

2015

SESSION LAWS

OF THE

STATE OF WASHINGTON

2015 REGULAR SESSION
SIXTY-FOURTH LEGISLATURE
Convened January 12, 2015. Adjourned April 24, 2015.

FIRST SPECIAL SESSION
SIXTY-FOURTH LEGISLATURE
Convened April 29, 2015. Adjourned May 28, 2015.

SECOND SPECIAL SESSION
SIXTY-FOURTH LEGISLATURE
Convened May 29, 2015. Adjourned June 27, 2015.

THIRD SPECIAL SESSION
SIXTY-FOURTH LEGISLATURE
Convened June 28, 2015. Adjourned July 10, 2015.



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WASHINGTON SESSION LAWS GENERAL INFORMATION

1. EDITIONS AVAILABLE.

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

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

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

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

3. PARTIAL VETOES.

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

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

5. EFFECTIVE DATE OF LAWS.

- (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the effective date for the Laws of the 2015 regular session is July 24, 2015. The effective date for the Laws of the 2015 first special session is August 27, 2015. The effective date for the Laws of the 2015 second special session is September 26, 2015. The effective date for the Laws of the 2015 third special session is October 9, 2015.
- (b) Laws that carry an emergency clause take effect immediately, or as otherwise specified, upon approval by the Governor.
- (c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES.

A cumulative index and tables of all 2015 laws may be found at the back of the final volume.

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CHAPTER 203

[House Bill 1622]

COTTAGE FOOD OPERATIONS--NONHAZARDOUS FOODS

AN ACT Relating to expanding the products considered to be potentially nonhazardous as they apply to cottage food operations; and amending RCW 69.22.010.

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

Sec. 1. RCW 69.22.010 and 2011 c 281 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) "Cottage food operation" means a person who produces cottage food products only in the home kitchen of that person's primary domestic residence in Washington and only for sale directly to the consumer.

(2) "Cottage food products" means nonpotentially hazardous baked goods; baked candies and candies made on a stovetop; jams, jellies, preserves, and fruit butters as defined in 21 C.F.R. Sec. 150 as it existed on July 22, 2011; and other nonpotentially hazardous foods identified by the director in rule. No ingredient containing a tetrahydrocannabinol concentration of 0.3 percent or greater may be included as an ingredient in any cottage food product.

(3) "Department" means the department of agriculture.

(4) "Director" means the director of the department.

(5) "Domestic residence" means a single-family dwelling or an area within a rental unit where a single person or family actually resides. Domestic residence does not include:

(a) A group or communal residential setting within any type of structure; or

(b) An outbuilding, shed, barn, or other similar structure.

(6) "Home kitchen" means a kitchen primarily intended for use by the residents of a home. It may contain one or more stoves or ovens, which may be a double oven, designed for residential use.

(7) "Permitted area" means the portion of a domestic residence housing a home kitchen where the preparation, packaging, storage, or handling of cottage food products occurs.

(8) "Potentially hazardous food" means foods requiring temperature control for safety because they are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms, or the growth and toxin production of *Clostridium botulinum*.

Passed by the House April 20, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 204

[Substitute House Bill 1636]

STATE AGENCIES--DISABILITY EMPLOYMENT REPORTING

AN ACT Relating to disability employment reporting by state agencies; adding a new section to chapter 43.41 RCW; and creating new sections.

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

NEW SECTION. **Sec. 1.** This act may be known and cited as the state disability employment parity act.

NEW SECTION. **Sec. 2.** The legislature finds that eleven percent of working age adults and thirteen percent of the state's total population consists of persons with disabilities, that persons with disabilities suffer significantly higher rates of unemployment and underemployment than in the general population, and that representation of disabled persons in the state workforce has declined in recent years, but has increased during the last year. The legislature further finds that there is no policy similar to Schedule A in the federal civil service system for priority hiring of persons with disabilities. Therefore, the legislature intends to increase the hiring of persons with disabilities in the state workforce.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.41 RCW to read as follows:

(1) By January 31st of each year, state agencies employing one hundred or more people must submit the report described in subsection (2) of this section to the human resources director, with copies to the director of the department of social and health services' division of vocational rehabilitation and the governor's disability employment task force.

