207(2), pages 101-102, Department of Social and Health Services, Subcabinet Report on WorkFirst**

This proviso directs the WorkFirst Subcabinet and Department of Social and Health Services to report on services provided and accessed by both general population clients and limited English proficiency clients. No funding is provided for this report. Therefore, I have vetoed Section 207(2).

**Section 207(11), page 106, Department of Social and Health Services, Limited English Proficiency Services**

This proviso reinstates a portion of the reduction taken in the 2009-11 enacted budget for limited English proficiency services. Given the budget context, it is not appropriate to restore this reduction. Therefore, I have vetoed Section 207(11).

**Section 209(14), page 112-113, Department of Social and Health Services, Disability Lifeline Report on Transition from Fee-for-Service to Managed Care**

This revised proviso requires the Department of Social and Health Services to report to the Legislature by November 1, 2010, on the impact of moving Lifeline medical clients from fee-for-service to managed care, and expands the outcomes to be included in the evaluation currently required. Since there is a lengthy lag period between when services are received by a client and

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when they are paid for by the state, there will not be sufficient data to report. For this reason, I have vetoed Section 209(14).

**Section 209(35), page 117, Department of Social and Health Services, Medication Therapy Management**

This proviso requires the Department of Social and Health Services to enter into a contract for medication therapy management services only if the contractor guarantees the program will generate savings. While there may be merit in this concept, no additional administrative resources were provided for implementation. For this reason, I have vetoed Section 209(35).

**Section 209(38), page 117, Department of Social and Health Services, Lowest Cost Prescription Drug Option**

This proviso requires the Department of Social and Health Services to purchase a brand-name drug if the drug, after rebates and discounts, is the lowest-cost drug option. The Department has made good progress in reducing the growth in drug costs for state-purchased health care. This has been done through establishing a preferred drug list and emphasizing generic substitutes when appropriate. The Department will continue to purchase the lowest-cost drugs possible. However, there are challenges with implementing this requirement as written. In addition, no funding has been provided for this report. For these reasons, I have vetoed Section 209(38).

**Section 209(39), page 117, Department of Social and Health Services, Report on New Prescription Drug Benchmark**

The Department of Social and Health Services is required to report to the Legislature concerning the establishment of a new benchmark for prescription drugs to replace the Average Wholesale Price. No funding has been provided for this report. For this reason, I have vetoed Section 209(39).

**Section 209(40), page 117, Department of Social and Health Services, School-based Medicaid Services**

The proviso declares that sufficient funding is provided in the Appropriations Act to fund medical services provided to Medicaid clients in a school setting. This proviso restricts the agency's ability to limit services in this area should the budget situation demand it. For this reason, I have vetoed Section 209(40).

**Section 209(41), page 118, Department of Social and Health Services, Pursuing and Reporting Drug Pricing Opportunities**

The Department of Social and Health Services is required to report on the opportunities available to the state through the federal 340B drug pricing program. This program provides certain federally supported program discounts on prescription drugs used for outpatient services. No funding was provided for this report. For this reason, I have vetoed Section 209(41).

**Section 209(42), page 118, Department of Social and Health Services, Transition Plan to Move Fee-for-Service to Managed Care**

The Department of Social and Health Services is required to develop a transition plan for the state's aged, blind, and disabled clients to move from a fee-for-service medical delivery system to a managed care delivery system. Since no funding was provided for this transition plan, I have vetoed Section 209(42). However, I am directing the Secretary of the Department of Social and Health Services and Administrator of the Health Care Authority to continue to assess the feasibility and cost effectiveness of moving from fee-for-service to managed care plans.

**Section 209(47), pages 118-119, Department of Social and Health Services, Establishing Rates to Apple Health Managed Care**

This proviso establishes the method by which premiums for the Apple Health Program will be established for rates set after July 1, 2010. As we move to implement national health care reform, it will be imperative that we retain as much flexibility as possible to control the cost of purchasing health care. As written, the proviso limits the Department of Social and Health Service's ability to adjust premiums to reflect the actual cost of providing health care within individual plans. For this reason, I have vetoed Section 209(47).

**Section 212(6), page 121, Department of Social and Health Services, Governor's Juvenile Justice Advisory Committee**

This proviso limits any budget cuts to the Governor's Juvenile Justice Advisory Committee. In this budget environment, state government should not be restricted from any possible avenues to reduce spending. Therefore, I have vetoed Section 212(6).

**Section 212(7), pages 121-122, Department of Social and Health Services, Autism Health Coverage Study**

The Department of Social and Health Services is directed to report, in collaboration with the Health Care Authority, on the fiscal impact of state-purchased health care to cover autism spectrum disorder diagnosis and treatment for individuals younger than 21 years. This is not the time to engage in new studies to assess the expansion of state-paid services, no matter how worthy. Therefore, I have vetoed Section 212(7).

**Section 214(7), pages 124-125, Health Care Authority, Continuum of Care Pilot Project**

This proviso directs the Health Care Authority to establish two pilot projects for low-income adults who are waiting for health care coverage from the Basic Health Plan. We are in the earliest stages of implementing national health care reform. At the same time, we struggle to maintain the state safety net in very difficult budget times. I need the Health Care Authority to focus on these two tasks. For this reason, I have vetoed Section 214(7).

**Section 214(8), page 125, Health Care Authority, Nonsubsidized Basic Health Plan**

The proviso directs the Health Care Authority, should it offer Basic Health Plan coverage to non-subsidized clients, to provide information concerning other health care coverage options. This requirement creates an unfunded administrative burden. It also duplicates the provision of such information currently available from the Office of the Insurance Commissioner. For this reason, I have vetoed Section 214(8).

**Section 221(21), page 140, Department of Health, Funding for Nursing Commission Programs Related to Discipline, Impaired Practitioners and Expedited Credentials**

This proviso, in combination with Section 926, reduces the library access surcharge applied to certification fees for nursing professionals. The surcharge, which all health professions pay, is used to provide access to health care literature through the University of Washington. This critical resource allows providers the opportunity to learn of best practices used in their professions and furthers the ongoing education of all health care professionals. While I support the purposes for which this funding would have been diverted, this funding source should continue to be dedicated to advancing the use of evidence-based health care practices in Washington. For this reason, I have vetoed Section 221(21).

**Section 221(28), page 141, Department of Health, Tobacco Cessation Program Reductions**

This proviso requires ten percent of every tobacco cessation program contract be directed for addressing minority populations. This proviso is unnecessary because the Tobacco Cessation Program in the aggregate spends eighteen percent of its resources to serve these target populations. Therefore, I have vetoed Section 221(28).

**Section 223(2)(h), pages 144-145, Department of Corrections, Report on Earned Release Date**

This proviso directs the Department of Corrections to submit a report by June 1, 2010, addressing issues related to the release of offenders on the earned release date. This task cannot be completed in the short timeframe specified in the proviso. Therefore, I have vetoed Section 223(2)(h) and am directing the Department to submit its report to the Office of Financial Management and legislative fiscal committees by August 1, 2010. The Department will use this report to identify strategies to reduce the recent increase in the number of offenders held beyond their earned release dates, while maintaining public safety as a priority.

**Section 303(3), pages 160-161, State Parks and Recreation Commission, Park Closure Language**

Current budget language is revised to eliminate the provision that state parks may be closed if donation revenue is insufficient for ongoing operations. While this change does not appear to create an absolute prohibition on the closure of state parks, the revised language may create that impression. This would severely limit the agency's ability to manage state parks in the event that revenues drop below appropriated levels. For this reason, I have vetoed Section 303(3).

**Section 303(4), page 161, State Parks and Recreation Commission, Restriction on Closure of Tolmie State Park**

This proviso prohibits the State Parks and Recreation Commission from closing Tolmie State Park. I have encouraged the Commission to continue pursuing the transfer of certain state parks in the event that revenues decrease to manage the statewide parks system within budget. The Commission needs to retain this flexibility. For these reasons, I have vetoed Section 303(4).

**Section 304(4), page 162, Recreation and Conservation Funding Board, Extension of the Biodiversity Council**

This proviso extends the Biodiversity Council for one year, through the end of Fiscal Year 2011. While I strongly support the work of the Biodiversity Council, I am asking the Natural Resources Cabinet to absorb the Council's oversight role. As we undergo the process of natural resources reform, the Natural Resources Cabinet will assume many leadership roles previously performed by other entities. For these reasons, I have vetoed Section 304(4).

**Section 306(2), page 163, State Conservation Commission, Infrastructure Improvements Related to Wildlife Habitat**

This proviso dedicates \$38,000 of the General Fund-State for improving infrastructure on state-owned lands in Kittitas County. While habitat improvements are an important step in managing the balance between wildlife conservation and grazing rights, funding for this endeavor can be pursued via other means, including State Conservation Commission grants, local conservation district funding, and private sources. The state's current and projected fiscal environment necessitates spending on essential services and programs. For these reasons, I have vetoed Section 306(2).

**Section 308(15), page 173, Department of Natural Resources, Excluding Shellfish Growers from the Department's Aquatic Habitat Conservation Plan**

This proviso requires the Department of Natural Resources to exclude shellfish growers from its aquatic Habitat Conservation Plan if those growers have been issued a federal nationwide or individual permit. The Department and the shellfish industry have signed a Memorandum of Understanding which requires the Department and shellfish growers to finalize an agreement on shellfish aquaculture activities before the aquatic Habitat Conservation Plan is finalized. Because this is a collaborative effort, it would be inappropriate for the proviso to place restrictions on the unfinished product. For this reason, I have vetoed Section 308(15).

**Section 501(1)(b), pages 182-183, Office of the Superintendent of Public Instruction, School District Reorganization Commission**

This proviso creates a statewide commission on school district reorganization. I want school districts to focus their maximum attention on the immediate priorities of improving student learning and successfully implementing the next phase of education reforms. The charge to the Commission created in this proviso is very broad, and funding provided to the Office of the Superintendent of Public Instruction is insufficient to achieve the mandates of the proviso. For these reasons, I have vetoed Section 501(1)(b). The Joint Legislative Audit and Review Committee is conducting a study of the relationship between the cost of school districts and their enrollment size. Upon completion of its report, I encourage the Legislature and the Office of the Superintendent to explore opportunities for a focused review of school district organization.

**Section 501(1)(f)(iv), page 185, Office of the Superintendent of Public Instruction, Exempting the Professional Educator Standards Board from Expenditure Restrictions**

This section exempts the Professional Educator Standards Board from the restrictions on travel allowances and meeting costs that apply to other boards and commissions under Chapter 7, Laws of 2010, First Extraordinary Session (Engrossed Second Substitute House Bill 2617). This law allows agencies to seek exceptions to the travel and meeting restrictions for critically necessary work. To maintain consistency in the application of these restrictions among state boards and commissions, I have vetoed Section 501(1)(f)(iv).

**Section 604(7), pages 243-244, University of Washington, Telecommunications Report**

This subsection provides \$183,000 to the Technology Law and Public Policy Center at the University of Washington School of Law to prepare a report analyzing trends in the telecommunications industry and pathways for telecommunications reform. This work overlaps with the functions of the state Utilities and Transportation Commission. This expenditure does not meet the highest priorities of state government at this time. Therefore I have vetoed Section 604(7).

**Section 605(5), page 246, Washington State University, Business and Entrepreneurial Development Program Plan**

This subsection provides \$100,000 to the Small Business Development Center at Washington State University to develop a state plan for coordination of small business and entrepreneurial development programs. Expenditure of funds on this effort does not meet the highest priorities of state government at this time. Therefore I have vetoed Section 605(5).



**Section 708, pages 270-271, Washington Management Service and Exempt Management Services Reductions**

This section ties to Section 2 of Engrossed Senate Bill 6503, which I have vetoed. The budget proviso assumes additional compensation reductions of \$10 million in General Fund-State funding from Washington Management Service and exempt managers, who comprise less than five percent of state employees. This cut would require that specified staff take nearly two weeks of temporary layoff time beyond the ten days included in ESB 6503. This inequity is likely to create problems in recruiting and retaining qualified and experienced workers, as well as be disruptive to normal state operations. Managers will be subject to temporary layoffs in the same proportion as all affected state employees. For these reasons, I have vetoed Section 708.

**Section 717, pages 276-278, Agency Reallocation and Realignment of Washington Commission**

Section 717 creates the Agency Reallocation and Realignment of Washington Commission. Its responsibilities would include examining current state operations and organization, and making proposals to reduce expenditures and to eliminate duplication and overlapping services. The sum of \$250,000 in General Fund-State dollars is provided for this purpose. While I strongly support these goals, there are programs that address the same concerns, most notably the Joint Legislative Audit and Review Committee, the Office of the State Auditor's performance audit program, the Governor's Government Management, Accountability, and Performance program, and the Office of Financial Management's Priorities of Government budget development process. I hope to have further discussions with legislative leadership to identify ways to address these issues within existing structures and resources. For these reasons, I have vetoed Section 717.

**Section 803, page 281, line 38, and page 282, lines 1-11, Transfers from the Tobacco Settlement Account to the General Fund and the Life Sciences Discovery Fund**

This transfer decreases funding for critical life sciences research by \$16.2 million, representing a 76 percent biennial reduction when coupled with the \$26 million reduction to the fund in the enacted 2009-11 biennial budget. In order to implement this level of reduction, the Life Sciences Discovery Authority would have to discontinue any future state grants for critical life sciences research. Funding at the current level is vital to accomplishing the state's Life Sciences Research and Development goal of tripling the state's life sciences research base and creating more than 20,000 new jobs. For this reason, I have vetoed Section 803, page 281, line 38, and page 282, lines 1 through 11.

**Section 803, page 283, lines 20-22, Transfer from the Budget Stabilization Account to the General Fund**

The transfers required by this budget appropriation were intended to take place if the Budget Stabilization Account transfers in House Bill 3197 did not occur. Since that measure passed and has been signed into law, the transfer is void. For this reason, I have vetoed Section 803, page 283, lines 20-22.

**Section 803, page 283, lines 23-27, Transfer from the Liquor Revolving Account to the General Fund**

This transfer is associated with a provision in Section 939 that allows restaurants and bars an exemption from paying a price increase on spirits. Since I have vetoed Section 939, I am also vetoing Section 803, page 283, lines 23-27.

**Section 803, page 285, lines 28-31, Transfer from the Insurance Regulatory Account to the General Fund**

This appropriation implements the transfer of \$10 million from the Insurance Commissioner's Regulatory Account to the General Fund-State authorized in Section 937. This transfer would place the Insurance Commissioner's Regulatory Account into a cash deficit position beginning in Fiscal Year 2011. For this reason, I have vetoed Section 803, page 285, lines 28-31.

**Section 902, pages 289-290, Agency Staffing Report**

The agency staffing report required by Section 902 adds another layer of complexity to the data already required to be reported through allotment and accounting systems. The addition of monthly job class information adds immensely to agency workloads with seemingly minimal benefit. I am directing the Office of Financial Management to work with legislative fiscal staff to identify alternative reporting formats that can be useful without creating an unacceptable workload burden. For these reasons, I have vetoed Section 902.

**Section 908, page 294, Electronic Renewal Notices**

This proviso mandates that every state agency make all of its renewals electronic by July 1, 2012. While I support the customer convenience and potential cost savings from doing business by electronic means, we must first assess the question of whether agencies have the staffing and fiscal resources to accomplish this task. I will encourage all agencies to pursue electronic renewal options within their current budgets and to identify obstacles for possible consideration in the new biennial budget. For these reasons, I have vetoed Section 908.

**Section 920, pages 301-302, Washington State Quality Awards**

Section 920 accelerates the date by which agencies must apply to the Washington State Quality Awards program. It also limits that requirement for agencies that have more than 300 full-time equivalent employees. A great deal of time and effort is required for a well-executed Washington State Quality Award application. The new date of June 30, 2010, is too short a timeframe, especially for large agencies that may have to submit multiple applications. For these reasons, I am vetoing Section 920, pages 301-302.

**Section 926, pages 306-307, Use of Surcharge for Nursing Professional Credentials**

Because I have vetoed the program enhancement (Section 221(21)) supported by this funding, I am also vetoing Section 926, which authorizes the specific use of a portion of the existing surcharge on credential fees.

**Section 937, pages 318-320, Authority for Transfer from the Insurance Regulatory Account to the General Fund**

Section 937 amends RCW 48.02.190 and Section 1, Chapter 161, Laws of 2009, defining eligible uses of funds in the Insurance Commissioner's Regulatory Account, by permitting a current biennium transfer of excess fund balance to the General Fund-State. Since I have vetoed the transfer in Section 803, I am also vetoing the authorization in Section 937.

**Section 939, pages 323-324, Exemption for Restaurants and Bars from Temporary Mark-up on Spirits**

Section 939 exempts restaurants and bars from paying any price increase made by the Washington State Liquor Control Board during the 2009-11 Biennium if that increase relates to General Fund-State transfers or additional liquor profit distributions. Exempting restaurants and bars would reduce budgeted revenue assumptions by \$11 million. Of this amount, \$5.5 million directly affects the General Fund-State and its programs. The remaining shortfall could necessitate an increase in the price consumers pay at liquor stores. Restaurant and bars already receive discounts in price and tax exemptions, and it is inappropriate to provide additional discounts at the expense of state programs. For this reason, I have vetoed Section 939.

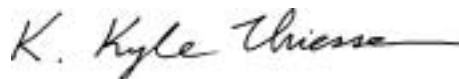
For these reasons, I have vetoed Sections 109; 117, page 17, lines 10-11; 127(27); 127(28); 127(31); 127(36); 127(38); 127(39); 129, page 35, lines 19-20; 129(3); 129(6); 131(2); 201(7); 204(3)(f); 205(1)(m); 205(1)(n); 205(1)(o); 205(1)(p); 205(1)(r); 205(1)(s); 206(20); 206(21); 207(2); 207(11); 209(14); 209(35); 209(38); 209(39); 209(40); 209(41); 209(42); 209(47); 212(6); 212(7); 214(7); 214(8); 221(21); 221(28); 223(2)(h); 303(3); 303(4); 304 (4); 306(2); 308(15); 501(1)(b); 501(1)(f)(iv); 604(7); 605(5); 708; 717; 803, page 281, line 38, and page 282, lines 1-11; 803, page 283, lines 20-22; 803, page 283, lines 23-27; 803, page 285, lines 28-31; 902; 908; 920; 926; 937; and 939 of Engrossed Substitute Senate Bill 6444.

With the exception of Sections 109; 117, page 17, lines 10-11; 127(27); 127(28); 127(31); 127(36); 127(38); 127(39); 129, page 35, lines 19-20; 129(3); 129(6); 131(2); 201(7); 204(3)(f); 205(1)(m); 205(1)(n); 205(1)(o); 205(1)(p); 205(1)(r); 205(1)(s); 206(20); 206(21); 207(2); 207(11); 209(14); 209(35); 209(38); 209(39); 209(40); 209(41); 209(42); 209(47); 212(6); 212(7); 214(7); 214(8); 221(21); 221(28); 223(2)(h); 303(3); 303(4); 304 (4); 306(2); 308(15); 501(1)(b); 501(1)(f)(iv); 604(7); 605(5); 708; 717; 803, page 281, line 38, and page 282, lines 1-11; 803, page 283, lines 20-22; 803, page 283, lines 23-27; 803, page 285, lines 28-31; 902; 908; 920; 926; 937; and 939, Engrossed Substitute Senate Bill 6444 is approved."

### AUTHENTICATION

I, K. Kyle Thiessen, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2010 session (61st Legislature), chapters 272 through 296, and the 2010 special session, chapters 1 through 37, respectively, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 25th day of May, 2010.

A handwritten signature in cursive script that reads "K. Kyle Thiessen". The signature is written in black ink and is positioned above the printed name and title.

K. KYLE THIESSEN  
Code Reviser



**PROPOSED CONSTITUTIONAL AMENDMENT, 2010      ESHJR 4220**

PROPOSED CONSTITUTIONAL AMENDMENT  
ADOPTED AT THE 2010 REGULAR SESSION  
FOR SUBMISSION TO THE VOTERS  
AT THE STATE GENERAL ELECTION, NOVEMBER 2010

**ENGROSSED SUBSTITUTE HOUSE JOINT RESOLUTION 4220**

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article I, section 20 of the Constitution of the state of Washington to read as follows:

Article I, section 20. All persons charged with crime shall be bailable by sufficient sureties, except for capital offenses when the proof is evident, or the presumption great. Bail may be denied for offenses punishable by the possibility of life in prison upon a showing by clear and convincing evidence of a propensity for violence that creates a substantial likelihood of danger to the community or any persons, subject to such limitations as shall be determined by the legislature.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

Passed by the House March 8, 2010.

Passed by the Senate March 4, 2010.

Filed in Office of Secretary of State March 11, 2010.

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PROPOSED CONSTITUTIONAL AMENDMENT  
ADOPTED AT THE 2010 SPECIAL SESSION  
FOR SUBMISSION TO THE VOTERS  
AT THE STATE GENERAL ELECTION, NOVEMBER 2010

**SENATE JOINT RESOLUTION 8225**

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article VIII, section 1 of the Constitution of the state of Washington to read as follows:

Article VIII, section 1. (a) The state may contract debt, the principal of which shall be paid and discharged within thirty years from the time of contracting thereof, in the manner set forth herein.

(b) The aggregate debt contracted by the state shall not exceed that amount for which payments of principal and interest in any fiscal year would require the

**SJR 8225 PROPOSED CONSTITUTIONAL AMENDMENT, 2010 SP.S.**

state to expend more than nine percent of the arithmetic mean of its general state revenues for the three immediately preceding fiscal years as certified by the treasurer. The term "fiscal year" means that period of time commencing July 1 of any year and ending on June 30 of the following year.

(c) The term "general state revenues" when used in this section, shall include all state money received in the treasury from each and every source whatsoever except: (1) Fees and revenues derived from the ownership or operation of any undertaking, facility, or project; (2) Moneys received as gifts, grants, donations, aid, or assistance or otherwise from the United States or any department, bureau, or corporation thereof, or any person, firm, or corporation, public or private, when the terms and conditions of such gift, grant, donation, aid, or assistance require the application and disbursement of such moneys otherwise than for the general purposes of the state of Washington; (3) Moneys to be paid into and received from retirement system funds, and performance bonds and deposits; (4) Moneys to be paid into and received from trust funds including but not limited to moneys received from taxes levied for specific purposes and the several permanent and irreducible funds of the state and the moneys derived therefrom but excluding bond redemption funds; (5) Proceeds received from the sale of bonds or other evidences of indebtedness.