(2) The report must include the following information:

- (a) The number of employees from the previous calendar year;
- (b) The number of employees classified as individuals with disabilities;
- (c) The number of employees that separated from the state agency the previous year;
- (d) The number of employees that were hired by the state agency the previous year;
- (e) The number of employees hired from the division of vocational rehabilitation services and from the department of the services for the blind the previous year;
- (f) The number of planned hires for the current year; and
- (g) Opportunities for internships for the department of social and health services' division of vocational rehabilitation and developmental disabilities administration, and the department of the services for the blind client placement, leading to an entry-level position placement upon successful completion for the current year.

Passed by the House April 16, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 205

[Engrossed Substitute House Bill 1671]

OPIOID OVERDOSE MEDICATION

AN ACT Relating to increasing access to opioid antagonists to prevent opioid-related overdose deaths; amending RCW 69.41.040 and 69.50.315; adding a new section to chapter 69.41 RCW; creating a new section; and repealing RCW 18.130.345.

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

NEW SECTION. Sec. 1. (1) The legislature intends to reduce the number of lives lost to drug overdoses by encouraging the prescription, dispensing, and administration of opioid overdose medications.

(2) Overdoses of opioids, such as heroin and prescription painkillers, cause brain injury and death by slowing and eventually stopping a person's breathing. Since 2012, drug poisoning deaths in the United States have risen six percent, and deaths involving heroin have increased a staggering thirty-nine percent. In Washington state, the annual number of deaths involving heroin or prescription opiates increased from two hundred fifty-eight in 1995 to six hundred fifty-one in 2013. Over this period, a total of nine thousand four hundred thirty-nine people died from opioid-related drug overdoses. Opioid-related drug overdoses are a statewide phenomenon.

(3) When administered to a person experiencing an opioid-related drug overdose, an opioid overdose medication can save the person's life by restoring respiration. Increased access to opioid overdose medications reduced the time between when a victim is discovered and when he or she receives lifesaving assistance. Between 1996 and 2010, lay people across the country reversed over ten thousand overdoses.

(4) The legislature intends to increase access to opioid overdose medications by permitting health care practitioners to administer, prescribe, and dispense, directly or by collaborative drug therapy agreement or standing order, opioid overdose medication to any person who may be present at an overdose - law enforcement, emergency medical technicians, family members, or service providers - and to permit those individuals to possess and administer opioid overdose medications prescribed by an authorized health care provider.

NEW SECTION. Sec. 2. A new section is added to chapter 69.41 RCW to read as follows:

(1)(a) A practitioner may prescribe, dispense, distribute, and deliver an opioid overdose medication: (i) Directly to a person at risk of experiencing an opioid-related overdose; or (ii) by collaborative drug therapy agreement, standing order, or protocol to a first responder, family member, or other person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. Any such prescription or protocol order is issued for a legitimate medical purpose in the usual course of professional practice.

(b) At the time of prescribing, dispensing, distributing, or delivering the opioid overdose medication, the practitioner shall inform the recipient that as soon as possible after administration of the opioid overdose medication, the person at risk of experiencing an opioid-related overdose should be transported to a hospital or a first responder should be summoned.

(2) A pharmacist may dispense an opioid overdose medication pursuant to a prescription issued in accordance with this section and may administer an opioid overdose medication to a person at risk of experiencing an opioid-related overdose. At the time of dispensing an opioid overdose medication, a pharmacist shall provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention. The instructions to seek immediate medication attention must be conspicuously displayed.

(3) Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose medication pursuant to a prescription or order issued by a practitioner in accordance with this section.