(d) In computing the amount required for payment of principal and interest on outstanding debt under this section, debt shall be construed to mean borrowed money represented by bonds, notes, or other evidences of indebtedness which are secured by the full faith and credit of the state or are required to be repaid, directly or indirectly, from general state revenues and which are incurred by the state, any department, authority, public corporation, or quasi public corporation of the state, any state university or college, or any other public agency created by the state but not by counties, cities, towns, school districts, or other municipal corporations, but shall not include obligations for the payment of current expenses of state government, nor shall it include debt hereafter incurred pursuant to section 3 of this article, obligations guaranteed as provided for in subsection (g) of this section, principal of bond anticipation notes or obligations issued to fund or refund the indebtedness of the Washington state building authority. In addition, for the purpose of computing the amount required for payment of interest on outstanding debt under subsection (b) of this section and this subsection, "interest" shall be reduced by subtracting the amount scheduled to be received by the state as payments from the federal government in each year in respect of bonds, notes, or other evidences of indebtedness subject to this section.

(e) The state may pledge the full faith, credit, and taxing power of the state to guarantee the voter approved general obligation debt of school districts in the manner authorized by the legislature. Any such guarantee does not remove the debt obligation of the school district and is not state debt.

(f) The state may, without limitation, fund or refund, at or prior to maturity, the whole or any part of any existing debt or of any debt hereafter contracted pursuant to section 1, section 2, or section 3 of this article, including any premium payable with respect thereto and interest thereon, or fund or refund, at or prior to maturity, the whole or any part of any indebtedness incurred or authorized prior to the effective date of this amendment by any entity of the type described in subsection (h) of this section, including any premium payable with

**PROPOSED CONSTITUTIONAL AMENDMENT, 2010 SP.S. SJR 8225**

respect thereto and any interest thereon. Such funding or refunding shall not be deemed to be contracting debt by the state.

(g) Notwithstanding the limitation contained in subsection (b) of this section, the state may pledge its full faith, credit, and taxing power to guarantee the payment of any obligation payable from revenues received from any of the following sources: (1) Fees collected by the state as license fees for motor vehicles; (2) Excise taxes collected by the state on the sale, distribution or use of motor vehicle fuel; and (3) Interest on the permanent common school fund: *Provided*, That the legislature shall, at all times, provide sufficient revenues from such sources to pay the principal and interest due on all obligations for which said source of revenue is pledged.

(h) No money shall be paid from funds in custody of the treasurer with respect to any debt contracted after the effective date of this amendment by the Washington state building authority, the capitol committee, or any similar entity existing or operating for similar purposes pursuant to which such entity undertakes to finance or provide a facility for use or occupancy by the state or any agency, department, or instrumentality thereof.

(i) The legislature shall prescribe all matters relating to the contracting, funding or refunding of debt pursuant to this section, including: The purposes for which debt may be contracted; by a favorable vote of three-fifths of the members elected to each house, the amount of debt which may be contracted for any class of such purposes; the kinds of notes, bonds, or other evidences of debt which may be issued by the state; and the manner by which the treasurer shall determine and advise the legislature, any appropriate agency, officer, or instrumentality of the state as to the available debt capacity within the limitation set forth in this section. The legislature may delegate to any state officer, agency, or instrumentality any of its powers relating to the contracting, funding or refunding of debt pursuant to this section except its power to determine the amount and purposes for which debt may be contracted.

(j) The full faith, credit, and taxing power of the state of Washington are pledged to the payment of the debt created on behalf of the state pursuant to this section and the legislature shall provide by appropriation for the payment of the interest upon and installments of principal of all such debt as the same falls due, but in any event, any court of record may compel such payment.

(k) Notwithstanding the limitations contained in subsection (b) of this section, the state may issue certificates of indebtedness in such sum or sums as may be necessary to meet temporary deficiencies of the treasury, to preserve the best interests of the state in the conduct of the various state institutions, departments, bureaus, and agencies during each fiscal year; such certificates may be issued only to provide for appropriations already made by the legislature and such certificates must be retired and the debt discharged other than by refunding within twelve months after the date of incurrence.

(l) Bonds, notes, or other obligations issued and sold by the state of Washington pursuant to and in conformity with this article shall not be invalid for any irregularity or defect in the proceedings of the issuance or sale thereof and shall be incontestable in the hands of a bona fide purchaser or holder thereof.

**SJR 8225 PROPOSED CONSTITUTIONAL AMENDMENT, 2010 SP.S.**

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

Passed by the Senate March 15, 2010.

Passed by the House April 10, 2010.

Filed in Office of Secretary of State April 9, 2010.

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SSB	6280		SB	6467
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			ESSB	6499

“PV” Denotes partial veto by Governor [ 3133 ]

“E1” Denotes 2010 special session

**BILL NO. TO CHAPTER NO. OF 2010 STATUTES**

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“PV” Denotes partial veto by Governor [ 3134 ]

“E1” Denotes 2010 special session

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“PV” Denotes partial veto by Governor [ 3135 ]

“E1” Denotes 2010 special session

**BILL NO. TO CHAPTER NO. OF 2010 STATUTES**

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ESHB	2876 . . . . .	.209 PV
HB	2877 . . . . .	.41
SHB	2893 . . . . .	.237 PV
ESHB	2913 . . . . .	.99
ESHB	2921 . . . . .	.3
ESHB	2925 . . . . .	.199 PV
SHB	2935 . . . . .	.210
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E2SHB	2956 . . . . .	.30 E1
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SHB	2962 . . . . .	.200
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ESHB	2986 . . . . .	.278
SHB	2990 . . . . .	.102
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HB	3007 . . . . .	.155
ESHB	3014 . . . . .	.16 E1
SHB	3016 . . . . .	.279
E2SHB	3026 . . . . .	.240
HB	3030 . . . . .	.201
ESHB	3032 . . . . .	.89
SHB	3036 . . . . .	.241
ESHB	3040 . . . . .	.179
SHB	3046 . . . . .	.212
HB	3061 . . . . .	.213
SHB	3066 . . . . .	.114
2SHB	3076 . . . . .	.280
SHB	3105 . . . . .	.159
SHB	3124 . . . . .	.214
E2SHB	3141 . . . . .	.273 PV
SHB	3145 . . . . .	.42
ESHB	3178 . . . . .	.282 PV
ESHB	3179 . . . . .	.127
HB	3197 . . . . .	.31 E1
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ESHB	3209 . . . . .	.283 PV
HB	3219 . . . . .	.26 E1 PV

“PV” Denotes partial veto by Governor [ 3136 ]

“E1” Denotes 2010 special session

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

LEGEND				RCW	CH.	SEC.
ADD	=	Add a new section		9.94A.030	AMD	274 401
AMD	=	Amend existing law		9.94A.190	AMD	224 10
DECD	=	Decodify existing law		9.94A.501	AMD	224 3
RECD	=	Recodify existing law		9.94A.501	AMD	267 10
REEN	=	Reenact existing law		9.94A.505	AMD	224 4
REMD	=	Reenact and amend		9.94A.515	REMD	227 9
REP	=	Repeal existing law		9.94A.515	REMD	289 11
				9.94A.525	AMD	274 403
				9.94A.535	REMD	9 4
				9.94A.535	REMD	227 10
				9.94A.535	REMD	274 402
				9.94A.633	AMD	224 12
				9.94A.633	AMD	258 1
				9.94A.6332	AMD	224 11
				9.94A.701	AMD	224 5
				9.94A.701	AMD	267 11
				9.94A.702	AMD	267 12
				9.94A.728	REMD	224 6
				9.94A.729	AMD	224 7
				9.94A.734	AMD	224 9
				9A.36.080	AMD	119 1
				9A.44	ADD	267 1,3
						5-7
				9A.44.130	AMD	265 1
				9A.44.130	AMD	267 2
				9A.44.135	AMD	265 2
				9A.44.140	AMD	267 4
				9A.44.145	AMD	267 8
				9A.76.070	AMD	255 1
				9A.82.110	AMD	122 4
				9A.88.140	AMD	289 12
				10	ADD	254 3-11
				10.01.050	AMD	8 1001
				10.01.060	AMD	8 1002
				10.01.120	AMD	8 1003
				10.01.140	AMD	8 1004
				10.01.150	AMD	8 1005
				10.01.160	AMD	54 1
				10.01.180	AMD	8 1006
				10.04.110	AMD	8 1007
				10.05.020	AMD	269 9
				10.05.090	AMD	269 10
				10.05.160	AMD	269 11
				10.10.060	AMD	8 1008
				10.14	ADD	274 308
				10.16.080	AMD	8 1009
				10.16.110	AMD	8 1010
				10.16.145	AMD	8 1011
				10.16.150	AMD	8 1012
				10.19.040	AMD	8 1013
2.43.020	AMD	190	2			
2.43.050	AMD	190	1			
2.56	ADD	274	310,601			
2.56.031	AMD	7 E1	61			
2.68	ADD	282	7			
3.34.140	AMD	191	1			
3.50.330	AMD	274	406			
3.66.068	AMD	274	405			
4.24	ADD	118	2			
4.24.115	AMD	120	1			
4.24.240	AMD	286	11			
4.24.290	AMD	286	12			
4.56.110	AMD	149	1			
5.28.010	AMD	98	1			
6.17.160	AMD	26 E1	1			
6.27.140	AMD	26 E1	2			
7.60.025	AMD	212	4			
7.68	ADD	122	3,7			
7.68.070	AMD	122	1			
7.68.070	AMD	289	6			
7.68.085	AMD	122	2			
7.70.020	AMD	286	13			
7.90	ADD	274	307			
9.46.113	AMD	127	6			
9.68A	ADD	227	2,7			
9.68A.001	AMD	227	1			
9.68A.011	AMD	227	3			
9.68A.050	AMD	227	4			
9.68A.060	AMD	227	5			
9.68A.070	AMD	227	6			
9.68A.100	AMD	289	13			
9.68A.101	AMD	289	14			
9.68A.105	AMD	289	15			
9.68A.110	AMD	227	8			
9.68A.110	AMD	289	17			
9.94A	ADD	224	2,8			
9.94A	ADD	258	4			
9.94A	ADD	280	6			
9.94A.030	AMD	224	1			
9.94A.030	AMD	227	11			
9.94A.030	AMD	267	9			

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
10.19.060	AMD	8	1014	10.77.010	AMD	262	2
10.22.010	AMD	8	1015	10.77.120	AMD	263	4
10.22.020	AMD	8	1016	10.77.150	AMD	263	5
10.25.070	AMD	8	1017	10.77.160	AMD	263	6
10.27.060	AMD	8	1018	10.77.165	AMD	28	1
10.27.070	AMD	8	1019	10.77.190	AMD	263	7
10.27.080	AMD	8	1020	10.77.200	AMD	263	8
10.27.090	AMD	8	1021	10.79.020	AMD	8	1061
10.27.100	AMD	8	1022	10.79.040	AMD	8	1062
10.27.120	AMD	8	1023	10.79.050	AMD	8	1063
10.27.130	AMD	8	1024	10.82.030	AMD	8	1064
10.27.140	AMD	8	1025	10.82.040	AMD	8	1065
10.27.150	AMD	8	1026	10.88.210	AMD	8	1066
10.29.050	AMD	8	1027	10.88.220	AMD	8	1067
10.29.110	AMD	8	1028	10.88.230	AMD	8	1068
10.31.030	AMD	8	1029	10.88.240	AMD	8	1069
10.31.040	AMD	8	1030	10.88.260	AMD	8	1070
10.31.050	AMD	8	1031	10.88.270	AMD	8	1071
10.31.060	AMD	8	1032	10.88.290	AMD	8	1072
10.31.100	AMD	274	201	10.88.300	AMD	8	1073
10.34.010	AMD	8	1033	10.88.310	AMD	8	1074
10.34.020	AMD	8	1034	10.88.320	AMD	8	1075
10.34.030	AMD	8	1035	10.88.330	AMD	8	1076
10.37.040	AMD	8	1036	10.88.340	AMD	8	1077
10.37.050	AMD	8	1037	10.88.350	AMD	8	1078
10.40.050	AMD	8	1038	10.88.360	AMD	8	1079
10.40.060	AMD	8	1039	10.88.370	AMD	8	1080
10.40.140	AMD	8	1040	10.88.380	AMD	8	1081
10.40.170	AMD	8	1041	10.88.390	AMD	8	1082
10.43.040	AMD	8	1042	10.88.400	AMD	8	1083
10.43.050	AMD	8	1043	10.88.410	AMD	8	1084
10.46.060	AMD	8	1044	10.88.420	AMD	8	1085
10.46.110	AMD	8	1045	10.88.430	AMD	8	1086
10.46.200	AMD	8	1046	10.88.450	AMD	8	1087
10.46.220	AMD	8	1047	10.89.020	AMD	8	1088
10.52.060	AMD	8	1048	10.91.010	AMD	8	1089
10.52.090	AMD	8	1049	10.91.020	AMD	8	1090
10.55.020	AMD	8	1050	10.91.030	AMD	8	1091
10.55.060	AMD	8	1051	10.91.050	AMD	8	1092
10.55.100	AMD	8	1052	10.95.030	AMD	94	3
10.58.020	AMD	8	1053	10.95.070	AMD	94	4
10.58.030	AMD	8	1054	10.95.130	AMD	94	5
10.61.006	AMD	8	1055	10.97.080	AMD	8	1093
10.64.060	AMD	8	1056	10.97.110	AMD	8	1094
10.64.070	AMD	8	1057	10.97.120	AMD	8	1095
10.70.010	AMD	8	1058	10.98.200	REP	7 E1	60
10.70.020	AMD	8	1059	10.98.210	REP	7 E1	60
10.73.040	AMD	8	1060	10.98.220	REP	7 E1	60
10.77	ADD	262	1	10.98.230	REP	7 E1	60
10.77	ADD	263	1,2,9	10.98.240	REP	7 E1	60

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
10.99	ADD	274	404	11.56.100	AMD	8	2047
10.99.040	AMD	274	309	11.56.110	AMD	8	2048
10.99.045	AMD	274	301	11.56.180	AMD	8	2049
10.101.010	AMD	8 E1	12	11.56.210	AMD	8	2050
11.04.015	AMD	8	2001	11.56.230	AMD	8	2051
11.04.035	AMD	8	2002	11.60.040	AMD	8	2052
11.04.041	AMD	8	2003	11.60.060	AMD	8	2053
11.04.085	AMD	8	2004	11.64.008	AMD	8	2054
11.04.250	AMD	8	2005	11.64.030	AMD	8	2055
11.08.111	AMD	8	2006	11.66.010	AMD	8	2056
11.08.180	AMD	8	2007	11.68.070	AMD	8	2057
11.08.200	AMD	8	2008	11.68.100	AMD	8	2058
11.08.230	AMD	8	2009	11.68.120	AMD	8	2059
11.08.240	AMD	8	2010	11.72.002	AMD	8	2060
11.12.030	AMD	8	2011	11.76.010	AMD	8	2061
11.12.060	AMD	8	2012	11.76.030	AMD	8	2062
11.12.170	AMD	8	2013	11.76.040	AMD	8	2063
11.12.190	AMD	8	2014	11.76.050	AMD	8	2064
11.20.010	AMD	8	2015	11.76.060	AMD	8	2065
11.20.020	AMD	8	2016	11.76.070	AMD	8	2066
11.28.110	AMD	8	2017	11.76.100	AMD	8	2067
11.28.190	AMD	8	2018	11.76.110	AMD	8	2068
11.28.230	AMD	8	2019	11.76.150	AMD	8	2069
11.28.250	AMD	8	2020	11.76.160	AMD	8	2070
11.28.290	AMD	8	2021	11.76.170	AMD	8	2071
11.28.300	AMD	8	2022	11.76.190	AMD	8	2072
11.28.330	AMD	8	2023	11.76.210	AMD	8	2073
11.28.340	AMD	8	2024	11.76.230	AMD	8	2074
11.32.010	AMD	8	2025	11.76.240	AMD	8	2075
11.32.020	AMD	8	2026	11.76.243	AMD	8	2076
11.32.030	AMD	8	2027	11.76.245	AMD	8	2077
11.32.040	AMD	8	2028	11.80.020	AMD	8	2078
11.32.060	AMD	8	2029	11.80.030	AMD	8	2079
11.48.020	AMD	8	2030	11.80.040	AMD	8	2080
11.48.025	AMD	8	2031	11.80.060	AMD	8	2081
11.48.030	AMD	8	2032	11.80.080	AMD	8	2082
11.48.040	AMD	8	2033	11.80.090	AMD	8	2083
11.48.050	AMD	8	2034	11.80.100	AMD	8	2084
11.48.060	AMD	8	2035	11.80.110	AMD	8	2085
11.48.070	AMD	8	2036	11.84.060	AMD	8	2086
11.48.080	AMD	8	2037	11.84.900	AMD	8	2087
11.48.120	AMD	8	2038	11.88.100	AMD	8	2088
11.48.140	AMD	8	2039	11.88.150	AMD	8	2089
11.48.160	AMD	8	2040	11.92.115	AMD	8	2090
11.48.180	AMD	8	2041	11.98.070	AMD	8	2091
11.48.200	AMD	8	2042	11.106.030	AMD	8	2092
11.48.210	AMD	8	2043	11.108	ADD	11	2,3
11.56.040	AMD	8	2044	11.110.100	AMD	8	2093
11.56.045	AMD	8	2045	11.110.110	AMD	8	2094
11.56.070	AMD	8	2046	11.110.120	AMD	8	2095

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
12.04.020	AMD	8	3001	13.32A.082	AMD	229	2
12.04.030	AMD	8	3002	13.34	ADD	272	11
12.04.040	AMD	8	3003	13.34.030	REMD	8 E1	13
12.04.060	AMD	8	3004	13.34.030	REMD	94	6
12.04.070	AMD	8	3005	13.34.030	REMD	272	10
12.04.080	AMD	8	3006	13.34.100	AMD	180	2
12.04.090	AMD	8	3007	13.34.105	AMD	180	3
12.04.110	AMD	8	3008	13.34.130	REMD	288	1
12.04.120	AMD	8	3009	13.34.190	AMD	288	2
12.04.160	AMD	8	3010	13.34.210	REMD	272	13
12.04.170	AMD	8	3011	13.34.215	AMD	180	4
12.04.180	AMD	8	3012	13.34.230	REP	272	16
12.04.190	AMD	8	3013	13.34.231	REP	272	16
12.04.201	AMD	8	3014	13.34.232	AMD	272	14
12.04.203	AMD	8	3015	13.34.234	AMD	272	15
12.04.206	AMD	8	3016	13.34.236	REP	272	16
12.04.207	AMD	8	3017	13.34.238	REP	272	16
12.08.040	AMD	8	3018	13.40	ADD	181	11,12
12.08.060	AMD	8	3019	13.40	ADD	289	5,9
12.08.070	AMD	8	3020	13.40.020	AMD	181	10
12.08.080	AMD	8	3021	13.40.070	AMD	289	7
12.08.090	AMD	8	3022	13.40.190	AMD	134	1
12.08.100	AMD	8	3023	13.40.213	AMD	289	8
12.08.120	AMD	8	3024	13.40.510	AMD	7 E1	62
12.12.080	AMD	8	3025	13.50.010	AMD	150	3
12.12.090	AMD	8	3026	13.50.050	AMD	150	2
12.16.020	AMD	8	3027	14.08.112	AMD	8	5002
12.16.030	AMD	8	3028	14.08.120	AMD	155	1
12.16.040	AMD	8	3029	14.08.290	AMD	8	5001
12.16.050	AMD	8	3030	14.12.030	AMD	8	5003
12.16.060	AMD	8	3031	14.12.110	AMD	8	5004
12.16.080	AMD	8	3032	14.12.140	AMD	8	5005
12.16.090	AMD	8	3033	14.16.010	AMD	8	5006
12.20.010	AMD	8	3034	14.16.030	AMD	8	5007
12.20.020	AMD	8	3035	14.16.040	AMD	8	5008
12.20.040	AMD	8	3036	14.20.030	AMD	8	5009
12.20.070	AMD	8	3037	14.20.050	AMD	8	5010
12.40.025	AMD	8	3038	14.20.070	AMD	8	5011
13.04.011	AMD	150	4	14.20.090	AMD	8	5012
13.04.050	AMD	8	4001	14.20.100	AMD	8	6001
13.04.180	AMD	8	4002	15.04.090	AMD	8	6002
13.04.240	AMD	150	1	15.04.110	AMD	8	6003
13.06.050	AMD	37 E1	910	15.04.160	AMD	8	6004
13	ADD	272	2-9	15.08.010	AMD	8	6005
13.20.020	AMD	8	4003	15.08.040	AMD	8	6006
13.20.030	AMD	8	4004	15.08.080	AMD	8	6007
13.24.050	AMD	8	4005	15.08.090	AMD	8	6008
13.32A	ADD	229	3	15.08.100	AMD	8	6009
13.32A	ADD	289	3	15.08.120	AMD	8	6010
13.32A.030	AMD	289	1	15.08.140	AMD	8	6011



**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
15.08.150	AMD	8	6012	15.44.090	AMD	8	6060
15.08.160	AMD	8	6013	15.44.100	AMD	8	6061
15.08.180	AMD	8	6014	15.49.101	AMD	8	6062
15.08.190	AMD	8	6015	15.49.111	AMD	8	6063
15.08.250	AMD	8	6016	15.49.380	AMD	8	6064
15.09.040	AMD	8	6017	15.49.400	AMD	8	6065
15.09.050	AMD	8	6018	15.58.100	AMD	8	6066
15.09.080	AMD	8	6019	15.58.280	AMD	8	6067
15.09.100	AMD	8	6020	15.64.010	AMD	8	6068
15.24.120	AMD	8	6021	15.65.100	AMD	8	6069
15.24.130	AMD	8	6022	15.65.110	AMD	8	6070
15.24.150	AMD	8	6023	15.65.130	AMD	8	6071
15.24.210	AMD	8	6024	15.65.160	AMD	8	6072
15.26.030	AMD	8	6025	15.65.190	AMD	8	6073
15.26.040	AMD	8	6026	15.65.210	AMD	8	6074
15.26.050	AMD	8	6027	15.65.280	AMD	8	6075
15.26.060	AMD	8	6028	15.65.290	AMD	8	6076
15.26.080	AMD	8	6029	15.65.320	AMD	8	6077
15.26.110	AMD	8	6030	15.65.330	AMD	8	6078
15.26.110	AMD	78	1	15.65.340	AMD	8	6079
15.26.170	AMD	8	6031	15.65.390	AMD	8	6080
15.26.180	AMD	8	6032	15.65.400	AMD	8	6081
15.26.190	AMD	8	6033	15.65.410	AMD	8	6082
15.26.210	AMD	8	6034	15.65.420	AMD	8	6083
15.26.230	AMD	8	6035	15.65.440	AMD	8	6084
15.26.240	AMD	8	6036	15.65.480	AMD	8	6085
15.28.030	AMD	8	6037	15.65.490	AMD	8	6086
15.28.100	AMD	8	6038	15.65.500	AMD	8	6087
15.28.150	AMD	8	6039	15.65.520	AMD	8	6088
15.28.190	AMD	8	6040	15.65.530	AMD	8	6089
15.28.210	AMD	8	6041	15.65.540	AMD	8	6090
15.28.220	AMD	8	6042	15.65.550	AMD	8	6091
15.28.230	AMD	8	6043	15.65.590	AMD	8	6092
15.28.260	AMD	8	6044	15.66.200	AMD	8	6093
15.28.280	AMD	8	6045	15.66.210	AMD	8	6094
15.28.310	AMD	8	6046	15.66.230	AMD	8	6095
15.30.010	AMD	8	6047	15.66.240	AMD	8	6096
15.30.030	AMD	8	6048	15.70.020	AMD	8	6097
15.30.070	AMD	8	6049	15.70.030	AMD	8	6098
15.30.080	AMD	8	6050	15.70.040	AMD	8	6099
15.35.240	REMD	8	6051	15.76.115	AMD	37 E1	912
15.36.551	AMD	17	1	15.76.170	AMD	8	6100
15.37.010	AMD	8	6052	15.80.320	AMD	8	6101
15.37.040	AMD	8	6053	15.80.460	AMD	8	6102
15.37.060	AMD	8	6054	15.80.470	AMD	8	6103
15.37.070	AMD	8	6055	15.80.480	AMD	8	6104
15.37.120	AMD	8	6056	15.80.490	AMD	8	6105
15.44.027	AMD	8	6057	15.80.500	AMD	8	6106
15.44.050	AMD	8	6058	15.80.510	AMD	8	6107
15.44.060	AMD	8	6059	15.80.550	AMD	8	6108

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
15.80.590	AMD	8	6109	18.08.330	AMD	129	3
15.80.610	AMD	8	6110	18.08.340	AMD	129	4
15.80.620	AMD	8	6111	18.08.350	AMD	129	5
15.80.630	AMD	8	6112	18.08.360	AMD	129	6
15.80.640	AMD	8	6113	18.08.370	AMD	129	7
15.86	ADD	109	8-10	18.08.410	AMD	129	8
15.86.010	AMD	109	1	18.08.420	AMD	129	9
15.86.020	AMD	109	2	18.08.430	AMD	129	10
15.86.030	AMD	109	3	18.19.020	AMD	20 E1	1
15.86.060	AMD	109	4	18.22	ADD	209	1
15.86.065	AMD	109	5	18.32	ADD	209	2
15.86.070	AMD	109	6	18.34.010	AMD	16	1
15.86.090	AMD	109	7	18.35.161	AMD	65	4
15.88.070	AMD	8	6114	18.44	ADD	34	4,11,12
15.92.070	AMD	7 E1	133	18.44.011	AMD	34	1
15.100.080	AMD	8	6115	18.44.021	AMD	34	2
16.36	ADD	66	3	18.44.031	AMD	34	3
16.36.005	AMD	66	1	18.44.091	AMD	34	5
16.36.050	AMD	66	2	18.44.121	AMD	34	6
16.36.060	AMD	66	4	18.44.195	AMD	34	9
16.57	ADD	66	13	18.44.201	AMD	34	7
16.57.010	AMD	66	5	18.44.301	AMD	34	8
16.57.160	AMD	66	6	18.44.430	AMD	34	10
16.57.220	AMD	66	7	18.57	ADD	209	3
16.57.240	AMD	66	8	18.57A	ADD	209	4
16.57.243	AMD	66	9	18.71	ADD	209	5
16.57.245	AMD	66	10	18.71.205	REMD	7 E1	24
16.57.280	AMD	66	11	18.71A	ADD	209	6
16.57.290	AMD	66	12	18.73.030	AMD	7 E1	25
17.15.040	REP	7 E1	125	18.73.040	REP	7 E1	23
17.21.020	AMD	7 E1	134	18.73.050	REP	7 E1	23
17.21.230	REP	7 E1	132	18.73.101	AMD	7 E1	26
17.21.240	REP	7 E1	132	18.79	ADD	209	7
17.21.250	REP	7 E1	132	18.84	ADD	92	3,4
17.21.260	REP	7 E1	132	18.84.020	AMD	92	1
17.21.270	REP	7 E1	132	18.84.080	AMD	92	2
18	ADD	179	1-17	18.85.451	AMD	156	1
			19	18.85.461	AMD	156	2
18.06	ADD	286	1	18.85.471	AMD	156	3
18.06.010	AMD	286	2	18.88A	ADD	169	3
18.06.020	AMD	286	3	18.88A.010	AMD	169	1
18.06.045	AMD	286	4	18.88A.020	AMD	169	2
18.06.050	AMD	286	5	18.88A.030	AMD	169	4
18.06.080	AMD	286	6	18.88A.050	AMD	169	5
18.06.120	AMD	286	7	18.88A.060	AMD	169	6
18.06.130	AMD	286	8	18.88A.085	AMD	169	7
18.06.140	AMD	286	9	18.88A.090	AMD	169	8
18.06.190	AMD	286	10	18.88A.110	AMD	169	9
18.08.310	AMD	129	1	18.88A.115	REP	169	12
18.08.320	AMD	129	2	18.88A.140	AMD	169	10

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
18.88B.040	AMD	169	11	19.230.020	AMD	73	2
18.92.128	AMD	123	1	19.230.050	AMD	73	3
18.92.128	AMD	123	2	19.230.060	AMD	73	4
18.120.020	AMD	286	14	19.230.070	AMD	73	5
18.130	ADD	9	3	19.230.110	AMD	73	6
18.130.040	REMD	65	1	19.230.170	AMD	73	7
18.130.040	REMD	65	2	19.230.180	AMD	73	8
18.130.040	REMD	65	3	19.230.200	AMD	73	9
18.130.040	REMD	286	16	19.230.210	AMD	73	10
18.130.040	REMD	286	17	19.230.320	AMD	73	11
18.130.040	REMD	286	18	19.230.330	AMD	73	12
18.130.180	AMD	9	5	19.255	ADD	151	2
18.145.050	AMD	49	1	19.320	ADD	142	3,4
18.145.100	AMD	49	2	19.320.010	AMD	142	1
18.180.010	AMD	108	1	19.320.020	AMD	142	2
18.210.010	AMD	7 E1	76	23.86.070	AMD	29 E1	10
18.210.040	REP	7 E1	75	23B.01	ADD	88	1
18.210.050	AMD	7 E1	77	23B.01.530	AMD	29 E1	2
18.210.060	AMD	7 E1	78	23B.14	ADD	88	2
18.210.070	REP	7 E1	75	24.03	ADD	212	1-3
18.235.020	REMD	179	18	24.03.265	REP	212	5
19.09	ADD	29 E1	11	24.03.270	REP	212	5
19.09.075	AMD	29 E1	12	24.03.290	REP	212	5
19.09.079	AMD	29 E1	13	24.03.405	AMD	29 E1	3
19.09.097	AMD	29 E1	14	24.06.450	AMD	29 E1	4
19.09.355	AMD	29 E1	15	24.55.075	AMD	26 E1	3
19.09.520	REP	29 E1	17	25.05.500	AMD	29 E1	5
19.09.530	AMD	29 E1	16	25.15	ADD	196	6,10
19.27.070	AMD	271	301	25.15.005	AMD	196	1
19.27.070	AMD	275	1	25.15.070	AMD	196	2
19.27.097	AMD	271	302	25.15.080	REP	196	14
19.27.150	AMD	271	303	25.15.085	AMD	196	3
19.27A.020	AMD	271	304	25.15.095	AMD	196	4
19.27A.140	AMD	271	305	25.15.105	AMD	29 E1	8
19.27A.150	AMD	271	306	25.15.270	AMD	196	5
19.27A.180	AMD	271	307	25.15.290	AMD	196	7
19.28	ADD	55	1	25.15.293	AMD	196	8
19.28.161	AMD	33	1	25.15.295	AMD	196	9
19.77.030	AMD	29 E1	9	25.15.303	AMD	196	11
19.112.020	AMD	96	1	25.15.340	AMD	196	12
19.116.050	AMD	161	1101	25.15.805	AMD	196	13
19.118.061	AMD	31	1	26.09.100	AMD	279	3
19.144.080	AMD	35	12	26.09.170	AMD	279	1
19.146	ADD	35	16-18	26.09.175	AMD	279	2
19.146.010	AMD	35	13	26.19.071	AMD	8 E1	14
19.146.210	AMD	35	14	26.26.220	AMD	94	7
19.146.225	AMD	7 E1	70	26.44	ADD	214	2
19.146.280	REP	7 E1	69	26.44.020	AMD	176	1
19.146.310	AMD	35	15	26.44.180	AMD	176	2
19.230.010	AMD	73	1	26.44.185	AMD	176	3

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
26.50	ADD	274	303,306				506
26.50.020	AMD	274	302	28A.415.100	REP	235	510
26.50.060	AMD	274	304	28A.415.105	REP	235	510
26.50.070	AMD	274	305	28A.415.125	REP	235	510
26.50.150	AMD	274	501	28A.415.130	REP	235	510
27.34.365	AMD	7 E1	124	28A.415.135	REP	235	510
28A	ADD	226	1-9	28A.415.140	REP	235	510
28A	ADD	235	101-110	28A.415.145	REP	235	510
			112-114	28A.500.020	AMD	237	5
			1001	28A.500.030	REMD	237	6
28A	ADD	240	1-7	28A.530.080	AMD	241	1
28A.150.100	AMD	236	13	28A.545.040	AMD	99	7
28A.150.230	AMD	235	201	28A.545.120	AMD	99	8
28A.150.260	AMD	236	2	28A.605	ADD	235	701
28A.150.315	AMD	236	4	28A.630	ADD	238	2
28A.150.390	AMD	236	3	28A.650.035	AMD	9 E1	3
28A.150.410	AMD	236	10	28A.655	ADD	235	601,702
28A.160	ADD	236	9	28A.655.061	AMD	244	1
28A.160.192	AMD	236	8	28A.655.110	AMD	235	703
28A.175	ADD	20	2-5	28A.660.010	REP	235	510
28A.175	ADD	243	2	28A.660.020	AMD	235	503
28A.175.010	AMD	243	5	28A.660.030	REP	235	510
28A.175.075	AMD	243	4	28A.660.040	REMD	235	504
28A.225.200	AMD	99	5	28A.660.050	REMD	235	505
28A.225.200	AMD	99	6	28B.10	ADD	5	7
28A.290	ADD	236	17	28B.10	ADD	14 E1	1,2
28A.290.010	AMD	234	4	28B.10.029	AMD	61	1
28A.290.010	AMD	236	15	28B.10.400	AMD	21	1
28A.300	ADD	235	704	28B.10.890	AMD	161	1102
28A.300	ADD	236	12	28B.15.012	AMD	183	1
28A.300.136	AMD	235	901	28B.15.067	AMD	20	7
28A.300.285	AMD	239	2	28B.15.380	AMD	261	4
28A.300.380	AMD	37 E1	913	28B.15.520	AMD	261	5
28A.305.190	AMD	20	6	28B.20	ADD	245	11
28A.305.225	AMD	235	111	28B.20.130	AMD	51	1
28A.305.225	RECD	235	1001	28B.20.410	AMD	94	8
28A.320	ADD	231	5	28B.20.414	AMD	94	9
28A.340	ADD	99	2-4	28B.20.468	REP	9 E1	8
28A.400	ADD	236	18	28B.20.470	REP	9 E1	8
28A.400.200	AMD	235	401	28B.20.725	AMD	36 E1	6008
28A.400.250	AMD	41	1	28B.30	ADD	37	1
28A.400.305	AMD	100	1	28B.30.150	AMD	51	2
28A.405	ADD	235	204,205	28B.30.275	REP	9 E1	8
			302	28B.30.530	AMD	165	3
28A.405.100	AMD	235	202	28B.30.750	AMD	36 E1	6009
28A.405.210	AMD	235	303	28B.35.205	AMD	51	3
28A.405.220	AMD	235	203	28B.50	ADD	24 E1	3,5
28A.405.230	AMD	235	304	28B.50	ADD	25 E1	1
28A.405.300	AMD	235	305	28B.50	ADD	40	1
28A.410	ADD	235	501,502	28B.50	ADD	246	4

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
28B.50.020	AMD	245	2	30.12	ADD	88	21
28B.50.020	AMD	246	2	30.12.040	AMD	88	20
28B.50.090	AMD	246	3	30.12.042	AMD	88	22
28B.50.140	AMD	51	4	30.12.044	AMD	88	23
28B.50.810	AMD	245	3	30.12.047	AMD	88	24
28B.50.837	AMD	37 E1	914	30.12.070	AMD	88	25
28B.67.030	REEN	26 E1	4	30.12.090	AMD	88	26
28B.76	ADD	27 E1	2	30.12.100	AMD	88	27
28B.76	ADD	235	508	30.12.190	AMD	88	28
28B.76.020	AMD	245	4	30.12.240	AMD	88	29
28B.76.100	REP	7 E1	57	30.22.210	AMD	133	1
28B.76.210	AMD	245	10	30.44.010	AMD	88	30
28B.76.230	AMD	245	5	30.44.020	AMD	88	31
28B.76.280	AMD	7 E1	58	30.44.030	AMD	88	32
28B.76.335	AMD	235	507	30.44.100	AMD	88	33
28B.76.565	AMD	37 E1	915	30.44.110	AMD	88	34
28B.76.610	AMD	37 E1	916	30.44.160	AMD	88	35
28B.102.080	AMD	37 E1	917	30.44.270	AMD	88	36
28B.105.110	REMD	37 E1	918	30.46.010	AMD	88	37
28B.120.005	AMD	245	6	31.04	ADD	35	9-11
28B.120.010	AMD	245	7	31.04.015	REMD	35	1
28B.120.020	AMD	245	8	31.04.035	AMD	35	2
28B.120.050	REP	9 E1	8	31.04.045	AMD	35	3
28B.135.010	AMD	9 E1	5	31.04.055	AMD	35	4
28B.135.040	AMD	9 E1	4	31.04.085	AMD	35	5
28C.04.390	AMD	24 E1	2	31.04.093	AMD	35	6
28C.18.020	AMD	128	6	31.04.165	AMD	35	7
28C.18.164	AMD	24 E1	4	31.04.2211	REP	35	19
29A.04.037	AMD	161	1103	31.04.277	AMD	35	8
29A.36.161	AMD	32	1	31.04.540	AMD	8 E1	15
29A.36.210	AMD	106	301	31.12	ADD	87	16-19
29A.40.091	AMD	125	1	31.12.005	AMD	87	1
29A.46.260	AMD	215	5	31.12.085	AMD	87	2
30.04.010	AMD	88	3	31.12.267	AMD	87	3
30.04.020	AMD	88	4	31.12.516	AMD	87	4
30.04.030	AMD	88	5	31.12.545	AMD	87	5
30.04.050	AMD	88	6	31.12.565	AMD	87	6
30.04.060	AMD	88	7	31.12.569	AMD	87	7
30.04.070	AMD	88	8	31.12.575	AMD	87	8
30.04.075	AMD	88	9	31.12.585	AMD	87	9
30.04.111	AMD	88	10	31.12.595	AMD	87	10
30.04.127	AMD	88	11	31.12.625	AMD	87	11
30.04.215	AMD	88	12	31.12.651	AMD	87	12
30.04.217	AMD	88	13	31.12.671	AMD	87	13
30.04.310	REP	88	14	31.12.674	AMD	87	14
30.04.450	AMD	88	15	31.12.850	AMD	87	15
30.04.455	AMD	88	16	32.04	ADD	88	39
30.04.460	AMD	88	17	32.04.020	AMD	88	38
30.04.470	AMD	88	18	32.04.070	AMD	88	40
30.04.475	AMD	88	19	32.04.100	AMD	88	41

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
32.04.110	AMD	88	42	35.58.272	AMD	251	8
32.04.211	AMD	88	43	35.82.200	AMD	21 E1	4
32.04.220	AMD	88	44	35.92.017	AMD	5 E1	1
32.04.250	AMD	88	45	35.95A.090	AMD	161	901
32.04.260	AMD	88	46	35.95A.130	AMD	161	902
32.04.270	AMD	88	47	35.100.020	AMD	30	2
32.04.290	AMD	88	48	35.102	ADD	106	101
32.08	ADD	88	50	35.102.040	AMD	271	706
32.08.153	AMD	88	49	35.102.130	AMD	111	305
32.16	ADD	88	52	35.102.150	AMD	23 E1	519
32.16.090	AMD	88	51	35.104	ADD	33 E1	4
32.16.093	AMD	88	53	35.104.040	AMD	33 E1	2
32.16.095	AMD	88	54	35.104.060	AMD	33 E1	1
32.16.097	AMD	88	55	35A.14	ADD	19	2
32.16.140	AMD	88	56	35A.21	ADD	47	3
32.20.285	AMD	88	57	35A.21	ADD	175	4
32.24	ADD	88	62	35A.46.010	AMD	161	1104
32.24.040	AMD	88	58	36	ADD	7	101,102
32.24.050	AMD	88	59				201-206
32.24.060	AMD	88	60				301,401
32.24.070	AMD	88	61				501-505
32.24.080	AMD	88	63				601
32.24.090	AMD	88	64	36.01	ADD	47	1
32	ADD	88	65-73	36.01	ADD	175	2
34.05.110	AMD	194	1	36.01	ADD	215	4
34.05.328	REMD	112	15	36.16.050	AMD	26 E1	5
34.05.518	AMD	211	15	36.16.110	AMD	207	2
34.12.020	AMD	211	16	36.27.100	AMD	271	501
34.12.100	AMD	7 E1	3	36.28A	ADD	265	3
35	ADD	102	2-5	36.28A.040	AMD	266	1
35	ADD	132	1-5	36.28A.090	AMD	264	1
35.13	ADD	19	1	36.57.030	AMD	278	2
35.13A.020	AMD	102	6	36.57A	ADD	251	5
35.13A.030	AMD	102	7	36.57A.050	AMD	278	3
35.13A.040	AMD	102	8	36.68.525	AMD	106	302
35.20.255	AMD	274	407	36.69.145	AMD	106	303
35.21	ADD	47	2	36.70A	ADD	210	15,43
35.21	ADD	102	1	36.70A.070	AMD	26 E1	6
35.21	ADD	175	3	36.70A.110	REMD	211	1
35.21	ADD	251	1	36.70A.130	AMD	211	2
35.21.185	AMD	271	705	36.70A.130	AMD	216	1
35.21.217	AMD	135	1	36.70A.172	AMD	211	3
35.21.290	AMD	135	2	36.70A.200	AMD	62	1
35.21.420	AMD	199	1	36.70A.250	AMD	211	4
35.21.425	AMD	199	2	36.70A.260	AMD	211	5
35.57.010	AMD	192	1	36.70A.270	AMD	210	16
35.57.020	AMD	192	2	36.70A.270	AMD	211	6
35.58	ADD	251	4	36.70A.280	AMD	211	7
35.58.260	AMD	251	7	36.70A.290	AMD	211	8
35.58.270	AMD	278	1	36.70A.295	AMD	211	9

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
36.70A.302	AMD	211	10	39.86.100	AMD	6 E1	3
36.70A.310	AMD	211	11	39.86.110	REMD	6 E1	4
36.70A.3201	AMD	211	12	39.86.120	AMD	6 E1	6
36.70A.345	AMD	211	13	39.86.130	AMD	6 E1	7
36.70A.480	AMD	107	2	39.86.140	AMD	6 E1	8
36.70A.560	AMD	203	1	39.86.150	AMD	6 E1	9
36.70A.5601	AMD	203	2	39.86.170	AMD	6 E1	10
36.70B.220	AMD	271	707	39.86.190	AMD	6 E1	11
36.70C.020	AMD	59	1	39.86.200	REP	6 E1	12
36.70C.030	AMD	7 E1	38	39.86.200	REP	36 E1	6016
36.73	ADD	251	3	39.94.020	AMD	15 E1	13
36.73.015	AMD	105	1	39.94.020	AMD	115	1
36.73.015	AMD	251	2	39.94.030	AMD	115	2
36.73.020	AMD	250	1	39.94.040	AMD	35 E1	406
36.73.120	AMD	105	2	39.94.040	AMD	36 E1	6015
36.82.070	AMD	43	1	39.100.050	AMD	106	201
36.94.460	AMD	5 E1	2	39.102.020	REMD	164	11
36.100	ADD	15 E1	8-12	39.104.020	AMD	164	1
36.100.010	AMD	15 E1	2	39.104.040	AMD	164	2
36.100.020	AMD	15 E1	3	39.104.050	AMD	164	3
36.100.030	AMD	15 E1	4	39.104.060	AMD	164	4
36.100.040	AMD	15 E1	5	39.104.080	AMD	164	5
36.100.060	AMD	15 E1	6	39.104.100	AMD	164	6
36.100.100	AMD	15 E1	7	39.104.110	AMD	164	7
36.140.010	AMD	167	1	41.04.007	AMD	161	1105
38.40.060	AMD	91	1	41.04.033	AMD	7 E1	9
38.52.105	AMD	37 E1	919	41.04.033	AMD	101	1
38.52.510	AMD	19 E1	14	41.04.0331	AMD	7 E1	10
38.52.520	AMD	19 E1	15	41.04.0331	AMD	101	2
38.52.530	AMD	7 E1	51	41.04.0332	AMD	7 E1	11
38.52.530	AMD	19 E1	16	41.04.0332	AMD	101	3
38.52.532	AMD	19 E1	17	41.04.039	AMD	101	4
38.52.540	REMD	19 E1	18	41.04.362	AMD	128	4
38.52.545	AMD	19 E1	19	41.04.364	REP	128	5
38.52.550	AMD	19 E1	20	41.04.665	AMD	32 E1	10
38.52.561	AMD	19 E1	21	41.04.665	AMD	168	1
39.04	ADD	5	8	41.04.810	AMD	296	5
39.04	ADD	276	1	41.05	ADD	293	1
39.04.350	AMD	276	2	41.05.095	AMD	94	11
39.10	ADD	163	1	41.05.510	REP	9 E1	8
39.10.200	AMD	21 E1	2	41.06	ADD	2	6
39.10.210	AMD	36 E1	6014	41.06.070	REMD	1	1
39.10.230	AMD	21 E1	3	41.06.070	REMD	2	2
39.29	ADD	5	9	41.06.070	REMD	271	801
39.32.010	AMD	94	10	41.06.133	REMD	1	2
39.35C.100	REP	9 E1	8	41.06.133	REMD	2	3
39.42.030	AMD	18 E1	1	41.06.500	AMD	1	3
39.58	ADD	36	1	41.06.500	AMD	2	4
39.80.040	AMD	5	10	41.24	ADD	60	1
39.86	ADD	6 E1	5	41.24.010	AMD	60	2