(4) The following individuals, if acting in good faith and with reasonable care, are not subject to criminal or civil liability or disciplinary action under chapter 18.130 RCW for any actions authorized by this section or the outcomes of any actions authorized by this section:

(a) A practitioner who prescribes, dispenses, distributes, or delivers an opioid overdose medication pursuant to subsection (1) of this section;

(b) A pharmacist who dispenses an opioid overdose medication pursuant to subsection (2) of this section;

(c) A person who possesses, stores, distributes, or administers an opioid overdose medication pursuant to subsection (3) of this section.

(5) For purposes of this section, the following terms have the following meanings unless the context clearly requires otherwise:

(a) "First responder" means: (i) A career or volunteer firefighter, law enforcement officer, paramedic as defined in RCW 18.71.200, or first responder or emergency medical technician as defined in RCW 18.73.030; and (ii) an entity that employs or supervises an individual listed in (a)(i) of this subsection, including a volunteer fire department.

(b) "Opioid overdose medication" means any drug used to reverse an opioid overdose that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors. It does not include intentional administration via the intravenous route.

(c) "Opioid-related overdose" means a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death that: (i) Results from the consumption or use of an opioid or another substance with which an opioid was combined; or (ii) a lay person would reasonably believe to be an opioid-related overdose requiring medical assistance.

(d) "Practitioner" means a health care practitioner who is authorized under RCW 69.41.030 to prescribe legend drugs.

(e) "Standing order" or "protocol" means written or electronically recorded instructions, prepared by a prescriber, for distribution and administration of a drug by designated and trained staff or volunteers of an organization or entity, as well as other actions and interventions to be used upon the occurrence of clearly defined clinical events in order to improve patients' timely access to treatment.

Sec. 3. RCW 69.41.040 and 2003 c 53 s 324 are each amended to read as follows:

(1) A prescription, in order to be effective in legalizing the possession of legend drugs, must be issued for a legitimate medical purpose by one authorized to prescribe the use of such legend drugs. Except as provided in section 2 of this act, an order purporting to be a prescription issued to a drug abuser or habitual user of legend drugs, not in the course of professional treatment, is not a prescription within the meaning and intent of this section; and the person who knows or should know that he or she is filling such an order, as well as the person issuing it, may be charged with violation of this chapter. A legitimate medical purpose shall include use in the course of a bona fide research program in conjunction with a hospital or university.

(2) A violation of this section is a class B felony punishable according to chapter 9A.20 RCW.

Sec. 4. RCW 69.50.315 and 2010 c 9 s 2 are each amended to read as follows:

(1)~~((a))~~ A person acting in good faith who seeks medical assistance for someone experiencing a drug-related overdose shall not be charged or prosecuted for possession of a controlled substance pursuant to RCW 69.50.4013, or penalized under RCW 69.50.4014, if the evidence for the charge of possession of a controlled substance was obtained as a result of the person seeking medical assistance.

~~((b) A person acting in good faith may receive a naloxone prescription, possess naloxone, and administer naloxone to an individual suffering from an apparent opiate-related overdose.)~~

(2) A person who experiences a drug-related overdose and is in need of medical assistance shall not be charged or prosecuted for possession of a controlled substance pursuant to RCW 69.50.4013, or penalized under RCW 69.50.4014, if the evidence for the charge of possession of a controlled substance was obtained as a result of the overdose and the need for medical assistance.

(3) The protection in this section from prosecution for possession crimes under RCW 69.50.4013 shall not be grounds for suppression of evidence in other criminal charges.

NEW SECTION. Sec. 5. RCW 18.130.345 (Naloxone—Administering, dispensing, prescribing, purchasing, acquisition, possession, or use—Opiate-related overdose) and 2010 c 9 s 3 are each repealed.

Passed by the House April 23, 2015.