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
41.26	ADD	50	1	42.17.060	RECD	204	1102
41.26.030	REMD	32 E1	6	42.17.060	AMD	205	3
41.26.048	AMD	261	2	42.17.065	AMD	204	406
41.26.195	AMD	260	1	42.17.065	RECD	204	1102
41.26.470	REMD	259	2	42.17.065	AMD	205	4
41.26.510	REMD	261	1	42.17.067	AMD	204	407
41.32.010	REMD	32 E1	7	42.17.067	RECD	204	1102
41.34.020	AMD	7 E1	31	42.17.067	AMD	205	5
41.34.040	AMD	7 E1	32	42.17.070	AMD	204	605
41.34.070	AMD	7 E1	33	42.17.070	RECD	204	1102
41.34.130	AMD	7 E1	34	42.17.080	AMD	204	408
41.34.140	AMD	7 E1	35	42.17.080	RECD	204	1102
41.35	ADD	103	1	42.17.080	AMD	205	6
41.37.010	REMD	32 E1	8	42.17.090	AMD	204	409
41.40	ADD	103	2	42.17.090	RECD	204	1102
41.40.023	REMD	80	1	42.17.093	AMD	204	411
41.45.150	AMD	26 E1	7	42.17.093	RECD	204	1102
41.50.086	REP	7 E1	27	42.17.095	AMD	204	606
41.50.088	AMD	7 E1	28	42.17.095	RECD	204	1102
41.50.770	AMD	7 E1	29	42.17.100	RECD	204	1102
41.50.780	AMD	7 E1	30	42.17.100	AMD	205	7
41.56	ADD	235	802	42.17.103	AMD	204	413
41.56	ADD	296	2	42.17.103	RECD	204	1102
41.56.030	AMD	296	3	42.17.105	AMD	204	414
41.56.100	AMD	235	801	42.17.105	RECD	204	1102
41.56.113	AMD	296	4	42.17.110	AMD	204	508
41.59	ADD	235	803	42.17.110	RECD	204	1102
41.59.120	AMD	235	804	42.17.120	RECD	204	1102
41.60.150	AMD	1	6	42.17.125	AMD	204	608
41.80	ADD	32 E1	4	42.17.125	RECD	204	1102
41.80.010	AMD	104	1	42.17.128	RECD	204	1102
41.80.020	AMD	283	16	42.17.130	AMD	204	701
42	ADD	204	304,404 604,607 703 1102	42.17.130	RECD	204	1102
				42.17.131	REP	204	1103
				42.17.135	AMD	204	416
				42.17.135	RECD	204	1102
42.04.060	AMD	32 E1	5	42.17.150	AMD	204	801
42.17.010	RECD	204	1102	42.17.150	RECD	204	1102
42.17.020	AMD	204	101	42.17.155	AMD	204	802
42.17.020	RECD	204	1102	42.17.155	RECD	204	1102
42.17.030	AMD	204	401	42.17.160	AMD	204	803
42.17.030	RECD	204	1102	42.17.160	RECD	204	1102
42.17.035	RECD	204	1102	42.17.170	AMD	204	804
42.17.040	AMD	204	402	42.17.170	RECD	204	1102
42.17.040	RECD	204	1102	42.17.172	AMD	204	805
42.17.040	AMD	205	1	42.17.172	RECD	204	1102
42.17.050	AMD	204	403	42.17.175	AMD	204	806
42.17.050	RECD	204	1102	42.17.175	RECD	204	1102
42.17.050	AMD	205	2	42.17.180	AMD	204	807
42.17.060	AMD	204	405	42.17.180	RECD	204	1102



**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
42.17.190	AMD	204	808	42.17.410	RECD	204	1102
42.17.190	RECD	204	1102	42.17.420	AMD	204	308
42.17.200	AMD	204	809	42.17.420	RECD	204	1102
42.17.200	RECD	204	1102	42.17.430	RECD	204	1102
42.17.210	AMD	204	810	42.17.440	RECD	204	1102
42.17.210	RECD	204	1102	42.17.450	RECD	204	1102
42.17.220	AMD	204	811	42.17.450	AMD	205	9
42.17.220	RECD	204	1102	42.17.460	RECD	204	1102
42.17.230	AMD	204	812	42.17.461	AMD	204	203
42.17.230	RECD	204	1102	42.17.461	RECD	204	1102
42.17.240	AMD	204	901	42.17.463	AMD	204	204
42.17.240	RECD	204	1102	42.17.463	RECD	204	1102
42.17.2401	AMD	204	902	42.17.465	REP	204	1103
42.17.2401	RECD	204	1102	42.17.467	REP	204	1103
42.17.241	AMD	204	903	42.17.469	REP	204	1103
42.17.241	RECD	204	1102	42.17.471	REP	204	1103
42.17.242	AMD	204	904	42.17.510	AMD	204	505
42.17.242	RECD	204	1102	42.17.510	RECD	204	1102
42.17.245	AMD	204	702	42.17.520	AMD	204	506
42.17.245	RECD	204	1102	42.17.520	RECD	204	1102
42.17.350	AMD	204	301	42.17.530	RECD	204	1102
42.17.350	RECD	204	1102	42.17.540	AMD	204	507
42.17.360	AMD	204	302	42.17.540	RECD	204	1102
42.17.360	RECD	204	1102	42.17.550	RECD	204	1102
42.17.362	REP	204	1103	42.17.550	REP	205	10
42.17.365	REP	204	1103	42.17.561	AMD	204	501
42.17.367	AMD	204	201	42.17.561	RECD	204	1102
42.17.367	RECD	204	1102	42.17.562	REP	204	1103
42.17.369	AMD	204	202	42.17.565	AMD	204	502
42.17.369	RECD	204	1102	42.17.565	RECD	204	1102
42.17.3691	AMD	204	410	42.17.570	AMD	204	503
42.17.3691	RECD	204	1102	42.17.570	RECD	204	1102
42.17.370	AMD	7 E1	4	42.17.575	AMD	204	504
42.17.370	AMD	204	303	42.17.575	RECD	204	1102
42.17.370	RECD	204	1102	42.17.610	AMD	204	601
42.17.375	REP	204	1103	42.17.610	RECD	204	1102
42.17.375	REP	205	10	42.17.620	REP	204	1103
42.17.380	AMD	204	306	42.17.640	AMD	204	602
42.17.380	RECD	204	1102	42.17.640	RECD	204	1102
42.17.380	AMD	205	8	42.17.640	AMD	206	1
42.17.390	AMD	204	1001	42.17.645	AMD	204	603
42.17.390	RECD	204	1102	42.17.645	RECD	204	1102
42.17.395	AMD	204	1002	42.17.647	REP	204	1103
42.17.395	RECD	204	1102	42.17.650	RECD	204	1102
42.17.397	AMD	204	1003	42.17.660	AMD	204	609
42.17.397	RECD	204	1102	42.17.660	RECD	204	1102
42.17.400	AMD	204	1004	42.17.670	RECD	204	1102
42.17.400	RECD	204	1102	42.17.680	AMD	204	613
42.17.405	AMD	204	307	42.17.680	RECD	204	1102
42.17.405	RECD	204	1102	42.17.690	AMD	204	305

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RCW	CH.	SEC.	RCW	CH.	SEC.
42.17.690	RECD	204	1102	43	ADD 145 1-8
42.17.700	RECD	204	1102		10
42.17.710	RECD	204	1102	43.01.047	AMD 296 6
42.17.720	AMD	204	610	43.03.027	AMD 7 E1 1
42.17.720	RECD	204	1102	43.03.028	AMD 7 E1 2
42.17.730	RECD	204	1102	43.03.030	AMD 1 4
42.17.740	AMD	204	611	43.03.040	AMD 1 5
42.17.740	RECD	204	1102	43.03.040	AMD 7 E1 5
42.17.750	RECD	204	1102	43.03.050	AMD 7 E1 141
42.17.760	RECD	204	1102	43.03.220	AMD 7 E1 142
42.17.770	RECD	204	1102	43.03.230	AMD 7 E1 143
42.17.780	RECD	204	1102	43.03.240	AMD 7 E1 144
42.17.790	AMD	204	612	43.03.250	AMD 7 E1 145
42.17.790	RECD	204	1102	43.03.265	AMD 7 E1 146
42.17.900	RECD	204	1102	43.06B	ADD 239 3
42.17.910	RECD	204	1102	43.07.120	AMD 29 E1 6
42.17.911	RECD	204	1102	43.07.130	AMD 29 E1 7
42.17.912	RECD	204	1102	43.07.390	AMD 23 E1 213
42.17.920	RECD	204	1102	43.08.150	AMD 222 2
42.17.930	RECD	204	1102	43.08.190	AMD 222 3
42.17.940	RECD	204	1102	43.15.020	AMD 7 E1 135
42.17.945	RECD	204	1102	43.15.020	AMD 7 E1 136
42.17.950	RECD	204	1102	43.15.020	AMD 271 704
42.17.955	RECD	204	1102	43.19	ADD 5 5
42.17.960	RECD	204	1102	43.19.536	AMD 5 6
42.17.961	RECD	204	1102	43.19.642	AMD 247 701
42.17.962	RECD	204	1102	43.20A.725	AMD 37 E1 921
42.17.963	RECD	204	1102	43.20A.890	AMD 171 1
42.17.964	RECD	204	1102	43.20B.080	AMD 94 12
42.17.965	RECD	204	1102	43.21A.405	AMD 8 7001
42.17.966	RECD	204	1102	43.21A.520	AMD 7 E1 87
42.30.110	AMD	33 E1	5	43.21B	ADD 210 9
42.52.180	AMD	185	1	43.21B.001	AMD 210 2
42.56.010	AMD	204	1005	43.21B.005	REMD 7 E1 39
42.56.230	AMD	106	102	43.21B.005	REMD 210 3
42.56.240	AMD	182	5	43.21B.005	REMD 210 4
42.56.240	AMD	266	2	43.21B.010	AMD 210 5
42.56.250	AMD	128	9	43.21B.010	AMD 210 6
42.56.250	AMD	257	1	43.21B.110	REMD 84 2
42.56.330	AMD	128	8	43.21B.110	REMD 84 3
42.56.360	REMD	52	6	43.21B.110	REMD 210 7
42.56.360	REMD	128	3	43.21B.110	REMD 210 8
42.56.380	AMD	128	2	43.21B.180	AMD 210 10
42.56.400	AMD	97	3	43.21B.190	REP 210 41
42.56.400	AMD	172	2	43.21B.230	AMD 210 11
42.56.520	AMD	69	2	43.21B.300	REMD 84 4
43	ADD	13 E1	1-3	43.21B.300	REMD 210 12
43	ADD	35 E1	201-203	43.21B.310	REMD 210 13
			301,302	43.21B.320	AMD 210 14
			401-405	43.21C	ADD 153 2

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
43.21C.030	AMD	8	7002	43.42	ADD	162	2,3,5
43.21F	ADD	145	9	43.42.005	AMD	162	1
43.21F	ADD	271	403	43.42.070	AMD	162	4
43.21F.010	AMD	271	401	43.43	ADD	10	2
43.21F.015	REP	271	405	43.43	ADD	268	2,3
43.21F.025	REMD	271	402	43.43.040	AMD	259	3
43.21L.005	REP	7 E1	37	43.43.120	REMD	32 E1	9
43.21L.005	REP	210	46	43.43.285	AMD	261	7
43.21L.010	REP	7 E1	37	43.43.295	REMD	261	6
43.21L.010	REP	210	46	43.43.510	AMD	229	4
43.21L.020	REP	7 E1	37	43.43.839	AMD	37 E1	922
43.21L.020	REP	210	46	43.43.930	AMD	7 E1	44
43.21L.030	REP	7 E1	37	43.43.932	REP	7 E1	43
43.21L.030	REP	210	46	43.43.934	AMD	7 E1	45
43.21L.040	REP	7 E1	37	43.43.936	REP	7 E1	43
43.21L.040	REP	210	46	43.43.938	AMD	7 E1	46
43.21L.050	REP	7 E1	37	43.43.944	AMD	37 E1	923
43.21L.050	REP	210	46	43.43.962	AMD	7 E1	47
43.21L.060	REP	7 E1	37	43.43.963	AMD	7 E1	48
43.21L.060	REP	210	46	43.43.963	AMD	38	2
43.21L.070	REP	7 E1	37	43.44.030	AMD	7 E1	49
43.21L.070	REP	210	46	43.44.060	AMD	7 E1	50
43.21L.080	REP	7 E1	37	43.60A	ADD	5	3,4
43.21L.080	REP	210	46	43.60A	ADD	90	1,2
43.21L.090	REP	7 E1	37	43.60A.010	AMD	5	2
43.21L.090	REP	210	46	43.60A.010	AMD	7 E1	117
43.21L.100	REP	7 E1	37	43.60A.140	AMD	161	1106
43.21L.100	REP	210	46	43.60A.170	AMD	7 E1	115
43.21L.110	REP	7 E1	37	43.60A.180	REP	7 E1	118
43.21L.110	REP	210	46	43.60A.185	AMD	37 E1	924
43.21L.120	REP	7 E1	37	43.63A.150	DECD	271	802
43.21L.120	REP	210	46	43.63A.740	AMD	289	18
43.21L.130	REP	7 E1	37	43.63A.760	AMD	7 E1	6
43.21L.130	REP	210	46	43.70	ADD	271	203
43.21L.140	REP	7 E1	37	43.70.056	AMD	113	1
43.21L.140	REP	210	46	43.70.110	AMD	286	15
43.21L.900	REP	7 E1	37	43.70.720	AMD	174	10
43.21L.900	REP	210	46	43.72.906	REP	9 E1	8
43.21L.901	REP	7 E1	37	43.78.030	AMD	37 E1	927
43.21L.901	REP	210	46	43.79	ADD	37 E1	946
43.23	ADD	68	1	43.79	ADD	222	6
43.24	ADD	174	9	43.79.460	AMD	37 E1	928
43.30.020	AMD	126	7	43.79.465	AMD	37 E1	929
43.30.205	AMD	189	1	43.79A.040	AMD	9 E1	6
43.30.820	AMD	7 E1	74	43.79A.040	AMD	13 E1	4
43.33.130	AMD	18 E1	2	43.79A.040	AMD	19 E1	22
43.33A.135	AMD	7 E1	36	43.79A.040	AMD	215	7
43.41.130	AMD	159	1	43.79A.040	AMD	222	4
43.41.398	AMD	236	7	43.82.160	REP	37	2
43.41.398	RECD	236	18	43.84.092	REMD	9 E1	7

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
43.84.092	REMD	30 E1	20	43.126.015	REP	7 E1	131
43.84.092	REMD	145	11	43.126.025	REP	7 E1	131
43.84.092	REMD	162	6	43.126.035	REP	7 E1	131
43.84.092	REMD	222	5	43.126.045	REP	7 E1	131
43.84.092	REMD	248	6	43.126.055	REP	7 E1	131
43.86A.030	AMD	139	1	43.126.065	REP	7 E1	131
43.88	ADD	282	3	43.126.075	REP	7 E1	131
43.88.560	AMD	282	4	43.126.085	REP	7 E1	131
43.88D.010	AMD	245	9	43.131	ADD	245	12,13
43.89.010	AMD	37 E1	930	43.131.402	REMD	162	7
43.99I.100	REP	9 E1	8	43.131.406	AMD	7 E1	116
43.99I.110	REP	9 E1	8	43.131.406	AMD	37 E1	925
43.99J.080	REP	9 E1	8	43.131.408	AMD	21 E1	5
43.101	ADD	294	1	43.135	ADD	4	1
43.101.310	REP	7 E1	13	43.135.035	AMD	4	2
43.101.315	REP	7 E1	13	43.135.041	AMD	4	3
43.101.320	REP	7 E1	13	43.135.045	REMD	27 E1	5
43.101.325	REP	7 E1	13	43.155.050	AMD	36 E1	6007
43.101.330	REP	7 E1	13	43.155.050	AMD	37 E1	932
43.101.335	REP	7 E1	13	43.160.080	AMD	36 E1	6011
43.101.340	REP	7 E1	13	43.180.080	AMD	2	5
43.101.345	REP	7 E1	13	43.180.160	AMD	6 E1	2
43.101.380	AMD	7 E1	14	43.190.020	AMD	94	13
43.103.040	AMD	143	1	43.210	ADD	166	3
43.105	ADD	282	1,2,10	43.210.040	AMD	166	1
			12	43.210.050	AMD	166	2
43.105.017	REP	282	17	43.215	ADD	7 E1	148
43.105.020	REMD	7 E1	64	43.215	ADD	37 E1	933
43.105.041	AMD	7 E1	65	43.215	ADD	231	2-4
43.105.052	AMD	7 E1	16				9
43.105.055	REP	7 E1	15	43.215	ADD	273	2
43.105.080	AMD	37 E1	931	43.215.005	AMD	232	1
43.105.160	AMD	282	9	43.215.020	AMD	231	6
43.105.180	AMD	282	6	43.215.020	AMD	232	2
43.105.800	REP	7 E1	63	43.215.020	AMD	233	1
43.105.805	AMD	7 E1	66	43.215.090	AMD	12	1
43.105.805	AMD	9 E1	1	43.215.090	AMD	234	3
43.105.810	REP	7 E1	63	43.215.405	AMD	231	7
43.105.820	AMD	7 E1	67	43.250.010	AMD	10 E1	1
43.105.830	REP	9 E1	8	43.250.020	AMD	10 E1	2
43.110.010	REP	271	708	43.250.040	AMD	10 E1	3
43.110.030	AMD	271	701	43.320.110	AMD	37 E1	934
43.110.040	REP	271	708	43.320.165	AMD	37 E1	935
43.110.060	AMD	271	702	43.330	ADD	8 E1	8
43.110.070	REP	271	708	43.330.005	AMD	271	2
43.110.080	AMD	271	703	43.330.007	AMD	271	3
43.110.090	REP	9 E1	8	43.330.060	AMD	165	2
43.121.170	RECD	7 E1	148	43.330.090	AMD	7 E1	59
43.121.175	RECD	7 E1	148	43.330.130	AMD	68	2
43.121.180	RECD	7 E1	148	43.330.195	RECD	271	203

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RCW		CH.	SEC.	RCW		CH.	SEC.
43.330.200	RECD	271	203	46.04	ADD	161	101-107
43.330.205	RECD	271	203				109-129
43.330.210	AMD	271	201				131-154
43.330.210	RECD	271	203				156-161
43.330.220	RECD	271	203	46.04	ADD	217	3
43.330.225	RECD	271	203	46.04.125	AMD	161	108
43.330.230	RECD	271	203	46.04.144	REP	161	1169
43.330.240	AMD	271	202	46.04.215	AMD	268	1
43.330.240	RECD	271	203	46.04.295	AMD	144	1
43.330.310	AMD	187	2	46.04.320	AMD	217	1
43.330.375	AMD	187	3	46.04.3815	AMD	161	130
43.360.010	AMD	30	3	46.04.670	AMD	161	155
43.360.040	REP	7 E1	68	46.04.670	AMD	217	2
43.370.020	AMD	7 E1	113	46.08	ADD	217	4
43.370.030	AMD	7 E1	114	46.08.010	AMD	161	1111
44.04.280	AMD	94	2	46.08.066	AMD	161	211
44.28.010	AMD	26	1	46.08.150	AMD	161	212
44.28.020	AMD	26	2	46.08.150	AMD	161	1112
44.28.030	REP	26	7	46.09	ADD	161	214,219
44.28.083	AMD	26	3				1202-
44.28.088	AMD	26	4				1205
44.28.097	AMD	26	5	46.09.010	RECD	161	1202
44.28.110	AMD	26	6	46.09.020	AMD	161	213
44.28.161	REP	26	7	46.09.020	RECD	161	1202
44.39.060	AMD	8	8001	46.09.030	AMD	161	215
44.68	ADD	282	8	46.09.030	RECD	161	1203
46	ADD	161	611-613	46.09.040	AMD	161	216
			616-630	46.09.040	RECD	161	1203
			701-706	46.09.050	AMD	161	217
			1225-	46.09.050	RECD	161	1203
			1228	46.09.070	AMD	161	218
46.01	ADD	161	206	46.09.070	RECD	161	1203
46.01.011	AMD	161	201	46.09.080	AMD	8	9002
46.01.030	AMD	161	1107	46.09.080	AMD	161	220
46.01.040	AMD	161	1108	46.09.080	RECD	161	1202
46.01.110	AMD	161	202	46.09.085	REP	161	236
46.01.130	AMD	161	203	46.09.110	AMD	161	822
46.01.140	AMD	7 E1	139	46.09.110	RECD	161	1230
46.01.140	AMD	161	204	46.09.115	AMD	161	221
46.01.140	AMD	221	1	46.09.115	RECD	161	1204
46.01.160	AMD	161	1109	46.09.117	RECD	161	1204
46.01.230	AMD	161	205	46.09.120	RECD	161	1204
46.01.235	AMD	161	207	46.09.130	RECD	161	1204
46.01.250	AMD	8	9001	46.09.140	RECD	161	1202
46.01.260	AMD	161	208	46.09.150	RECD	161	1205
46.01.270	AMD	161	209	46.09.165	RECD	161	1205
46.01.310	AMD	161	210	46.09.170	REMD	37 E1	936
46.01.320	REP	7 E1	137	46.09.170	REMD	161	222
46.01.320	AMD	161	1110	46.09.170	RECD	161	1205
46.01.325	AMD	7 E1	138	46.09.180	RECD	161	1202

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RCW		CH.	SEC.	RCW		CH.	SEC.
46.09.190	RECD	161	1204				1210-
46.09.200	RECD	161	1202				1214
46.09.240	AMD	161	223	46.12.005	REP	161	325
46.09.240	RECD	161	1205	46.12.010	AMD	161	301
46.09.250	RECD	161	1202	46.12.010	RECD	161	1210
46.09.280	AMD	161	224	46.12.020	REP	161	325
46.09.280	RECD	161	1202	46.12.030	AMD	161	302
46.10	ADD	161	229	46.12.030	RECD	161	1210
			1206-	46.12.040	REP	161	325
			1209	46.12.042	REP	161	325
46.10.010	AMD	161	225	46.12.045	REP	161	325
46.10.010	RECD	161	1206	46.12.047	AMD	161	304
46.10.020	AMD	161	226	46.12.047	RECD	161	1210
46.10.020	RECD	161	1206	46.12.050	AMD	161	305
46.10.030	AMD	161	227	46.12.050	RECD	161	1210
46.10.030	RECD	161	1207	46.12.055	REP	161	325
46.10.040	AMD	161	228	46.12.060	REP	161	325
46.10.040	RECD	161	1207	46.12.070	AMD	161	306
46.10.043	AMD	161	230	46.12.070	RECD	161	1210
46.10.043	RECD	161	1207	46.12.075	REP	161	325
46.10.050	AMD	161	231	46.12.080	AMD	161	307
46.10.050	RECD	161	1207	46.12.080	RECD	161	1210
46.10.055	AMD	161	232	46.12.095	REP	161	325
46.10.055	RECD	161	1208	46.12.101	AMD	161	309
46.10.060	AMD	161	233	46.12.101	RECD	161	1211
46.10.060	RECD	161	1207	46.12.102	AMD	161	310
46.10.070	AMD	161	234	46.12.102	RECD	161	1211
46.10.070	RECD	161	1207	46.12.103	AMD	161	311
46.10.075	AMD	161	823	46.12.103	RECD	161	1211
46.10.075	RECD	161	1230	46.12.105	REP	161	325
46.10.080	REP	161	236	46.12.124	AMD	161	312
46.10.090	RECD	161	1208	46.12.124	RECD	161	1211
46.10.100	RECD	161	1208	46.12.130	AMD	8	9005
46.10.110	RECD	161	1208	46.12.130	AMD	161	313
46.10.120	AMD	8	9003	46.12.130	RECD	161	1211
46.10.120	RECD	161	1208	46.12.151	AMD	161	314
46.10.130	RECD	161	1208	46.12.151	RECD	161	1211
46.10.140	RECD	161	1206	46.12.160	AMD	161	315
46.10.150	RECD	161	1209	46.12.160	RECD	161	1210
46.10.160	RECD	161	1209	46.12.170	AMD	161	316
46.10.170	RECD	161	1209	46.12.170	RECD	161	1211
46.10.180	RECD	161	1206	46.12.181	AMD	161	317
46.10.185	RECD	161	1206	46.12.181	RECD	161	1210
46.10.190	RECD	161	1208	46.12.190	AMD	161	318
46.10.200	RECD	161	1206	46.12.190	RECD	161	1210
46.10.210	RECD	161	1206	46.12.200	REP	161	325
46.10.220	AMD	8	9004	46.12.210	AMD	161	319
46.10.220	AMD	161	235	46.12.210	RECD	161	1214
46.10.220	RECD	161	1206	46.12.215	REP	161	325
46.12	ADD	161	303,308	46.12.220	REP	161	325

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RCW		CH.	SEC.	RCW		CH.	SEC.
46.12.230	REP	161	325	46.16.016	REP	161	438
46.12.240	AMD	8	9006	46.16.017	REP	161	438
46.12.240	REP	161	325	46.16.020	AMD	161	407
46.12.250	AMD	161	320	46.16.020	RECD	161	1215
46.12.250	RECD	161	1214	46.16.022	AMD	161	408
46.12.260	REP	161	325	46.16.022	RECD	161	1215
46.12.270	REP	161	325	46.16.023	REP	161	438
46.12.280	AMD	8	9007	46.16.025	AMD	8	9010
46.12.280	AMD	161	321	46.16.025	AMD	161	409
46.12.280	RECD	161	1212	46.16.025	RECD	161	1217
46.12.290	AMD	161	322	46.16.028	AMD	161	410
46.12.290	RECD	161	1212	46.16.028	RECD	161	1215
46.12.300	AMD	8	9008	46.16.029	AMD	161	411
46.12.300	RECD	161	1213	46.16.029	RECD	161	1215
46.12.310	RECD	161	1213	46.16.030	AMD	161	412
46.12.320	AMD	8	9009	46.16.030	RECD	161	1215
46.12.320	RECD	161	1213	46.16.035	REP	161	438
46.12.330	RECD	161	1213	46.16.040	AMD	161	413
46.12.340	RECD	161	1213	46.16.040	RECD	161	1215
46.12.350	RECD	161	1213	46.16.045	AMD	161	415
46.12.370	RECD	161	1210	46.16.045	RECD	161	1216
46.12.380	RECD	161	1210	46.16.047	AMD	8	9011
46.12.390	RECD	161	1210	46.16.047	AMD	161	416
46.12.420	AMD	161	323	46.16.047	RECD	161	1216
46.12.420	RECD	161	1212	46.16.048	AMD	161	417
46.12.430	RECD	161	1212	46.16.048	RECD	161	1216
46.12.440	AMD	161	324	46.16.0621	REP	161	438
46.12.440	RECD	161	1212	46.16.063	REP	161	438
46.12.450	REP	161	325	46.16.068	AMD	161	418
46.12.500	REP	161	325	46.16.068	RECD	161	1217
46.12.510	REP	161	325	46.16.070	AMD	161	419
46.16	ADD	161	404,405	46.16.070	RECD	161	1217
			414,422	46.16.071	REP	161	438
			427,434	46.16.073	RECD	161	1215
			437	46.16.076	AMD	161	420
			1215-	46.16.076	RECD	161	1215
			1218	46.16.079	REP	161	438
46.16.004	AMD	161	401	46.16.085	REP	161	438
46.16.004	RECD	161	1215	46.16.086	AMD	161	421
46.16.006	AMD	161	402	46.16.086	RECD	161	1217
46.16.006	RECD	161	1215	46.16.088	REP	161	438
46.16.010	AMD	161	403	46.16.090	AMD	161	423
46.16.010	RECD	161	1215	46.16.090	RECD	161	1217
46.16.010	AMD	217	5	46.16.111	REP	161	438
46.16.010	AMD	270	1	46.16.121	REP	161	438
46.16.0105	REP	161	438	46.16.125	AMD	161	424
46.16.011	RECD	161	1218	46.16.125	RECD	161	1236
46.16.012	RECD	161	1218	46.16.135	REP	161	438
46.16.015	AMD	161	406	46.16.140	RECD	161	1218
46.16.015	RECD	161	1215	46.16.145	RECD	161	1218

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RCW		CH.	SEC.	RCW		CH.	SEC.
46.16.150	REP	161	438	46.16.30906	REP	161	438
46.16.160	AMD	161	425	46.16.30907	AMD	7 E1	101
46.16.160	RECD	161	1216	46.16.30907	REP	161	438
46.16.162	AMD	161	426	46.16.30908	REP	161	438
46.16.162	RECD	161	1216	46.16.30909	AMD	7 E1	102
46.16.180	RECD	161	1218	46.16.30909	REP	161	438
46.16.200	REP	161	438	46.16.30910	REP	161	438
46.16.210	AMD	8	9012	46.16.30911	AMD	7 E1	103
46.16.210	AMD	161	428	46.16.30911	REP	161	438
46.16.210	RECD	161	1215	46.16.30912	REP	161	438
46.16.212	AMD	161	429	46.16.30913	AMD	7 E1	104
46.16.212	RECD	161	1215	46.16.30913	REP	161	438
46.16.216	AMD	161	430	46.16.30914	AMD	7 E1	105
46.16.216	RECD	161	1215	46.16.30914	REP	161	438
46.16.216	AMD	249	10	46.16.30915	REP	161	438
46.16.220	REP	161	438	46.16.30916	AMD	7 E1	106
46.16.225	AMD	161	431	46.16.30916	REP	161	438
46.16.225	RECD	161	1215	46.16.30917	REP	161	438
46.16.230	AMD	8	9013	46.16.30918	AMD	7 E1	107
46.16.230	REP	161	438	46.16.30918	REP	161	438
46.16.233	REMD	7 E1	91	46.16.30919	REP	161	438
46.16.233	REP	161	438	46.16.30920	AMD	7 E1	108
46.16.235	REP	161	438	46.16.30920	REP	161	438
46.16.237	REP	161	438	46.16.30921	REP	161	438
46.16.240	REP	161	438	46.16.30922	AMD	7 E1	109
46.16.260	AMD	8	9014	46.16.30923	REP	161	438
46.16.260	AMD	161	432	46.16.30924	AMD	7 E1	110
46.16.260	RECD	161	1215	46.16.30924	REP	161	438
46.16.265	AMD	161	433	46.16.30925	REP	161	438
46.16.265	RECD	161	1215	46.16.30926	AMD	7 E1	111
46.16.270	REP	161	438	46.16.30926	REP	161	438
46.16.276	RECD	161	1215	46.16.30927	REP	161	438
46.16.280	REP	161	438	46.16.30928	AMD	7 E1	112
46.16.280	RECD	161	1215	46.16.30928	REP	161	438
46.16.290	REP	161	438	46.16.30929	REP	161	438
46.16.295	REP	161	438	46.16.313	REP	161	438
46.16.295	RECD	161	1215	46.16.314	RECD	161	1225
46.16.301	AMD	161	614	46.16.316	AMD	7 E1	92
46.16.301	RECD	161	1228	46.16.316	REP	161	438
46.16.305	REP	161	438	46.16.319	RECD	161	1228
46.16.307	REP	161	438	46.16.324	AMD	161	615
46.16.309	RECD	161	1225	46.16.324	RECD	161	1228
46.16.30901	AMD	7 E1	98	46.16.327	RECD	161	1215
46.16.30901	REP	161	438	46.16.332	RECD	161	1215
46.16.30902	REP	161	438	46.16.333	REP	161	438
46.16.30903	AMD	7 E1	99	46.16.335	REP	161	438
46.16.30903	REP	161	438	46.16.335	AMD	161	631
46.16.30904	REP	161	438	46.16.335	RECD	161	1225
46.16.30905	AMD	7 E1	100	46.16.340	REP	161	438
46.16.30905	REP	161	438	46.16.350	REP	161	438



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RCW		CH.	SEC.	RCW		CH.	SEC.
46.16.371	AMD	8	9015	46.16.725	AMD	161	604
46.16.371	REP	161	438	46.16.725	RECD	161	1226
46.16.374	REP	161	438	46.16.735	AMD	161	605
46.16.376	REP	161	438	46.16.735	RECD	161	1227
46.16.381	REP	161	438	46.16.745	AMD	7 E1	95
46.16.381	REMD	215	6	46.16.745	AMD	161	606
46.16.385	REP	161	438	46.16.745	RECD	161	1227
46.16.390	AMD	161	707	46.16.755	AMD	7 E1	96
46.16.390	RECD	161	1225	46.16.755	AMD	161	607
46.16.450	DECD	161	1237	46.16.755	RECD	161	1227
46.16.460	AMD	161	435	46.16.765	AMD	161	608
46.16.460	RECD	161	1216	46.16.765	RECD	161	1227
46.16.470	REP	161	438	46.16.775	AMD	7 E1	97
46.16.480	REP	161	438	46.16.775	AMD	161	609
46.16.490	REP	161	438	46.16.775	RECD	161	1227
46.16.500	AMD	161	436	46.17	ADD	161	501-537
46.16.500	RECD	161	1218	46.17.010	REP	161	438
46.16.505	AMD	8	9016	46.17.020	REP	161	438
46.16.505	REP	161	438	46.20.017	AMD	8	9018
46.16.560	REP	161	438	46.20.024	AMD	8	9019
46.16.565	REP	161	438	46.20.025	AMD	161	1113
46.16.570	REP	161	438	46.20.055	AMD	223	1
46.16.575	REP	161	438	46.20.075	AMD	223	2
46.16.580	REP	161	438	46.20.100	AMD	7 E1	18
46.16.585	REP	161	438	46.20.220	AMD	8	9020
46.16.590	REP	161	438	46.20.270	AMD	249	11
46.16.595	AMD	8	9017	46.20.325	AMD	8	9021
46.16.595	REP	161	438	46.20.327	AMD	8	9022
46.16.600	REP	161	438	46.20.332	AMD	8	9023
46.16.601	REP	161	438	46.20.333	AMD	8	9024
46.16.605	REP	161	438	46.20.334	AMD	8	9025
46.16.606	REP	161	438	46.20.342	AMD	252	4
46.16.615	RECD	161	1217	46.20.342	AMD	269	7
46.16.630	REP	161	438	46.20.349	AMD	8	9026
46.16.640	REP	161	438	46.20.385	AMD	269	1
46.16.670	REP	161	438	46.20.391	AMD	269	2
46.16.680	REP	161	438	46.20.410	AMD	269	6
46.16.685	AMD	161	818	46.20.720	AMD	269	3
46.16.685	RECD	161	1230	46.20.740	AMD	269	8
46.16.690	AMD	161	610	46.29.040	AMD	8	9027
46.16.690	RECD	161	1227	46.29.050	AMD	8	9028
46.16.700	AMD	161	601	46.29.070	AMD	8	9029
46.16.700	RECD	161	1226	46.29.080	AMD	8	9030
46.16.705	REP	7 E1	90	46.29.120	AMD	8	9031
46.16.705	AMD	161	602	46.29.140	AMD	8	9032
46.16.705	RECD	161	1226	46.29.160	AMD	8	9033
46.16.715	AMD	7 E1	93	46.29.170	AMD	8	9034
46.16.715	AMD	161	603	46.29.180	AMD	8	9035
46.16.715	RECD	161	1226	46.29.190	AMD	8	9036
46.16.725	AMD	7 E1	94	46.29.230	AMD	8	9037

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RCW		CH.	SEC.	RCW		CH.	SEC.
46.29.290	AMD	8	9038	46.55.240	AMD	8	9064
46.29.310	AMD	8	9039	46.55.240	AMD	161	1122
46.29.360	AMD	8	9040	46.61	ADD	214	1
46.29.450	AMD	8	9041	46.61	ADD	242	5
46.29.470	AMD	8	9042	46.61	ADD	269	5
46.29.490	AMD	8	9043	46.61.024	AMD	8	9065
46.29.510	AMD	8	9044	46.61.035	AMD	8	9066
46.29.540	AMD	8	9045	46.61.202	AMD	8	9067
46.29.550	AMD	8	9046	46.61.212	AMD	252	1
46.29.560	AMD	8	9047	46.61.235	AMD	242	1
46.29.570	AMD	8	9048	46.61.245	AMD	242	2
46.29.600	AMD	8	9049	46.61.255	AMD	8	9068
46.29.605	AMD	161	1114	46.61.261	AMD	242	3
46.30.020	AMD	161	1115	46.61.350	AMD	8	9069
46.32.010	AMD	8	9050	46.61.350	AMD	15	1
46.32.020	AMD	8	9051	46.61.385	AMD	8	9070
46.32.090	REP	161	1169	46.61.440	AMD	242	4
46.32.100	AMD	161	1116	46.61.5055	AMD	269	4
46.37.010	REMD	217	6	46.61.506	AMD	53	1
46.37.195	AMD	117	2	46.61.519	AMD	8	9071
46.37.380	AMD	8	9052	46.61.581	AMD	161	1123
46.37.423	AMD	8	9053	46.61.582	AMD	161	1124
46.37.424	AMD	8	9054	46.61.600	AMD	8	9072
46.37.550	AMD	8	9055	46.61.613	AMD	8	9073
46.37.560	AMD	8	9056	46.61.614	AMD	8	9074
46.37.590	AMD	8	9057	46.61.615	AMD	8	9075
46.38.010	REP	7 E1	119	46.61.667	AMD	223	3
46.38.020	REP	7 E1	119	46.61.668	AMD	223	4
46.38.030	REP	7 E1	119	46.61.690	AMD	249	9
46.38.040	REP	7 E1	119	46.61.723	AMD	144	2
46.38.050	REP	7 E1	119	46.61.725	AMD	144	3
46.38.060	REP	7 E1	119	46.61.765	AMD	8	9076
46.38.070	REP	7 E1	119	46.63.020	AMD	8	9077
46.38.080	REP	7 E1	119	46.63.020	AMD	161	1125
46.38.090	REP	7 E1	119	46.63.020	AMD	252	3
46.39.010	REP	7 E1	123	46.63.030	AMD	249	5
46.39.020	REP	7 E1	123	46.63.075	AMD	249	7
46.44.047	AMD	8	9058	46.63.110	AMD	252	5
46.44.0941	AMD	161	1117	46.63.160	AMD	161	1126
46.44.170	AMD	161	1118	46.63.160	AMD	249	6
46.52.050	AMD	8	9059	46.63.170	AMD	161	1127
46.52.070	AMD	8	9060	46.65.020	AMD	8	9078
46.52.130	AMD	253	1	46.65.080	AMD	8	9079
46.55.030	AMD	8	9061	46.65.100	AMD	8	9080
46.55.035	AMD	56	1	46.68	ADD	161	805,806
46.55.085	AMD	8	9062				808-817
46.55.105	AMD	161	1119				819-821
46.55.113	REMD	161	1120				1230
46.55.140	AMD	161	1121	46.68.010	AMD	161	801
46.55.200	AMD	8	9063	46.68.020	AMD	161	802

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RCW		CH.	SEC.	RCW		CH.	SEC.
46.68.030	AMD	161	803	46.96.090	AMD	178	3
46.68.035	AMD	161	804	46.96.105	AMD	178	4
46.68.080	AMD	8	9081	46.96.110	AMD	178	5
46.68.080	AMD	161	1128	46.96.150	AMD	8	9102
46.68.220	AMD	161	807	46.96.185	AMD	178	6
46.68.250	AMD	161	1129	46.96.200	AMD	178	7
46.68.320	AMD	247	702	47.01.070	AMD	8	10001
46.70.011	AMD	161	1130	47.01.310	REP	9 E1	8
46.70.051	AMD	161	1131	47.04.280	AMD	74	1
46.70.075	AMD	8	9082	47.06	ADD	161	1145
46.70.101	AMD	161	1132	47.10.150	AMD	8	10002
46.70.102	AMD	8	9083	47.10.704	AMD	161	1146
46.70.111	AMD	8	9084	47.12.023	AMD	8	10003
46.70.122	AMD	161	1133	47.12.063	AMD	157	1
46.70.124	AMD	161	1134	47.12.160	AMD	8	10004
46.70.135	AMD	161	1135	47.12.230	AMD	8	10005
46.70.180	REMD	161	1136	47.12.283	AMD	8	10006
46.70.190	AMD	8	9085	47.12.340	AMD	247	703
46.70.220	AMD	8	9086	47.17.328	AMD	77	2
46.70.230	AMD	8	9087	47.17.855	REP	81	1
46.70.250	AMD	8	9088	47.26.150	AMD	8	10007
46.72.040	AMD	8	9089	47.26.325	REP	9 E1	8
46.72.060	AMD	8	9090	47.26.330	REP	9 E1	8
46.72.060	AMD	161	1137	47.26.4254	AMD	8	10008
46.72.110	AMD	8	9091	47.28.030	AMD	5	11
46.76.010	AMD	8	9092	47.28.030	AMD	283	9
46.76.060	AMD	8	9093	47.28.080	AMD	8	10009
46.79.030	AMD	8	9094	47.32.060	AMD	8	10010
46.79.040	AMD	8	9095	47.32.070	AMD	8	10011
46.79.060	AMD	8	9096	47.32.090	AMD	8	10012
46.80.010	AMD	8	9097	47.36.110	AMD	8	10013
46.80.010	AMD	161	1138	47.36.200	AMD	8	10014
46.80.030	AMD	8	9098	47.38	ADD	48	1
46.80.090	AMD	161	1139	47.39.010	AMD	14	1
46.82.280	AMD	7 E1	19	47.39.020	AMD	14	2
46.82.300	REP	7 E1	20	47.41.040	AMD	8	10015
46.82.300	AMD	8	9099	47.42.020	AMD	138	1
46.82.330	AMD	7 E1	21	47.42.080	AMD	8	10016
46.82.420	AMD	7 E1	22	47.42.103	AMD	8	10017
46.85.020	AMD	8	9100	47.42.120	AMD	138	2
46.87.010	AMD	161	1140	47.46.020	AMD	249	2
46.87.020	AMD	161	1141	47.46.105	AMD	249	4
46.87.030	AMD	161	1142	47.52.150	AMD	8	10018
46.87.140	AMD	161	1143	47.52.170	AMD	8	10019
46.87.220	AMD	161	1144	47.56	ADD	248	5
46.87.360	AMD	8	9101	47.56	ADD	249	3
46.88.010	REP	161	1169	47.56.010	AMD	249	1
46.96	ADD	178	8-12	47.56.167	AMD	249	8
46.96.030	AMD	178	1	47.56.870	AMD	248	2
46.96.070	AMD	178	2	47.56.875	AMD	248	4