Passed by the Senate April 21, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 206

[Substitute House Bill 1240]

K-12 EDUCATION--RESTRAINT OR ISOLATION OF STUDENTS

AN ACT Relating to restraint or isolation of students, including students with disabilities, in public schools; amending RCW 28A.155.020 and 28A.600.485; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that there is no educational or therapeutic benefit to children from physically restraining or isolating them as part of their public school programs when not necessary for immediate safety. The use of seclusion or restraints in nonemergency situations poses significant physical and psychological danger to students and school staff. The legislature declares that it is the policy of the state of Washington to prohibit the planned use of aversive interventions, to promote positive interventions when a student with disabilities is determined to need specially designed instruction to address behavior, and to prohibit schools from physically restraining or isolating any student except when the student's behavior poses an imminent likelihood of serious harm to that student or another person.

Sec. 2. RCW 28A.155.020 and 2007 c 115 s 2 are each amended to read as follows:

There is established in the office of the superintendent of public instruction an administrative section or unit for the education of children with disabilities who require special education.

Students with disabilities are those children whether enrolled in school or not who through an evaluation process are determined eligible for special education due to a disability.

In accordance with part B of the federal individuals with disabilities education improvement act and any other federal or state laws relating to the provision of special education services, the superintendent of public instruction shall require each school district in the state to insure an appropriate educational opportunity for all children with disabilities between the ages of three and twenty-one, but when the twenty-first birthday occurs during the school year, the educational program may be continued until the end of that school year. The superintendent of public instruction, by rule, shall establish for the purpose of excess cost funding, as provided in RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.160, functional definitions of special education, the various types of disabling conditions, and eligibility criteria for special education programs for children with disabilities, including referral procedures, use of ~~((aversive))~~ positive behavior interventions, the education curriculum and statewide or districtwide assessments, parent and district requests for special education due process hearings, and procedural safeguards. For the purposes of RCW 28A.155.010 through 28A.155.160, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the children with disabilities who are enrolled either full time or part time in a school district. School districts are strongly encouraged to provide parental training in the care and education of the children and to involve parents in the classroom.

Nothing in this section shall prohibit the establishment or continuation of existing cooperative programs between school districts or contracts with other agencies approved by the superintendent of public instruction, which can meet the obligations of school districts to provide education for children with disabilities, or prohibit the continuation of needed related services to school districts by the department of social and health services.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.155.070.

Sec. 3. RCW 28A.600.485 and 2013 c 202 s 2 are each amended to read as follows:

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

(a) "Isolation" means ~~((excluding a student from his or her regular instructional area and))~~ restricting the student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.

(b) "Restraint" means physical intervention or force used to control a student, including the use of a restraint device to restrict a student's freedom of

movement. It does not include appropriate use of a prescribed medical, orthopedic, or therapeutic device when used as intended, such as to achieve proper body position, balance, or alignment, or to permit a student to safely participate in activities.

(c) "Restraint device" means a device used to assist in controlling a student, including but not limited to metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, pepper spray, tasers, or batons. Restraint device does not mean a seat harness used to safely transport students. This section shall not be construed as encouraging the use of these devices.

(2) ~~The provisions of this section apply ((only to any restraint of a student who has an individualized education program or plan developed under section 504 of the rehabilitation act of 1973 that results in a physical injury to a student or a staff member, any restraint of a student who has an individualized education program or plan developed under section 504 of the rehabilitation act of 1973, and any isolation of a student who has))~~ to all students, including those who have an individualized education program or plan developed under section 504 of the rehabilitation act of 1973. The provisions of this section apply only to incidents of restraint or isolation that occur while a student ((who has an individualized education program or plan developed under section 504 of the rehabilitation act of 1973)) is participating in school-sponsored instruction or activities.

(3)(a) An individualized education program or plan developed under section 504 of the rehabilitation act of 1973 must not include the use of restraint or isolation as a planned behavior intervention unless a student's individual needs require more specific advanced educational planning and the student's parent or guardian agrees. All other plans may refer to the district policy developed under subsection (3)(b) of this section. Nothing in this section is intended to limit the provision of a free appropriate public education under Part B of the federal individuals with disabilities education improvement act or section 504 of the federal rehabilitation act of 1973.

(b) Restraint or isolation of any student is permitted only when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm, as defined in RCW 70.96B.010. Restraint or isolation must be closely monitored to prevent harm to the student, and must be discontinued as soon as the likelihood of serious harm has dissipated. Each school district shall adopt a policy providing for the least amount of restraint or isolation appropriate to protect the safety of students and staff under such circumstances.

(4) Following the release of a student from the use of restraint or isolation, the school must implement follow-up procedures. These procedures must include: (a) Reviewing the incident with the student and the parent or guardian to address the behavior that precipitated the restraint or isolation and the appropriateness of the response; and (b) reviewing the incident with the staff member who administered the restraint or isolation to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents.

~~((4))~~ (5) Any school employee, resource officer, or school security officer who uses ((any chemical spray, mechanical)) isolation or restraint((, or physical force)) on a student during school-sponsored instruction or activities must inform the building administrator or building administrator's designee as soon as possible, and within two business days submit a written report of the incident to

the district office. The written report (~~(should)~~) must include, at a minimum, the following information:

- (a) The date and time of the incident;
- (b) The name and job title of the individual who administered the restraint or isolation;
- (c) A description of the activity that led to the restraint or isolation;
- (d) The type of restraint or isolation used on the student, including the duration; (~~(and)~~)
- (e) Whether the student or staff was physically injured during the restraint or isolation incident and any medical care provided; and
- (f) Any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents.

~~((5))~~ (6) The principal or principal's designee must make a reasonable effort to verbally inform the student's parent or guardian within twenty-four hours of the incident, and must send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. If the school or school district customarily provides the parent or guardian with school-related information in a language other than English, the written report under this section must be provided to the parent or guardian in that language.

(7)(a) Beginning January 1, 2016, and by January 1st annually, each school district shall summarize the written reports received under subsection (5) of this section and submit the summaries to the office of the superintendent of public instruction. For each school, the school district shall include the number of individual incidents of restraint and isolation, the number of students involved in the incidents, the number of injuries to students and staff, and the types of restraint or isolation used.

(b) No later than ninety days after receipt, the office of the superintendent of public instruction shall publish to its web site the data received by the districts. The office of the superintendent of public instruction may use this data to investigate the training, practices, and other efforts used by schools and districts to reduce the use of restraint and isolation.

Passed by the House April 23, 2015.

Passed by the Senate April 21, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 207

[House Bill 2000]

MARIJUANA--STATE AGREEMENTS WITH INDIAN TRIBES

AN ACT Relating to authorizing the governor to enter into agreements with federally recognized Indian tribes in the state of Washington concerning marijuana; amending RCW 69.50.360, 69.50.363, and 69.50.366; adding new sections to chapter 43.06 RCW; adding a new section to chapter 69.50 RCW; adding a new section to chapter 82.08 RCW; and adding a new section to chapter 82.12 RCW.

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

NEW SECTION, Sec. 1. A new section is added to chapter 43.06 RCW to read as follows:

The legislature intends to further the government-to-government relationship between the state of Washington and federally recognized Indian tribes in the state of Washington by authorizing the governor to enter into agreements concerning the regulation of marijuana. Such agreements may include provisions pertaining to: The lawful commercial production, processing, sale, and possession of marijuana for both recreational and medical purposes; marijuana-related research activities; law enforcement, both criminal and civil; and taxation. The legislature finds that these agreements will facilitate and promote a cooperative and mutually beneficial relationship between the state and the tribes regarding matters relating to the legalization of marijuana, particularly in light of the fact that federal Indian law precludes the state from enforcing its civil regulatory laws in Indian country. Such cooperative agreements will enhance public health and safety, ensure a lawful and well-regulated marijuana market, encourage economic development, and provide fiscal benefits to both the tribes and the state.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor may enter into agreements with federally recognized Indian tribes concerning marijuana. Marijuana agreements may address any marijuana-related issue that involves both state and tribal interests or otherwise has an impact on tribal-state relations. Such agreements may include, but are not limited to, the following provisions and subject matter:

- (a) Criminal and civil law enforcement;
- (b) Regulatory issues related to the commercial production, processing, sale, and possession of marijuana, and processed marijuana products, for both recreational and medical purposes;
- (c) Medical and pharmaceutical research involving marijuana;
- (d) Taxation in accordance with subsection (2) of this section;
- (e) Any tribal immunities or preemption of state law regarding the production, processing, or marketing of marijuana; and
- (f) Dispute resolution, including the use of mediation or other nonjudicial process.