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RCW		CH.	SEC.	RCW		CH.	SEC.
47.60	ADD	283	7	48.15.070	AMD	18	1
47.60.310	AMD	8	10020	48.15.073	AMD	18	2
47.60.355	AMD	283	3	48.17.010	AMD	67	2
47.60.365	AMD	283	4	48.17.060	AMD	67	3
47.60.375	AMD	283	5	48.17.110	AMD	67	4
47.60.385	AMD	283	6	48.17.150	AMD	67	5
47.60.395	REP	283	20	48.17.173	AMD	18	3
47.60.649	REP	283	20	48.17.250	AMD	18	4
47.60.652	REP	283	20	48.17.390	AMD	67	6
47.60.654	REP	283	20	48.17.420	AMD	67	7
47.60.658	REP	283	20	48.18A.060	AMD	8	11003
47.60.770	REP	283	20	48.20	ADD	228	1
47.60.772	REP	283	20	48.21	ADD	228	2
47.60.774	REP	283	20	48.21.010	AMD	13	3
47.60.776	REP	283	20	48.21.045	AMD	292	7
47.60.778	REP	283	20	48.21.047	AMD	292	8
47.60.780	REP	283	20	48.21.260	AMD	110	1
47.61.010	REP	283	20	48.22.110	AMD	161	1148
47.61.020	REP	283	20	48.24	ADD	13	1
47.61.030	REP	283	20	48.24.030	AMD	13	2
47.61.040	REP	283	20	48.30.120	AMD	8	11004
47.61.050	REP	283	20	48.31	ADD	97	1
47.61.060	REP	283	20	48.34.100	AMD	8	11005
47.61.070	REP	283	20	48.38.010	AMD	27	2
47.61.080	REP	283	20	48.43	ADD	44	1
47.61.090	REP	283	20	48.43	ADD	174	15
47.61.100	REP	283	20	48.43.005	REMD	292	1
47.61.110	REP	283	20	48.43.018	AMD	277	1
47.64.120	AMD	283	10	48.43.035	AMD	292	2
47.64.130	AMD	8	10021	48.44	ADD	228	3
47.64.170	AMD	283	11	48.44.010	AMD	292	3
47.64.200	AMD	283	12	48.44.023	AMD	292	4
47.64.220	REP	283	20	48.44.370	AMD	110	2
47.64.250	AMD	8	10022	48.46.020	AMD	292	5
47.64.270	AMD	283	13	48.46.066	AMD	292	6
47.64.280	AMD	283	14	48.46.450	AMD	110	3
47.64.320	AMD	283	15	48.56.110	AMD	8	11006
47.68.255	AMD	161	1147	48.62.041	REP	7 E1	54
47.68.330	AMD	8	10023	48.62.051	REP	7 E1	54
47.68.340	AMD	8	10024	48.62.061	AMD	7 E1	55
48	ADD	230	1-16	48.62.161	AMD	7 E1	56
48.01.035	AMD	94	14	48.64.130	AMD	8	11007
48.02	ADD	18	5	48.66.045	AMD	27	3
48.02.060	AMD	27	1	48.99	ADD	97	2
48.05.105	AMD	93	1	48.102.011	AMD	27	5
48.08.090	AMD	8	11001	48.110.020	REMD	89	1
48.08.130	AMD	8	11002	48.155.010	AMD	27	4
48.14.010	REMD	67	1	48.155.020	AMD	27	6
48.14.080	AMD	23 E1	520	49	ADD	6	1-17
48.15.040	AMD	230	17	49.08.010	AMD	8	12001

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
49.08.020	AMD	8	12002	49.48.010	AMD	8	12047
49.08.050	AMD	8	12003	49.48.030	AMD	8	12048
49.12	ADD	160	1	49.48.050	AMD	8	12049
49.12.050	AMD	8	12004	49.48.060	AMD	8	12050
49.12.460	AMD	170	1	49.48.060	AMD	42	5
49.17.020	AMD	8	12005	49.48.082	AMD	42	1
49.17.050	AMD	8	12006	49.48.083	AMD	42	2
49.17.060	AMD	8	12007	49.48.084	AMD	42	3
49.17.080	AMD	8	12008	49.48.086	AMD	42	4
49.17.090	AMD	8	12009	49.48.090	AMD	8	12051
49.17.100	AMD	8	12010	49.48.150	AMD	8	12052
49.17.110	AMD	8	12011	49.52.010	AMD	8	12053
49.17.130	AMD	8	12012	49.52.020	AMD	8	12054
49.17.160	AMD	8	12013	49.52.050	AMD	8	12055
49.17.170	AMD	8	12014	49.52.070	AMD	8	12056
49.17.180	AMD	8	12015	49.52.090	AMD	8	12057
49.17.190	AMD	8	12016	49.56.010	AMD	8	12058
49.17.200	AMD	8	12017	49.56.020	AMD	8	12059
49.17.220	AMD	8	12018	49.56.030	AMD	8	12060
49.17.240	AMD	8	12019	49.60.240	AMD	85	1
49.17.260	AMD	8	12020	49.64.030	AMD	8	12061
49.24.020	AMD	8	12021	49.66.030	AMD	8	12062
49.24.040	AMD	8	12022	49.66.050	AMD	8	12063
49.24.180	AMD	8	12023	49.66.060	AMD	8	12064
49.24.190	AMD	8	12024	49.66.080	AMD	8	12065
49.24.230	AMD	8	12025	49.66.090	AMD	8	12066
49.24.370	AMD	8	12026	49.66.100	AMD	8	12067
49.26.010	AMD	8	12027	49.70.170	AMD	8	12068
49.26.120	AMD	7	E1 52	50.01.010	AMD	8	13001
49.32.020	AMD	8	12028	50.04	ADD	160	4
49.32.030	AMD	8	12029	50.04.040	AMD	8	13002
49.32.080	AMD	8	12030	50.04.230	AMD	8	13003
49.32.110	AMD	8	12031	50.04.235	AMD	8	13004
49.36.015	AMD	8	12032	50.04.290	AMD	8	13005
49.40.040	AMD	8	12033	50.04.320	AMD	8	13006
49.40.050	AMD	8	12034	50.04.330	AMD	8	13007
49.40.060	AMD	8	12035	50.04.340	AMD	8	13008
49.44.020	AMD	8	12036	50.04.350	AMD	8	13009
49.44.030	AMD	8	12037	50.06.030	AMD	8	13010
49.44.060	AMD	8	12038	50.08.010	AMD	8	13011
49.44.080	AMD	8	12039	50.08.020	AMD	8	13012
49.46.010	AMD	8	12040	50.12	ADD	72	2
49.46.010	AMD	160	2	50.12.010	AMD	8	13013
49.46.040	AMD	8	12041	50.12.060	AMD	8	13014
49.46.070	AMD	8	12042	50.12.080	AMD	8	13015
49.46.090	AMD	8	12043	50.12.120	AMD	8	13016
49.46.100	AMD	8	12044	50.12.130	AMD	22	3
49.46.130	AMD	8	12045	50.12.150	AMD	8	13017
49.46.160	AMD	8	12046	50.12.160	AMD	8	13018
49.48	ADD	42	6	50.12.170	AMD	8	13019

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RCW		CH.	SEC.	RCW		CH.	SEC.
50.16.050	AMD	8	13020	51.52.106	AMD	8	14014
50.20.020	AMD	8	13021	52.02.020	AMD	136	1
50.20.130	AMD	8	13022	52.04	ADD	63	1
50.20.150	AMD	8	13023	52.04.061	AMD	136	2
50.20.170	AMD	8	13024	52.04.111	AMD	8	15001
50.20.180	AMD	8	13025	52.12.031	AMD	8	15002
50.22.040	AMD	8	13026	52.14.080	AMD	8	15003
50.24.040	AMD	8	13027	53.06.040	AMD	198	1
50.24.050	AMD	8	13028	53.08.091	AMD	8	16001
50.24.080	AMD	8	13029	53.08.208	AMD	8	16002
50.24.090	AMD	8	13030	53.08.245	AMD	195	1
50.24.100	AMD	8	13031	53.08.390	AMD	8	16003
50.24.115	AMD	8	13032	53.12.265	AMD	8	16004
50.24.140	AMD	8	13033	53.18.030	AMD	8	16005
50.24.150	AMD	8	13034	53.25.020	AMD	8	16006
50.29.021	REMD	25	1	53.25.150	AMD	8	16007
50.29.025	REMD	72	1	53.25.160	AMD	8	16008
50.29.062	AMD	25	2	53.34.020	AMD	8	16009
50.29.063	AMD	25	3	53.34.140	AMD	8	16010
50.29.080	AMD	8	13035	53.36.010	AMD	8	16011
50.32.010	AMD	8	13036	53.36.050	AMD	8	16012
50.32.080	AMD	8	13037	53.36.060	AMD	8	16013
50.32.110	AMD	8	13038	53.46.030	AMD	8	16014
50.32.150	AMD	8	13039	53.46.080	AMD	8	16015
50.36.030	AMD	8	13040	53.46.090	AMD	8	16016
50.40	ADD	215	3	53.47.030	AMD	8	16017
50.40.020	AMD	8	13041	53.47.040	AMD	8	16018
50.44.040	AMD	8	13042	53.49.020	AMD	8	16019
50.44.060	AMD	8	13043	54.04.060	AMD	8	17001
50.44.070	AMD	8	13044	54.04.120	AMD	8	17002
50.65.150	REP	9 E1	8	54.04.140	AMD	8	17003
50.72.060	AMD	8	13045	54.08.010	AMD	8	17004
51.04.040	AMD	22	2	54.08.070	AMD	8	17005
51.04.110	AMD	8	14001	54.12.080	AMD	58	1
51.12.080	AMD	8	14002	54.12.100	AMD	8	17006
51.14.040	AMD	8	14003	54.16.097	AMD	8	17007
51.14.050	AMD	8	14004	54.16.150	AMD	8	17008
51.14.060	AMD	213	2	54.16.280	AMD	4 E1	1
51.14.100	AMD	8	14005	54.28.011	AMD	23 E1	1001
51.16	ADD	160	3	54.40.050	AMD	8	17009
51.16.120	AMD	213	1	54.44.020	AMD	167	2
51.16.150	AMD	8	14006	57.08.160	AMD	5 E1	3
51.16.170	AMD	8	14007	58.08.035	AMD	8	18001
51.32.025	AMD	8	14008	58.09.030	AMD	8	18002
51.32.050	AMD	261	3	58.09.040	AMD	8	18003
51.32.230	AMD	8	14009	58.09.090	AMD	8	18004
51.44.120	AMD	8	14010	58.17.140	AMD	79	1
51.48.017	AMD	8	14011	58.17.170	AMD	79	2
51.48.250	AMD	8	14012	58.17.210	AMD	8	18005
51.52.102	AMD	8	14013	58.28.030	AMD	8	18006

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RCW		CH.	SEC.	RCW		CH.	SEC.
58.28.070	AMD	8	18007	59.18.340	AMD	8	19030
58.28.080	AMD	8	18008	59.18.350	AMD	8	19031
58.28.090	AMD	8	18009	59.18.380	AMD	8	19032
58.28.140	AMD	8	18010	59.18.410	AMD	8	19033
58.28.220	AMD	8	18011	59.20.090	AMD	8	19034
58.28.240	AMD	8	18012	59.20.140	AMD	8	19035
58.28.280	AMD	8	18013	59.21.050	AMD	161	1149
58.28.290	AMD	8	18014	59.21.055	REP	161	1169
58.28.300	AMD	8	18015	59.22.020	REMD	161	1150
58.28.310	AMD	8	18016	59.22.080	REP	161	1169
58.28.350	AMD	8	18017	59.22.085	REP	161	1169
58.28.390	AMD	8	18018	62A.9A-311	AMD	161	1151
58.28.410	AMD	8	18019	63.14.010	REMD	161	1152
58.28.460	AMD	8	18020	63.14.130	AMD	161	1153
58.28.470	AMD	8	18021	63.21.080	AMD	193	6
58.28.480	AMD	8	18022	63.29.020	REMD	29	1
58.28.500	AMD	8	18023	63.29.350	AMD	29	2
58.28.510	AMD	8	18024	64.06	ADD	64	3
59.04.040	AMD	8	19001	64.06.005	AMD	64	1
59.04.050	AMD	8	19002	64.06.010	AMD	64	2
59.08.030	AMD	8	19003	64.06.022	AMD	64	4
59.08.040	AMD	8	19004	64.06.040	REMD	64	5
59.08.070	AMD	8	19005	64.06.050	AMD	64	6
59.12.035	AMD	8	19006	64.06.070	AMD	64	7
59.12.040	AMD	8	19007	64.44.045	REP	161	1169
59.12.060	AMD	8	19008	65.20.020	AMD	161	1154
59.12.080	AMD	8	19009	65.20.040	AMD	161	1155
59.12.090	AMD	8	19010	66.20.300	REMD	141	3
59.12.100	AMD	8	19011	66.20.310	REMD	141	2
59.12.121	AMD	8	19012	66.24	ADD	141	1
59.12.140	AMD	8	19013	66.24.140	AMD	290	1
59.12.170	AMD	8	19014	66.24.145	AMD	290	2
59.12.190	AMD	8	19015	66.24.290	AMD	23 E1	1301
59.16.020	AMD	8	19016	66.24.520	AMD	290	4
59.16.030	AMD	8	19017	66.28.310	AMD	141	4
59.18	ADD	148	2	66.28.310	AMD	290	3
59.18.030	AMD	148	1	67.16.105	AMD	39	1
59.18.070	AMD	8	19018	67.28.180	AMD	26 E1	8
59.18.080	AMD	8	19019	67.40.010	REP	15 E1	14
59.18.090	AMD	8	19020	67.40.020	REP	15 E1	15
59.18.100	AMD	8	19021	67.40.025	REP	15 E1	14
59.18.140	AMD	8	19022	67.40.027	REP	15 E1	14
59.18.150	AMD	148	3	67.40.030	REP	15 E1	14
59.18.190	AMD	8	19023	67.40.040	REP	15 E1	14
59.18.230	AMD	8	19024	67.40.040	REMD	37 E1	938
59.18.240	AMD	8	19025	67.40.045	REP	15 E1	14
59.18.250	AMD	8	19026	67.40.050	REP	15 E1	14
59.18.280	AMD	8	19027	67.40.055	REP	15 E1	14
59.18.290	AMD	8	19028	67.40.060	REP	15 E1	14
59.18.300	AMD	8	19029	67.40.070	REP	15 E1	14

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RCW		CH.	SEC.	RCW		CH.	SEC.
67.40.080	REP	15 E1	14	70.24.400	AMD	3 E1	1
67.40.090	REP	15 E1	14	70.41.020	AMD	94	17
67.40.100	REP	15 E1	14	70.44.060	AMD	95	1
67.40.105	REP	15 E1	14	70.47	ADD	30 E1	15
67.40.107	REP	15 E1	14	70.47.040	AMD	7 E1	7
67.40.110	REP	15 E1	14	70.48	ADD	181	5,6,13
67.40.120	REP	15 E1	14	70.48.020	REMD	181	4
67.40.130	REP	15 E1	14	70.48.470	AMD	267	14
67.40.140	REP	15 E1	14	70.54	ADD	220	2
67.40.150	REP	15 E1	14	70.83.020	AMD	94	18
67.40.160	REP	15 E1	14	70.83.023	AMD	17 E1	1
67.40.170	REP	15 E1	14	70.83.040	AMD	94	19
67.40.180	REP	15 E1	14	70.84.040	AMD	184	1
67.40.190	REP	15 E1	14	70.93.180	AMD	37 E1	945
67.40.900	REP	15 E1	14	70.94.151	AMD	146	2
67.70.044	AMD	37 E1	940	70.94.6528	AMD	70	1
67.70.230	AMD	37 E1	941	70.94.6534	AMD	7 E1	128
67.70.240	REMD	27 E1	3	70.95.030	AMD	7 E1	86
67.70.340	REMD	27 E1	4	70.95.040	REP	7 E1	85
68.50.160	AMD	274	602	70.95.050	REP	7 E1	85
68.64.010	AMD	161	1156	70.95.070	REP	7 E1	85
68.64.210	AMD	161	1157	70.95.080	AMD	154	2
69.41.030	REMD	83	1	70.95.094	AMD	210	17
69.43	ADD	182	3,4	70.95.532	AMD	247	704
69.43.105	AMD	182	1	70.95M.010	AMD	130	18
69.43.110	AMD	182	2	70.95M.050	AMD	130	19
69.43.170	REP	182	6	70.96A	ADD	8 E1	10
69.50	ADD	9	2	70.96A.070	REP	7 E1	8
69.50.101	AMD	177	1	70.103.010	AMD	158	1
69.50.204	AMD	177	2	70.103.020	AMD	158	2
69.50.206	AMD	177	3	70.103.030	AMD	158	3
69.50.208	AMD	177	4	70.103.040	AMD	158	4
69.50.210	AMD	177	5	70.103.050	AMD	158	5
69.50.212	AMD	177	6	70.103.080	AMD	158	6
69.50.402	AMD	177	7	70.103.090	AMD	158	7
69.51A.005	AMD	284	1	70.104.080	REP	7 E1	132
69.51A.010	AMD	284	2	70.105.010	AMD	7 E1	88
69.51A.030	AMD	284	3	70.105.060	REP	7 E1	85
69.51A.060	AMD	284	4	70.105.160	AMD	7 E1	89
70	ADD	130	1-17	70.105D.070	AMD	37 E1	942
			21	70.105D.130	AMD	37 E1	947
70	ADD	140	1-6	70.105E.070	REP	7 E1	53
70	ADD	147	1-10	70.105E.090	REP	7 E1	53
			12	70.112.010	AMD	7 E1	41
70	ADD	174	1-8	70.112.020	AMD	7 E1	42
			12-14	70.112.030	REP	7 E1	40
70.05.125	AMD	271	101	70.112.040	REP	7 E1	40
70.05.170	AMD	128	1	70.112.050	REP	7 E1	40
70.10.010	AMD	94	15	70.118.100	REP	7 E1	79
70.10.030	AMD	94	16	70.118.110	AMD	7 E1	80



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RCW		CH.	SEC.	RCW		CH.	SEC.
70.119A.160	REP	7	E1 120	74.04.230	AMD	8	E1 20
70.119A.180	AMD	7	E1 121	74.04.266	AMD	8	E1 21
70.120A.010	AMD	76	1	74.04.620	AMD	8	E1 22
70.123.110	AMD	8	E1 16	74.04.770	AMD	8	E1 23
70.146.100	AMD	37	E1 948	74.08.043	AMD	8	E1 24
70.164.010	AMD	287	1	74.08.278	AMD	8	E1 25
70.164.020	REMD	287	2	74.08.335	AMD	8	E1 26
70.164.030	AMD	287	3	74.08A	ADD	8	E1 32
70.164.040	AMD	287	4	74.08A.200	REP	273	6
70.164.070	AMD	287	5	74.08A.210	AMD	8	E1 27
70.168	ADD	52	3,4	74.08A.320	AMD	273	5
70.168.015	AMD	52	2	74.09.010	AMD	8	E1 28
70.168.040	AMD	161	1158	74.09.035	AMD	8	E1 29
70.168.090	AMD	52	5	74.09.035	AMD	94	22
70.198.020	AMD	233	2	74.09.120	AMD	94	23
70.235.010	AMD	146	1	74.09.510	AMD	94	24
71.05	ADD	208	1	74.09.555	AMD	8	E1 30
71.05	ADD	280	4	74.09.700	AMD	94	25
71.05.212	AMD	280	2	74.13	ADD	272	12
71.05.245	AMD	280	3	74.13.020	REMD	291	3
71.09.050	AMD	28	E1 1	74.13.360	AMD	291	4
71.09.080	AMD	218	2	74.13.364	AMD	291	5
71.09.090	AMD	28	E1 2	74.13.366	AMD	291	6
71.09.110	AMD	28	E1 3	74.13.368	AMD	291	2
71.34.020	AMD	94	20	74.15	ADD	289	10
71A.10.020	AMD	94	21	74.29.010	AMD	94	26
72.05	ADD	181	8,9	74.31.030	AMD	37	E1 943
72.05.020	AMD	181	7	74.31.060	AMD	37	E1 944
72.09	ADD	181	2,3	74.34	ADD	133	3,5
72.09.015	AMD	181	1	74.34.020	AMD	133	2
72.09.111	AMD	116	1	74.34.035	AMD	133	4
72.09.111	AMD	122	5	74.42.010	AMD	94	27
72.09.480	AMD	122	6	74.42.490	AMD	94	28
72.29.010	AMD	94	32	74.46	ADD	34	E1 19,20
72.36.010	AMD	75	1	74.46.010	AMD	34	E1 1
72.78.030	AMD	7	E1 12	74.46.020	AMD	34	E1 2
73.04.110	REP	161	1169	74.46.020	AMD	94	29
73.04.115	AMD	161	1159	74.46.030	REP	34	E1 21
73.08.005	AMD	8	E1 17	74.46.040	REP	34	E1 21
73.40.060	REP	9	E1 8	74.46.050	REP	34	E1 21
74	ADD	30	E1 1-14	74.46.060	REP	34	E1 21
			16-18	74.46.080	REP	34	E1 21
			21	74.46.090	REP	34	E1 21
74.04	ADD	8	E1 2,3	74.46.100	REP	34	E1 21
			5-7	74.46.155	REP	34	E1 21
			11	74.46.165	REP	34	E1 21
74.04.005	AMD	8	E1 4	74.46.190	REP	34	E1 21
74.04.0052	AMD	8	E1 18	74.46.200	REP	34	E1 21
74.04.025	AMD	296	7	74.46.220	REP	34	E1 21
74.04.120	AMD	8	E1 19	74.46.230	REP	34	E1 21