(2)(a) Each marijuana agreement adopted under this section must provide for a tribal marijuana tax that is at least one hundred percent of the state marijuana excise tax imposed under RCW 69.50.535 and state and local sales and use taxes on sales of marijuana. Marijuana agreements apply to sales in which tribes, tribal enterprises, or tribal member-owned businesses (i) deliver or cause delivery to be made to or receive delivery from a marijuana producer, processor, or retailer licensed under chapter 69.50 RCW or (ii) physically transfer possession of the marijuana from the seller to the buyer within Indian country.

(b) The tribe may allow an exemption from tax for sales to the tribe, tribal enterprises, tribal member-owned businesses, or tribal members[,] on marijuana grown, produced, or processed within its Indian country, or for activities to the extent they are exempt under state or federal law from the state marijuana excise tax imposed under RCW 69.50.535 or state and local sales or use taxes on sales of marijuana. Medical marijuana products used in the course of medical treatments by a clinic, hospital, or similar facility owned and operated by a

federally recognized Indian tribe within its Indian country may be exempted from tax under the terms of an agreement entered into under this section.

(3) Any marijuana agreement relating to the production, processing, and sale of marijuana in Indian country, whether for recreational or medical purposes, must address the following issues:

(a) Preservation of public health and safety;

(b) Ensuring the security of production, processing, retail, and research facilities; and

(c) Cross-border commerce in marijuana.

(4) The governor may delegate the power to negotiate marijuana agreements to the state liquor control board. In conducting such negotiations, the state liquor control board must, when necessary, consult with the governor and/or the department of revenue.

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

(a) "Indian country" has the same meaning as in RCW 82.24.010.

(b) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

(c) "Marijuana" means "marijuana," "marijuana concentrates," "marijuana-infused products," and "useable marijuana," as those terms are defined in RCW 69.50.101.

NEW SECTION. Sec. 3. A new section is added to chapter 69.50 RCW to read as follows:

The taxes, fees, assessments, and other charges imposed by this chapter do not apply to commercial activities related to the production, processing, sale, and possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products covered by an agreement entered into under section 2 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 82.08 RCW to read as follows:

The taxes imposed by this chapter do not apply to the retail sale of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products covered by an agreement entered into under section 2 of this act. "Marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as defined in RCW 69.50.101.

NEW SECTION. Sec. 5. A new section is added to chapter 82.12 RCW to read as follows:

The taxes imposed by this chapter do not apply to the use of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products covered by an agreement entered into under section 2 of this act. "Marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as defined in RCW 69.50.101.

Sec. 6. RCW 69.50.360 and 2014 c 192 s 5 are each amended to read as follows:

The following acts, when performed by a validly licensed marijuana retailer or employee of a validly licensed retail outlet in compliance with rules adopted by the state liquor control board to implement and enforce chapter 3, Laws of

2013, (~~shall~~) do not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of marijuana concentrates, useable marijuana, or marijuana-infused products that have been properly packaged and labeled from a marijuana processor validly licensed under chapter 3, Laws of 2013;

(2) Possession of quantities of marijuana concentrates, useable marijuana, or marijuana-infused products that do not exceed the maximum amounts established by the state liquor control board under RCW 69.50.345(5); (~~and~~)

(3) Delivery, distribution, and sale, on the premises of the retail outlet, of any combination of the following amounts of marijuana concentrates, useable marijuana, or marijuana-infused product to any person twenty-one years of age or older:

(a) One ounce of useable marijuana;

(b) Sixteen ounces of marijuana-infused product in solid form;

(c) Seventy-two ounces of marijuana-infused product in liquid form; or

(d) Seven grams of marijuana concentrate; and

(4) Purchase and receipt of marijuana concentrates, useable marijuana, or marijuana-infused products that have been properly packaged and labeled from a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under section 2 of this act.

Sec. 7. RCW 69.50.363 and 2013 c 3 s 16 are each amended to read as follows:

The following acts, when performed by a validly licensed marijuana processor or employee of a validly licensed marijuana processor in compliance with rules adopted by the state liquor control board to implement and enforce chapter 3, Laws of 2013, (~~shall~~) do not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of marijuana that has been properly packaged and labeled from a marijuana producer validly licensed under chapter 3, Laws of 2013;

(2) Possession, processing, packaging, and labeling of quantities of marijuana, useable marijuana, and marijuana-infused products that do not exceed the maximum amounts established by the state liquor control board under RCW 69.50.345(4); (~~and~~)

(3) Delivery, distribution, and sale of useable marijuana or marijuana-infused products to a marijuana retailer validly licensed under chapter 3, Laws of 2013; and

(4) Delivery, distribution, and sale of useable marijuana, marijuana concentrates, or marijuana-infused products to a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under section 2 of this act.

Sec. 8. RCW 69.50.366 and 2013 c 3 s 17 are each amended to read as follows:

The following acts, when performed by a validly licensed marijuana producer or employee of a validly licensed marijuana producer in compliance with rules adopted by the state liquor control board to implement and enforce chapter 3, Laws of 2013, (~~shall~~) do not constitute criminal or civil offenses under Washington state law:

(1) Production or possession of quantities of marijuana that do not exceed the maximum amounts established by the state liquor control board under RCW 69.50.345(3); (~~and~~)

(2) Delivery, distribution, and sale of marijuana to a marijuana processor or another marijuana producer validly licensed under chapter 3, Laws of 2013; and

(3) Delivery, distribution, and sale of marijuana or useable marijuana to a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under section 2 of this act.

Passed by the House April 24, 2015.

Passed by the Senate April 24, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 208

[Senate Bill 5085]

LICENSE PLATES--GOLD STAR

AN ACT Relating to gold star license plates; and amending RCW 46.18.245.

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

Sec. 1. RCW 46.18.245 and 2013 c 137 s 1 are each amended to read as follows:

(1) A registered owner who is an eligible family member of a member of the United States armed forces who died while in service to his or her country, or as a result of his or her service, may apply to the department for special gold star license plates for use on a motor vehicle. The registered owner must:

(a) Be a resident of this state;

(b) Provide proof to the satisfaction of the department that the registered owner is an eligible family member, which includes:

(i) A widow;

(ii) A widower;

(iii) A biological parent;

(iv) An adoptive parent;

(v) A stepparent;

(vi) An adult in loco parentis or foster parent;

(vii) A biological child; (~~or~~)

(viii) An adopted child; or

(ix) A sibling;

(c) Provide certification from the Washington state department of veterans affairs that the registered owner qualifies for the special license plate under this section;

(d) Be recorded as the registered owner of the motor vehicle on which the gold star license plates will be displayed; and

(e) Except as provided in subsection (2) of this section, pay all fees and taxes required by law for registering the motor vehicle.

(2) In addition to the license plate fee exemption in subsection (3)(b) of this section, the widow or widower recipient of a gold star license plate under this section is also exempt from annual vehicle registration fees for one personal use motor vehicle.

(3) Gold star license plates must be issued:

(a) Only for motor vehicles owned by qualifying applicants; and

(b) Without payment of any license plate fee.

~~((3))~~ (4) Gold star license plates must be replaced, free of charge, if the license plates become lost, stolen, damaged, defaced, or destroyed.

~~((4))~~ (5) Gold star license plates may be transferred from one motor vehicle to another motor vehicle owned by the eligible family member, as described in subsection (1) of this section, upon application to the department, county auditor or other agent, or subagent appointed by the director.