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RCW		CH.	SEC.	RCW		CH.	SEC.
74.46.240	REP	34	E1 21	74.46.900	REP	34	E1 21
74.46.250	REP	34	E1 21	74.46.901	REP	34	E1 21
74.46.270	REP	34	E1 21	74.46.902	REP	34	E1 21
74.46.280	REP	34	E1 21	74.46.905	REP	34	E1 21
74.46.290	REP	34	E1 21	74.46.906	REP	34	E1 21
74.46.300	REP	34	E1 21	74.50.060	AMD	8	E1 31
74.46.310	REP	34	E1 21	76.04.015	AMD	38	1
74.46.320	REP	34	E1 21	76.04.145	REP	7	E1 127
74.46.330	REP	34	E1 21	76.04.630	AMD	7	E1 129
74.46.340	REP	34	E1 21	76.04.660	AMD	7	E1 130
74.46.350	REP	34	E1 21	76.06.180	AMD	126	8
74.46.360	REP	34	E1 21	76.06.180	AMD	210	18
74.46.370	REP	34	E1 21	76.09	ADD	210	24
74.46.380	REP	34	E1 21	76.09.010	AMD	188	3
74.46.390	REP	34	E1 21	76.09.020	REMD	188	6
74.46.410	REP	34	E1 21	76.09.020	REMD	210	19
74.46.431	AMD	34	E1 3	76.09.040	AMD	188	4
74.46.433	AMD	34	E1 4	76.09.050	AMD	210	20
74.46.433	REP	34	E1 22	76.09.080	AMD	210	21
74.46.435	AMD	34	E1 5	76.09.090	AMD	210	22
74.46.439	AMD	34	E1 7	76.09.170	AMD	210	23
74.46.445	REP	34	E1 21	76.09.210	REP	210	41
74.46.475	AMD	34	E1 8	76.09.220	REP	210	41
74.46.485	AMD	34	E1 9	76.09.230	REP	210	41
74.46.496	AMD	34	E1 10	76.09.240	REMD	219	1
74.46.501	AMD	34	E1 11	76.09.310	AMD	210	25
74.46.506	AMD	34	E1 12	76.44	ADD	188	2
74.46.508	AMD	34	E1 13	77.12.471	AMD	161	1160
74.46.511	AMD	34	E1 14	77.12.865	AMD	193	7
74.46.515	AMD	34	E1 15	77.12.870	AMD	193	8
74.46.521	AMD	34	E1 16	77.15	ADD	193	1,2
74.46.533	REP	34	E1 21	77.15.380	AMD	193	5
74.46.600	REP	34	E1 21	77.15.520	AMD	193	4
74.46.610	REP	34	E1 21	77.15.750	AMD	193	9
74.46.620	REP	34	E1 21	77.32.430	AMD	193	11
74.46.625	REP	34	E1 21	77.55.011	AMD	210	26
74.46.630	REP	34	E1 21	77.55.021	AMD	210	27
74.46.640	REP	34	E1 21	77.55.041	AMD	193	10
74.46.650	REP	34	E1 21	77.55.141	AMD	210	28
74.46.660	REP	34	E1 21	77.55.181	AMD	210	29
74.46.680	REP	34	E1 21	77.55.241	AMD	210	30
74.46.690	REP	34	E1 21	77.55.291	AMD	210	31
74.46.700	REP	34	E1 21	77.55.301	REP	210	41
74.46.711	REP	34	E1 21	77.55.311	REP	210	41
74.46.770	REP	34	E1 21	77.70.150	AMD	193	14
74.46.780	REP	34	E1 21	77.70.190	AMD	193	15
74.46.790	REP	34	E1 21	77.70.350	AMD	193	13
74.46.800	AMD	34	E1 18	77.70.500	AMD	193	3
74.46.820	REP	34	E1 21	77.95.100	AMD	7	E1 82
74.46.835	AMD	34	E1 17	77.95.110	REP	7	E1 81

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
77.95.120	REP	7	E1 81	82.04.050	REMD	112	14
77.95.180	AMD	7	E1 83	82.04.060	AMD	106	203
77.95.190	AMD	7	E1 84	82.04.080	AMD	23	E1 109
78.44.270	AMD	210	32	82.04.190	AMD	106	204
78.44.380	AMD	210	33	82.04.190	AMD	111	202
79	ADD	126	1-5	82.04.192	AMD	111	203
79.02.010	AMD	126	6	82.04.220	AMD	23	E1 102
79.15.100	AMD	126	9	82.04.240	AMD	114	104
79.15.220	AMD	126	10	82.04.2404	AMD	114	105
79.15.510	AMD	126	11	82.04.250	AMD	11	E1 1
79.15.510	AMD	126	12	82.04.250	AMD	23	E1 507
79.19.070	REP	7	E1 126	82.04.250	AMD	23	E1 508
79.100.100	AMD	161	1161	82.04.250	AMD	23	E1 509
79.100.120	AMD	210	34	82.04.250	AMD	114	106
79.105.150	AMD	37	E1 949	82.04.257	AMD	111	301
79.115.030	AMD	45	1	82.04.260	REMD	23	E1 505
79.140.210	AMD	57	1	82.04.260	AMD	23	E1 506
79A.05.059	AMD	161	1162	82.04.260	REMD	114	107
79A.05.065	AMD	161	1163	82.04.261	REMD	23	E1 510
79A.05.215	AMD	161	1164	82.04.280	AMD	106	205
79A.25.030	AMD	23	1	82.04.280	AMD	106	206
79A.25.040	AMD	23	2	82.04.2907	AMD	23	E1 106
79A.25.070	AMD	23	3	82.04.2907	AMD	23	E1 107
79A.25.150	AMD	128	7	82.04.2907	AMD	111	302
80.01.080	AMD	37	E1 950	82.04.2909	AMD	2	E1 1
80.36.430	AMD	37	E1 951	82.04.2909	AMD	114	108
80.50.020	AMD	152	1	82.04.294	AMD	114	109
80.50.030	AMD	152	2	82.04.297	AMD	111	303
80.50.030	AMD	271	601	82.04.298	AMD	23	E1 511
80.50.071	AMD	152	3	82.04.310	AMD	295	1
81.24	ADD	161	1236	82.04.334	AMD	23	E1 512
81.53.060	AMD	82	1	82.04.360	AMD	23	E1 702
81.77	ADD	154	4	82.04.360	REMD	106	207
81.77.040	AMD	24	1	82.04.3651	AMD	106	208
81.77.090	AMD	24	2	82.04.394	AMD	23	E1 1201
81.77.185	AMD	154	3	82.04.394	AMD	23	E1 1202
81.104.160	AMD	161	903	82.04.394	AMD	106	209
81.112	ADD	251	6	82.04.423	AMD	23	E1 402
81.112.050	AMD	19	3	82.04.426	AMD	114	110
82	ADD	23	E1 1401-1405	82.04.4266	AMD	23	E1 503
				82.04.4266	AMD	23	E1 504
82.02.020	AMD	153	3	82.04.4266	AMD	114	111
82.02.090	AMD	86	1	82.04.4268	AMD	114	112
82.04	ADD	23	E1 103-105	82.04.4269	AMD	114	113
			110-112	82.04.4292	AMD	23	E1 301
			502,908	82.04.440	REMD	23	E1 513
			1101	82.04.4451	AMD	23	E1 1102
82.04	ADD	174	16	82.04.4452	AMD	114	114
82.04.050	REMD	106	202	82.04.4461	AMD	114	115
82.04.050	REMD	111	201	82.04.4463	AMD	23	E1 514

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
82.04.4463	AMD	23 E1	515	82.12.02087	AMD	111	502
82.04.4463	AMD	114	116	82.12.022	AMD	2 E1	5
82.04.448	AMD	114	117	82.12.022	AMD	114	127
82.04.4481	AMD	2 E1	2	82.12.0254	AMD	161	905
82.04.4481	AMD	114	118	82.12.0257	AMD	106	220
82.04.4483	AMD	114	119	82.12.0293	AMD	23 E1	903
82.04.4484	AMD	114	120	82.12.0293	AMD	35 E1	306
82.04.449	AMD	114	121	82.12.037	AMD	23 E1	1503
82.04.460	AMD	23 E1	108	82.12.040	AMD	106	221
82.04.470	REMD	112	7	82.12.045	AMD	161	904
82.08	ADD	1 E1	2	82.12.805	AMD	2 E1	4
82.08	ADD	23 E1	904,906	82.12.805	AMD	114	128
82.08	ADD	225	1	82.12.809	AMD	11 E1	3
82.08.-	AMD	23 E1	1601	82.12.865	AMD	106	222
82.08.010	AMD	106	210	82.12.890	AMD	23 E1	602
82.08.020	AMD	106	211	82.12.965	AMD	114	129
82.08.020	AMD	106	212	82.12.9651	AMD	114	130
82.08.02082	AMD	111	401	82.12.970	AMD	114	131
82.08.02087	AMD	111	402	82.12.980	AMD	114	132
82.08.0256	AMD	106	213	82.14.020	AMD	106	223
82.08.02573	AMD	106	214	82.14.0455	AMD	105	3
82.08.0264	AMD	161	1165	82.14.230	AMD	127	5
82.08.0273	AMD	106	215	82.14.340	AMD	127	3
82.08.0293	AMD	23 E1	901	82.14.450	AMD	127	1
82.08.0293	AMD	23 E1	902	82.14.460	AMD	127	2
82.08.0293	AMD	35 E1	305	82.14.475	AMD	164	12
82.08.0293	AMD	106	216	82.14.480	AMD	33 E1	3
82.08.037	AMD	23 E1	1502	82.14.495	AMD	37 E1	952
82.08.050	REMD	106	217	82.14.505	AMD	164	8
82.08.050	REMD	112	8	82.14.510	AMD	164	9
82.08.130	REMD	112	9	82.14B	ADD	19 E1	4,5,24
82.08.195	REMD	111	601	82.14B.010	AMD	19 E1	1
82.08.700	AMD	106	219	82.14B.020	REMD	19 E1	2
82.08.805	AMD	2 E1	3	82.14B.030	REMD	19 E1	3
82.08.805	AMD	114	122	82.14B.040	AMD	19 E1	6
82.08.806	AMD	23 E1	516	82.14B.042	AMD	19 E1	7
82.08.809	AMD	11 E1	2	82.14B.060	AMD	19 E1	8
82.08.865	AMD	106	218	82.14B.061	AMD	19 E1	9
82.08.890	AMD	23 E1	601	82.14B.070	REP	19 E1	23
82.08.965	AMD	114	123	82.14B.090	REP	19 E1	23
82.08.9651	AMD	114	124	82.14B.100	REP	19 E1	23
82.08.970	AMD	114	125	82.14B.150	AMD	19 E1	10
82.08.980	AMD	114	126	82.14B.160	AMD	19 E1	11
82.12	ADD	1 E1	3	82.14B.200	AMD	19 E1	12
82.12	ADD	23 E1	905,907	82.16	ADD	202	5
82.12	ADD	225	2	82.16.010	REMD	106	224
82.12.-	AMD	23 E1	1602	82.16.0421	AMD	114	133
82.12.010	AMD	127	4	82.16.110	AMD	106	225
82.12.020	AMD	23 E1	206	82.16.110	AMD	202	1
82.12.02082	AMD	111	501	82.16.120	AMD	106	103

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
82.16.120	AMD	202	2	82.32.600	AMD	114	136
82.16.130	AMD	202	3	82.32.610	REP	114	152
82.16.140	REP	114	152	82.32.620	REP	114	152
82.16.140	AMD	202	4	82.32.630	REP	114	152
82.24.020	AMD	22 E1	2	82.32.632	REP	114	152
82.24.026	AMD	22 E1	3	82.32.645	REP	114	152
82.24.027	REP	22 E1	8	82.32.650	REP	114	152
82.24.028	REP	22 E1	8	82.32.710	AMD	114	137
82.26	ADD	22 E1	6	82.32.730	REMD	106	229
82.26.010	AMD	22 E1	4	82.32.765	AMD	164	10
82.26.020	AMD	22 E1	5	82.32.780	AMD	112	2
82.26.030	AMD	22 E1	7	82.32.783	AMD	112	3
82.27.020	AMD	193	16	82.32.785	AMD	112	5
82.27.070	AMD	193	17	82.32.787	AMD	112	6
82.29A.010	AMD	281	2	82.36.280	AMD	161	906
82.29A.030	AMD	281	3	82.36.440	AMD	106	230
82.29A.135	AMD	11 E1	6	82.38.100	REMD	161	907
82.29A.137	AMD	114	134	82.38.280	AMD	106	231
82.32	ADD	22	4	82.44	ADD	161	908
82.32	ADD	23 E1	201,202 204,910	82.44.010	AMD	161	1166
82.32	ADD	106	406	82.44.015	AMD	161	909
82.32	ADD	112	4	82.44.035	AMD	161	910
82.32	ADD	114	102,103 201	82.44.060	AMD	161	911
82.32.010	AMD	19 E1	13	82.44.065	AMD	161	912
82.32.045	AMD	23 E1	1103	82.44.090	AMD	161	913
82.32.080	AMD	106	226	82.44.100	AMD	161	914
82.32.080	AMD	111	304	82.44.120	AMD	161	915
82.32.087	REMD	112	10	82.45.010	REMD	23 E1	207
82.32.090	AMD	23 E1	203	82.45.033	AMD	23 E1	208
82.32.145	AMD	23 E1	801	82.45.070	AMD	23 E1	209
82.32.290	AMD	112	11	82.45.080	AMD	23 E1	210
82.32.291	REMD	112	12	82.45.100	AMD	23 E1	211
82.32.330	REMD	106	104	82.45.180	AMD	26 E1	9
82.32.330	REMD	112	13	82.45.195	AMD	23 E1	518
82.32.440	AMD	106	227	82.45.220	AMD	23 E1	212
82.32.480	AMD	106	105	82.48.100	AMD	12 E1	2
82.32.520	REMD	106	228	82.49.010	AMD	161	1044
82.32.532	AMD	111	701	82.49.030	AMD	161	1045
82.32.533	AMD	111	801	82.49.065	AMD	161	1046
82.32.535	REP	114	152	82.58.020	AMD	7 E1	17
82.32.5351	REP	114	152	82.60	ADD	16 E1	3,4,10
82.32.545	REP	114	152	82.60.010	AMD	16 E1	1
82.32.550	AMD	23 E1	517	82.60.020	AMD	16 E1	2
82.32.560	REP	114	152	82.60.020	AMD	114	138
82.32.570	AMD	2 E1	6	82.60.030	AMD	16 E1	5
82.32.570	REP	114	152	82.60.040	AMD	16 E1	6
82.32.590	AMD	114	135	82.60.049	AMD	16 E1	7
82.32.590	AMD	137	1	82.60.050	REP	16 E1	13
				82.60.060	AMD	16 E1	8
				82.60.070	AMD	16 E1	9

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
82.60.070	AMD	114	139	84.37.902	AMD	106	310
82.60.100	AMD	106	106	84.38.100	AMD	161	1168
82.60.110	REP	16 E1	13	84.48.050	AMD	106	311
82.60.900	DECD	16 E1	12	84.52.030	AMD	106	312
82.60.901	DECD	16 E1	12	84.52.053	AMD	237	4
82.62.010	AMD	16 E1	11	84.52.0531	AMD	99	10
82.62.010	AMD	106	232	84.52.0531	AMD	99	11
82.62.080	AMD	106	107	84.52.0531	AMD	237	1
82.63.020	AMD	114	140	84.52.0531	AMD	237	2
82.63.045	AMD	114	141	84.52.056	AMD	115	3
82.63.070	AMD	106	108	84.52.070	AMD	106	313
82.65A.020	AMD	94	30	84.52.080	AMD	106	314
82.65A.030	AMD	94	31	84.55.080	REP	106	315
82.73.010	REMD	30	4	84.56.020	AMD	200	1
82.73.050	AMD	30	5	85.38	ADD	131	2
82.74.040	AMD	114	142	85.38.090	AMD	131	1
82.74.050	AMD	114	143	86.12.037	AMD	46	1
82.74.070	AMD	106	109	86.15.080	AMD	46	2
82.75	ADD	114	144	87.03.001	AMD	201	1
82.75.010	AMD	114	145	87.03.017	AMD	4 E1	2
82.75.020	AMD	114	146	87.03.436	AMD	201	2
82.75.040	AMD	114	147	87.03.443	AMD	201	3
82.75.060	AMD	106	110	88.02	ADD	161	1002
82.80.120	AMD	106	233				1004
82.80.130	AMD	161	916				1011
82.80.140	AMD	161	917				1013
82.82.020	AMD	114	148				1014
82.82.040	AMD	114	149				1016
83.100.040	AMD	106	234				1021
83.100.046	AMD	106	235				1022
83.100.046	AMD	106	236				1026-
83.100.210	AMD	106	111				1028
83.100.230	AMD	37 E1	953				1231-
84.33.0775	AMD	210	35				1235
84.33.088	AMD	197	1	88.02.010	AMD	161	1001
84.34.020	REMD	106	304	88.02.010	RECD	161	1231
84.36	ADD	12 E1	1	88.02.020	AMD	161	1017
84.36.010	AMD	281	1	88.02.020	RECD	161	1233
84.36.020	AMD	186	2	88.02.023	AMD	161	1041
84.36.037	AMD	186	1	88.02.023	RECD	161	1235
84.36.040	AMD	106	305	88.02.025	REP	161	1047
84.36.381	AMD	106	306	88.02.028	REP	161	1047
84.36.383	REMD	106	307	88.02.030	AMD	161	1018
84.36.385	AMD	106	308	88.02.030	RECD	161	1233
84.36.635	AMD	11 E1	4	88.02.035	AMD	161	1003
84.36.640	AMD	11 E1	5	88.02.035	RECD	161	1231
84.36.645	AMD	114	150	88.02.040	AMD	161	1029
84.36.655	AMD	114	151	88.02.040	RECD	161	1234
84.37.030	AMD	106	309	88.02.045	AMD	161	1030
84.37.070	AMD	161	1167	88.02.045	RECD	161	1234

**RCW SECTIONS AFFECTED BY 2010 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
88.02.050	AMD	161	1019	88.02.220	RECD	161	1235
88.02.050	AMD	161	1020	88.02.230	AMD	161	1033
88.02.050	RECD	161	1233	88.02.230	RECD	161	1235
88.02.052	AMD	161	1023	88.02.235	REP	161	1047
88.02.052	RECD	161	1233	88.02.250	AMD	161	1024
88.02.053	AMD	161	1031	88.02.250	RECD	161	1233
88.02.053	RECD	161	1234	88.02.260	AMD	161	1025
88.02.055	AMD	161	1005	88.02.260	RECD	161	1233
88.02.055	RECD	161	1231	88.02.270	REP	161	1047
88.02.060	AMD	161	1032	90.03	ADD	285	4-7
88.02.060	RECD	161	1235				13
88.02.070	AMD	161	1010	90.03.265	AMD	285	3
88.02.070	RECD	161	1232	90.14.065	AMD	285	8
88.02.075	AMD	161	1015	90.44	ADD	285	11,12
88.02.075	RECD	161	1232	90.56.005	AMD	7 E1	72
88.02.078	AMD	161	1034	90.56.060	AMD	7 E1	73
88.02.078	RECD	161	1235	90.56.120	REP	7 E1	71
88.02.090	REP	161	1047	90.56.130	REP	7 E1	71
88.02.100	REP	161	1047	90.58	ADD	107	4
88.02.110	AMD	161	1006	90.58.030	AMD	107	3
88.02.110	RECD	161	1231	90.58.140	AMD	210	36
88.02.112	AMD	161	1036	90.58.180	AMD	210	37
88.02.112	RECD	161	1235	90.58.190	AMD	210	38
88.02.115	AMD	161	1037	90.58.190	AMD	211	14
88.02.115	RECD	161	1235	90.58.210	AMD	210	39
88.02.118	AMD	161	1007	90.58.560	AMD	210	40
88.02.118	RECD	161	1231	90.64	ADD	84	1
88.02.120	AMD	161	1009	90.71.370	AMD	36 E1	6013
88.02.120	RECD	161	1232	90.86.030	AMD	7 E1	122
88.02.125	AMD	161	1043				
88.02.125	RECD	161	1235				
88.02.130	REP	161	1047				
88.02.140	REP	161	1047				
88.02.150	REP	161	1047				
88.02.160	REP	161	1047				
88.02.170	REP	161	1047				
88.02.180	AMD	161	1012				
88.02.180	RECD	161	1232				
88.02.184	AMD	161	1042				
88.02.184	RECD	161	1235				
88.02.188	AMD	161	1035				
88.02.188	RECD	161	1235				
88.02.189	AMD	161	1038				
88.02.189	RECD	161	1235				
88.02.190	REP	161	1047				
88.02.200	AMD	161	1008				
88.02.200	RECD	161	1231				
88.02.210	AMD	161	1040				
88.02.210	RECD	161	1235				
88.02.220	AMD	161	1039				





**UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 2010 STATUTES**

LAWS 1965			LAWS 2010		LAWS 2009			LAWS 2010	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
11	1	AMD	94	33	470	107	AMD	247	107
LAWS 2005			LAWS 2010		470	108	AMD	247	108
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301	5	REP	114	152	470	202	AMD	247	202
LAWS 2005			LAWS 2010 SP. SESS.		470	203	AMD	247	203
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296	6	REP	11	7	470	205	AMD	247	205
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119	3	AMD	237	8	470	208	AMD	247	208
LAWS 2006			LAWS 2010 SP. SESS.		470	209	AMD	247	209
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177	14	REP	11	7	470	211	AMD	247	211
LAWS 2007			LAWS 2010		470	212	AMD	247	212
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353	6	AMD	203	3	470	214	AMD	247	214
LAWS 2007			LAWS 2010 SP. SESS.		470	215	AMD	247	215
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54	30	REP	11	7	470	217	AMD	247	217
LAWS 2008			LAWS 2010		470	218	AMD	247	218
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147	3	REP	173	1	470	220	AMD	247	220
304	4	REP	121	1	470	222	AMD	247	221
LAWS 2008			LAWS 2010 SP. SESS.		470	223	AMD	247	222
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5	1	AMD	36	6006	470	225	AMD	247	224
81	19	REP	11	7	470	302	AMD	247	301
LAWS 2009			LAWS 2010		470	303	AMD	247	302
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4	909	AMD	237	7	470	306	AMD	247	303
8	2	AMD	247	1	470	307	AMD	247	304
252	4	REP	289	19	470	308	AMD	247	305
301	11	AMD	65	5	470	309	AMD	247	306
461	9	AMD	114	201	470	310	AMD	247	307
461	9	AMD	106	401	470	311	AMD	247	308
470	101	AMD	247	101	470	401	AMD	247	401
470	102	AMD	247	102	470	402	AMD	247	402
470	103	AMD	247	103	470	403	AMD	247	403
470	104	AMD	247	104	470	404	AMD	247	404
470	105	AMD	247	105	470	405	AMD	247	405
470	106	AMD	247	106	470	406	AMD	247	406
					470	407	AMD	247	407
					470	501	AMD	247	501
					470	502	REP	247	705
					470	503	AMD	247	503
					470	603	AMD	247	603
					548	112	AMD	236	5
					548	302	AMD	236	6
					548	710	AMD	236	14
					548	805	AMD	236	16

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551	12	REP	127	7	497		ADD	36	1017
563	101	AMD	112	1	497		ADD	36	1018
564		ADD	3	601	497		ADD	36	1021
564		ADD	3	602	497		ADD	36	1022
564		ADD	3	603	497		ADD	36	1023
564		ADD	3	604	497		ADD	36	1033
564		ADD	3	605	497		ADD	36	1035
564	120	AMD	3	101	497		ADD	36	1038
564	125	AMD	3	102	497		ADD	36	2003
564	126	AMD	3	103	497		ADD	36	2006
564	127	AMD	3	104	497		ADD	36	2011
564	128	AMD	3	105	497		ADD	36	2018
564	129	AMD	3	106	497		ADD	36	3008
564	130	AMD	3	107	497		ADD	36	3009
564	137	AMD	3	108	497		ADD	36	3010
564	139	AMD	3	109	497		ADD	36	3011
564	143	AMD	3	110	497		ADD	36	3012
564	151	AMD	3	111	497		ADD	36	3013
564	153	AMD	3	112	497		ADD	36	3014
564	154	AMD	3	113	497		ADD	36	3016
564	202	AMD	3	201	497		ADD	36	3022
564	203	AMD	3	202	497		ADD	36	3029
564	204	AMD	3	203	497		ADD	36	3033
564	205	AMD	3	204	497		ADD	36	3034
564	206	AMD	3	205	497		ADD	36	3035
564	207	AMD	3	206	497		ADD	36	3038
564	208	AMD	3	207	497		ADD	36	3039
564	209	AMD	3	208	497		ADD	36	3040
564	210	AMD	3	209	497		ADD	36	3041
564	211	AMD	3	210	497		ADD	36	3042
564	212	AMD	3	211	497		ADD	36	4002
564	215	AMD	3	212	497		ADD	36	4003
564	219	AMD	3	213	497		ADD	36	5008
564	222	AMD	3	214	497		ADD	36	5036
564	223	AMD	3	215	497		ADD	36	5040
564	225	AMD	3	216	497		ADD	36	5041
564	302	AMD	3	301	497		ADD	36	5078
564	303	AMD	3	302	497		ADD	36	6002
564	306	AMD	3	303	497		ADD	36	6004
564	307	AMD	3	304	497		ADD	36	6005
564	309	AMD	3	305	497		ADD	36	6010
564	311	AMD	3	306	497	1005	AMD	36	1001
564	401	AMD	3	401	497	1013	AMD	36	1002
564	402	AMD	3	402	497	1019	AMD	36	1004
564	513	AMD	3	501	497	1023	AMD	36	1005
					497	1029	AMD	36	1003
					497	1030	AMD	36	1006
					497	1031	AMD	36	1007
					497	1034	AMD	36	1008
					497	1035	AMD	36	1009
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497		ADD	36	1015					
497		ADD	36	1016					

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497	1039	AMD	36	1010	497	3109	AMD	36	3023
497	1040	AMD	36	1011	497	3133	AMD	36	3024
497	1045	AMD	36	1012	497	3138	AMD	36	3025
497	1046	AMD	36	1013	497	3157	AMD	36	3026
497	1048	AMD	36	1014	497	3168	AMD	36	3027
497	1054	AMD	36	1019	497	3169	AMD	36	3028
497	1055	AMD	36	1020	497	3172	AMD	36	3030
497	1060	AMD	36	1027	497	3178	AMD	36	3031
497	1061	AMD	36	1028	497	3182	AMD	36	3032
497	1063	AMD	36	1029	497	3197	AMD	36	3036
497	1064	AMD	36	1030	497	3203	AMD	36	3037
497	1065	AMD	36	1024	497	4008	AMD	36	4001
497	1068	AMD	36	1031	497	4009	REP	36	6016
497	1071	AMD	36	1025	497	5002	AMD	36	5004
497	1073	AMD	36	1032	497	5007	AMD	36	5001
497	1075	AMD	36	1026	497	5008	AMD	36	5002
497	1081	AMD	36	1034	497	5009	AMD	36	5003
497	1086	AMD	36	1036	497	5011	AMD	36	5007
497	1087	AMD	36	1037	497	5013	AMD	36	5005
497	1089	REP	36	6016	497	5014	AMD	36	5006
497	2001	AMD	36	2001	497	5023	AMD	36	5012
497	2002	AMD	36	2002	497	5024	AMD	36	5011
497	2014	AMD	36	2005	497	5026	AMD	36	5013
497	2027	AMD	36	2004	497	5027	AMD	36	5009
497	2030	REP	36	6016	497	5028	AMD	36	5014
497	2034	AMD	36	2007	497	5029	AMD	36	5010
497	2037	AMD	36	2008	497	5030	AMD	36	5016
497	2038	AMD	36	2009	497	5035	AMD	36	5018
497	2054	AMD	36	2016	497	5037	AMD	36	5015
497	2064	AMD	36	2017	497	5039	AMD	36	5019
497	2067	AMD	36	2010	497	5041	AMD	36	5017
497	2068	AMD	36	2015	497	5043	REP	36	6016
497	2072	AMD	36	2012	497	5047	AMD	36	5021
497	2075	AMD	36	2013	497	5054	AMD	36	5022
497	2078	AMD	36	2014	497	5055	AMD	36	5020
497	2079	REP	36	6016	497	5056	AMD	36	5023
497	3007	AMD	36	3003	497	5057	AMD	36	5024
497	3020	AMD	36	3007	497	5059	REP	36	6016
497	3039	AMD	36	3002	497	5061	AMD	36	5026
497	3049	AMD	36	3004	497	5064	AMD	36	5025
497	3052	AMD	36	3015	497	5065	AMD	36	5027
497	3054	AMD	36	3005	497	5068	AMD	36	5028
497	3059	AMD	36	3001	497	5072	REP	36	6016
497	3060	AMD	36	3006	497	5079	AMD	36	5029
497	3085	AMD	36	3021	497	5080	AMD	36	5030
497	3090	AMD	36	3019	497	5083	AMD	36	5031
497	3091	AMD	36	3020	497	5084	REP	36	6016
497	3093	AMD	36	3017	497	5092	AMD	36	5032
497	3094	AMD	36	3018	497	5093	AMD	36	5034
497	3098	REP	36	6016	497	5094	AMD	36	5033

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497	5097	AMD	36	5035	564		ADD	37	712
497	5098	REP	36	6016	564		ADD	37	714
497	5100	AMD	36	5038	564		ADD	37	716
497	5104	AMD	36	5037	564		ADD	37	802
497	5111	AMD	36	5039	564		ADD	37	903
497	5112	REP	36	6016	564		ADD	37	904
497	5115	AMD	36	5042	564		ADD	37	905
497	5116	AMD	36	5043	564		ADD	37	909
497	5118	AMD	36	5044	564		ADD	37	911
497	5120	AMD	36	5045	564		ADD	37	954
497	5127	AMD	36	5048	564	101	AMD	37	101
497	5135	AMD	36	5072	564	102	AMD	37	102
497	5143	AMD	36	5080	564	103	AMD	37	103
497	5151	AMD	36	5067	564	104	AMD	37	104
497	5164	AMD	36	5077	564	105	AMD	37	105
497	5165	AMD	36	5063	564	106	AMD	37	106
497	5167	AMD	36	5081	564	107	AMD	37	107
497	5168	AMD	36	5071	564	108	AMD	37	108
497	5171	AMD	36	5050	564	111	AMD	37	110
497	5174	AMD	36	5046	564	112	AMD	37	111
497	5176	AMD	36	5047	564	113	AMD	37	112
497	5177	AMD	36	5064	564	114	AMD	37	113
497	5178	AMD	36	5065	564	115	AMD	37	114
497	5179	AMD	36	5075	564	116	AMD	37	115
497	5180	AMD	36	5049	564	117	AMD	37	116
497	5181	AMD	36	5068	564	118	AMD	37	117
497	5182	AMD	36	5051	564	119	AMD	37	118
497	5183	AMD	36	5053	564	121	AMD	37	120
497	5184	AMD	36	5054	564	122	AMD	37	121
497	5190	AMD	36	5069	564	123	AMD	37	122
497	5191	AMD	36	5066	564	124	AMD	37	123
497	5192	AMD	36	5070	564	131	AMD	37	130
497	5195	AMD	36	5073	564	132	AMD	37	131
497	5204	AMD	36	5059	564	133	AMD	37	132
497	5205	AMD	36	5060	564	134	AMD	37	133
497	5208	AMD	36	5062	564	135	AMD	37	134
497	5210	AMD	36	5052	564	136	AMD	37	135
497	5213	AMD	36	5076	564	138	AMD	37	137
497	5217	AMD	36	5055	564	140	AMD	37	139
497	5218	AMD	36	5056	564	141	AMD	37	140
497	5219	AMD	36	5057	564	142	AMD	37	141
497	5220	AMD	36	5058	564	144	AMD	37	143
497	5223	AMD	36	5074	564	145	AMD	37	144
497	5224	AMD	36	5079	564	147	AMD	37	145
497	6009	AMD	36	6001	564	148	AMD	37	146
564		ADD	37	222	564	149	AMD	37	149
564		ADD	37	705	564	150	AMD	37	147
564		ADD	37	709	564	152	AMD	37	150
564		ADD	37	710	564	155	AMD	37	153
564		ADD	37	711	564	201	AMD	37	201



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3	304	AMD	37	307
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3	306	AMD	37	311
3	401	AMD	37	401
3	402	AMD	37	402
3	501	AMD	37	513
3	601	AMD	37	901
204	1105	AMD	26	10
247	407	AMD	37	804
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## **STATE MEASURES FILED WITH THE SECRETARY OF STATE**

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### **INITIATIVES TO THE PEOPLE**

For information on Initiatives to the People, see <http://secstate.wa.gov/elections/initiatives/statistics.aspx>. For additional information, call the Office of the Secretary of State at (360) 902-4180.

### **INITIATIVES TO THE LEGISLATURE**

For information on Initiatives to the Legislature, see <http://secstate.wa.gov/elections/initiatives/statistics.aspx>. For additional information, call the Office of the Secretary of State at (360) 902-4180.

### **REFERENDUM MEASURES**

For information on Referendum Measures, see <http://secstate.wa.gov/elections/initiatives/statistics.aspx>. For additional information, call the Office of the Secretary of State at (360) 902-4180.

### **REFERENDUM BILLS**

For information on Referendum Bills, see <http://secstate.wa.gov/elections/initiatives/statistics.aspx>. For additional information, call the Office of the Secretary of State at (360) 902-4180.





## HISTORY OF CONSTITUTIONAL AMENDMENTS ADOPTED SINCE STATEHOOD

- No. 1. Section 5, Article XVI. Re: **Permanent School Fund.** Adopted November, 1894.
- No. 2. Section 1, Article VI. Re: **Qualification of Electors.** Adopted November, 1896.
- No. 3. Section 2, Article VII. Re: **Uniform Rates of Taxation.** Adopted November, 1900.
- No. 4. Section 11, Article I. Re: **Religious Freedom.** Adopted November, 1904.
- No. 5. Section 1, Article VI. Re: **Equal Suffrage.** Adopted November, 1910.
- No. 6. Section 10, Article III. Re: **Succession in Office of Governor.** Adopted November, 1910.
- No. 7. Section 1, Article II. Re: **Initiative and Referendum.** Adopted November, 1912.
- No. 8. Adding Sections 33 and 34, Article I. Re: **Recall.** Adopted November, 1912.
- No. 9. Section 16, Article I. Re: **Taking of Private Property.** Adopted November, 1922.
- No. 10. Section 22, Article I. Re: **Right of Appeal.** Adopted November, 1922.
- No. 11. Section 4, Article VIII. Re: **Appropriation.** Adopted November, 1922.
- No. 12. Section 5, Article XI. Re: **Consolidation of County Offices.** Adopted November, 1924.
- No. 13. Section 15, Article II. Re: **Vacancies in the Legislature.** Adopted November, 1930.
- No. 14. Article VII. Re: **Revenue and Taxation.** Adopted November, 1930.
- No. 15. Section 1, Article XV. Re: **Harbors and Harbor Areas.** Adopted November, 1932.
- No. 16. Section 11, Article XII. Re: **Double Liability of Stockholders.** Adopted November, 1940.
- No. 17. Section 2, Article VII. Re: **40-Mill Tax Limit.** Adopted November, 1944.
- No. 18. Adding Section 40, Article II. Re: **Restriction of motor vehicle license fees and excise taxes on motor fuels to highway purposes only.** Adopted November, 1944.
- No. 19. Adding Section 3, Article VII. Re: **State to tax the United States and its instrumentalities to the extent that the laws of the United States will allow.** Adopted November, 1946.
- No. 20. Adding Section 1, Article XXVIII. Re: **Legislature to fix the salaries of state elective officials.** Adopted November, 1948.
- No. 21. Section 4, Article XI. Re: **Permit counties to adopt "Home Rule" charters.** Adopted November, 1948.
- No. 22. Repealing Section 7 of Article XI. Re: **County elective officials.** (These officials can now hold same office more than two terms in succession.) Adopted November, 1948.
- No. 23. Adding Section 16, Article XI. Re: **Permitting the formation, under a charter, of combined city and county municipal corporations having a population of 300,000 or more.** Adopted November, 1948.
- No. 24. Article II, Section 33. Re: **Permitting ownership of land by Canadians who are citizens of provinces wherein citizens of the State of Washington may own land.** (All provinces of Canada authorize such ownership.) Adopted November, 1950.

## **HISTORY OF ADOPTED CONSTITUTIONAL AMDTS.**

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- No. 25. Adding Section 3(a), Article IV. Re: **Establishing Retirement Age for Judges of Supreme and Superior Courts.** Adopted November, 1952.
- No. 26. Adding Section 41, Article II. Re: **Permitting the Legislature to Amend Initiative Measures.** Adopted November, 1952.
- No. 27. Section 6, Article VIII. Re: **Extending Bonding Powers of School Districts.** Adopted November, 1952.
- No. 28. Sections 6 and 10, Article IV. Re: **Increasing Monetary Jurisdiction of Justice Courts.** Adopted November, 1952.
- No. 29. Article II, Section 33. Re: **Redefining "Alien," thereby permitting the Legislature to determine the policy of the state respecting the ownership of land by corporations having alien shareholders.** Adopted November, 1954.
- No. 30. Adding Section 1A, Article II. Re: **Increasing the number of signatures necessary to certify a state initiative or referendum measure.** Adopted November, 1956.
- No. 31. Section 25, Article III. Re: **Removing the restriction prohibiting the state treasurer from being elected for more than one successive term.** Adopted November, 1956.
- No. 32. Section 2, Article XV. Re: **Filling vacancies in the state legislature.** Adopted November, 1956.
- No. 33. Section 1, Article XXIV. Re: **Modification of state boundaries by compact.** Adopted November, 1958.
- No. 34. Section 11, Article I. Re: **Employment of chaplains at state institutions.** Adopted November, 1958.
- No. 35. Section 25, Article II. Re: **Pensions and Employees' Extra Compensation.** Adopted November, 1958.
- No. 36. Section 1, Article II by adding a new subsection (e). Re: **Publication and Distribution of Voters' Pamphlet.** Adopted November, 1962.
- No. 37. Section 1, Article XXIII. Re: **Publication of Proposed Constitutional Amendments.** Adopted November, 1962.
- No. 38. Adding Section 2(c), Article IV. Re: **Temporary Performance of Judicial Duties.** Adopted November, 1962.
- No. 39. Adding Section 42, Article II. Re: **Governmental Continuity During Emergency Periods.** Adopted November, 1962.
- No. 40. Section 10, Article XI. Re: **Lowering minimum population for first class cities from 20,000 to 10,000. Also changing newspaper publication requirements for proposed charters.** Adopted November, 1964.
- No. 41. Section 29, Article IV. Re: **Election of Superior Court Judges.** Adopted November, 1966.
- No. 42. Repealing Section 33, Article II and Amendments 24 and 29. Re: **Alien Ownership of Lands.** Adopted November, 1966.
- No. 43. Section 3, Article IX. Re: **Funds for Support of the Common Schools.** Adopted November, 1966.

## HISTORY OF ADOPTED CONSTITUTIONAL AMDTS.

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- No. 44. Section 5, Article XVI. Re: **Investment of Permanent Common School Fund.** Adopted November, 1966.
- No. 45. Adding Section 8, Article VIII. Re: **Port Expenditures—Industrial Development—Promotion.** Adopted November, 1966.
- No. 46. Adding Section 1A, Article VI. Re: **Voter Qualifications for Presidential Elections.** Adopted November, 1966.
- No. 47. Adding Section 10, Article VII. Re: **Retired Persons Property Tax Exemption.** Adopted November, 1966.
- No. 48. Section 3, Article VIII. Re: **Public Special Indebtedness, How Authorized.** Adopted November, 1966.
- No. 49. Adding Section 1, Article XXIX. Re: **Investments of Public Pension and Retirement Funds.** Adopted November, 1968.
- No. 50. Adding Section 30, Article IV. Re: **Court of Appeals.** Adopted November, 1968.
- No. 51. Adding Section 9, Article VIII. Re: **State Building Authority.** Adopted November, 1968.
- No. 52. Section 15, Article II. Re: **Vacancies in Legislature and in Partisan County Elective Office.** Also amending Section 6, Article XI. Re: **Vacancies in Township, Precinct or Road District Office.** Adopted November, 1968.
- No. 53. Adding Section 11, Article VII. Re: **Taxation Based on Actual Use.** Adopted November, 1968.
- No. 54. Adding Section 1, Article XXX. Re: **Authorizing Compensation Increase During Term.** Adopted November, 1968.
- No. 55. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1972.
- No. 56. Section 24, Article II. Re: **Lotteries and Divorce.** Adopted November, 1972.
- No. 57. Section 5, Article XI. Re: **County Government.** Adopted November, 1972.
- No. 58. Section 16, Article XI. Re: **Combined City-County.** Adopted November, 1972.
- No. 59. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1972.
- No. 60. Section 1, Article VIII. Re: **State Debt.** Also amending Section 3, Article VIII. Re: **Special Indebtedness, How Authorized.** Approved November, 1972.
- No. 61. Adding new Article XXXI. Re: **Sex Equality, Rights and Responsibilities.** Adopted November, 1972.
- No. 62. Section 12, Article III. Re: **Veto Power.** Adopted November, 1974.
- No. 63. Section 1, Article VI. Re: **Qualifications of Electors.** Adopted November, 1974.
- No. 64. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1976.
- No. 65. Section 6, Article IV. Re: **Jurisdiction of Superior Courts.** Also amending Section 10, Article IV. Re: **Justices of the Peace.** Adopted November, 1976.
- No. 66. Section 18, Article XII. Re: **Rates for Transportation.** Adopted November, 1977.
- No. 67. Repealing Section 14, Article XII. Re: **Prohibition Against Combinations by Carriers.** Adopted November, 1977.

## HISTORY OF ADOPTED CONSTITUTIONAL AMDTS.

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- No. 68. Section 12, Article II. Re: **Legislative Sessions, When—Duration.** Adopted November, 1979.
- No. 69. Section 13, Article II. Re: **Limitation on Members Holding Office in the State.** Adopted November, 1979.
- No. 70. Adding Section 10, Article VIII. Re: **Residential Energy Conservation.** Adopted November, 1979.
- No. 71. Adding Section 31, Article IV. Re: **Judicial Qualifications Commission—Removal, Censure, Suspension, or Retirement of Judges or Justices.** Adopted November, 1980.
- No. 72. Sections 1 and 1(a), Article II. Re: **Legislative Powers, Where Vested and Initiative and Referendum, Signatures Required.** Adopted November, 1981.
- No. 73. Adding Section 1, Article XXXII. Re: **Special Revenue Financing.** Adopted November, 1981.
- No. 74. Adding Section 43, Article II. Re: **Redistricting.** Adopted November, 1983.
- No. 75. Section 1, Article XXIX. Re: **May be Invested as Authorized by Law.** Adopted November, 1985.
- No. 76. Adding Section 11, Article VIII. Re: **Agricultural Commodity Assessments—Development, Promotion, and Hosting.** Adopted November, 1985.
- No. 77. Section 31, Article IV. Re: **Commission on Judicial Conduct—Removal, Censure, Suspension, or Retirement of Judges or Justices—Proceedings.** Adopted November, 1986.
- No. 78. Section 1, Article XXVIII. Re: **Salaries for Legislators, Elected State Officials, and Judges—Independent Commission—Referendum.** Adopted November, 1986.
- No. 79. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1986.
- No. 80. Section 7, Article IV. Re: **Exchange of judges—Judge Pro Tempore.** Adopted November, 1987.
- No. 81. Section 1, Article VII. Re: **Taxation.** Adopted November, 1988.
- No. 82. Section 10, Article VIII. Re: **Residential Energy Conservation.** Adopted November, 1988.
- No. 83. Section 3, Article VI. Re: **Who disqualified.** Also amending Section 1, Article XIII. Re: **Educational, reformatory and penal institutions.** Adopted November, 1988.
- No. 84. Adding Section 35, Article I. Re: **Victims of Crimes—Rights.** Adopted November, 1989.
- No. 85. Section 31, Article IV. Re: **Commission on Judicial Conduct.** Adopted November, 1989.
- No. 86. Section 10, Article VIII. Re: **Energy and Water Conservation Assistance.** Adopted November, 1989.
- No. 87. Section 6, Article IV. Re: **Jurisdiction of Superior Courts.** Adopted November, 1993.
- No. 88. Section 11, Article I. Re: **Religious Freedom.** Adopted November, 1993.
- No. 89. Section 3, Article 4. Re: **Election and Terms of Supreme Court Judges.** Adopted November, 1995.
- No. 90. Section 2, Article VII. Re: **Limitation on levies.** Adopted November, 1997.

## **HISTORY OF ADOPTED CONSTITUTIONAL AMDTS.**

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- No. 91. Section 10, Article VIII. Re: **Energy, water, or stormwater or sewer services conservation assistance.** Adopted November, 1997.
- No. 92. Section 1, Article VIII. Re: **State debt.** Adopted November, 1999.
- No. 93. Section 1, Article XXIX. Re: **May be invested as authorized by law.** Adopted November, 2000.
- No. 94. Section 7, Article IV. Re: **Exchange of judges - Judge pro tempore.** Adopted November, 2001.
- No. 95. Section 2, Article VII. Re: **Limitation on levies.** Adopted November, 2002.
- No. 96. Section 15, Article II. Re: **Vacancies in legislative and in partisan county elective office.** Adopted November 2003.
- No. 97. Section 31, Article IV. Re: **Commission on judicial conduct.** Adopted November, 2005.
- No. 98. Section 1, Article VII. Re: **Taxation.** Adopted November 2006.
- No. 99. Section 12, Article VII. Re: **Budget stabilization account.** Adopted November 2007.
- No. 100. Section 29, Article II. Re: **Convict labor.** Adopted November 2007.
- No. 101. Section 2, Article VII. Re: **Limitation of levies.** Adopted November 2007.
- No. 102. Section 6, Article XVI. Re: **Investment of higher education permanent funds.** Adopted November 2007.