Passed by the Senate April 16, 2015.

Passed by the House April 8, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 209

[Substitute Senate Bill 5147]

MEDICAID--BASELINE HEALTH ASSESSMENT--ENROLLEE HEALTH

AN ACT Relating to establishing a medicaid baseline health assessment and monitoring the medicaid population's health; and amending RCW 70.320.030, 70.320.040, and 70.320.050.

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

Sec. 1. RCW 70.320.030 and 2013 c 320 s 3 are each amended to read as follows:

By September 1, 2014:

(1) The authority shall adopt performance measures to determine whether service contracting entities are achieving the outcomes described in RCW 70.320.020 and 41.05.690 for clients enrolled in medical managed care programs operated according to Title XIX or XXI of the federal social security act.

(2) The department shall adopt performance measures to determine whether service contracting entities are achieving the outcomes described in RCW 70.320.020 for clients receiving mental health, long-term care, or chemical dependency services.

Sec. 2. RCW 70.320.040 and 2013 c 320 s 4 are each amended to read as follows:

By July 1, 2015, the authority and the department shall require that contracts with service coordination organizations include provisions requiring:

(1) The adoption of the outcomes and performance measures developed under this chapter and RCW 41.05.690 and mechanisms for reporting data to support each of the outcomes and performance measures; and

(2) That an initial health screen be conducted for new enrollees pursuant to the terms and conditions of the contract.

Sec. 3. RCW 70.320.050 and 2013 c 320 s 5 are each amended to read as follows:

(1) By December 1, 2014, the department and the authority shall report jointly to the legislature on the expected outcomes and the performance measures. The report must identify the performance measures and the expected outcomes established for each program, the relationship between the

performance measures and expected improvements in client outcomes, mechanisms for reporting outcomes and measuring performance, and options for applying the performance measures and expected outcomes development process to other health and social service programs.

(2) By December 1, 2016, and annually thereafter, the department and the authority shall report to the legislature on the incorporation of the performance measures into contracts with service coordination organizations and progress toward achieving the identified outcomes. The report shall include:

(a) The number of medicaid clients enrolled over the previous year;

(b) The number of enrollees who received a baseline health assessment over the previous year;

(c) An analysis of trends in health improvement for medicaid enrollees in accordance with the measure set established under RCW 41.05.065; and

(d) Recommendations for improving the health of medicaid enrollees.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 210

[Substitute Senate Bill 5163]

K-12 EDUCATION--EDUCATIONAL DATA--MILITARY FAMILIES

AN ACT Relating to providing for educational data on students from military families; amending RCW 28A.300.505; and creating new sections.

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

NEW SECTION. Sec. 1. (1) The legislature finds that, nationally, nearly two million students are from military families, where one or more parent or guardian serves in the United States armed forces, reserves, or national guard. There are approximately one hundred thirty-six thousand military families in Washington state.

(2) The legislature further finds that a United States government accountability office study in 2011 identified that it is not possible to monitor educational outcomes for students from military families due to the lack of a student identifier in state educational data systems. Such an identifier is needed to allow educators and policymakers to monitor critical elements of education success, including academic progress and proficiency, special and advanced program participation, mobility and dropout rates, and patterns over time across states and school districts. Reliable information about student performance will assist educators in more effectively transitioning students to a new school and enable school districts to discover and implement best practices.

Sec. 2. RCW 28A.300.505 and 2007 c 401 s 5 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall develop standards for school data systems that focus on validation and verification of data entered into the systems to ensure accuracy and compatibility of data. The standards shall address but are not limited to the following topics:

(a) Date validation;

(b) Code validation, which includes gender, race or ethnicity, and other code elements;

(c) Decimal and integer validation; and

(d) Required field validation as defined by state and federal requirements.

(2) The superintendent of public instruction shall develop a reporting format and instructions for school districts to collect and submit data that must include:

(a) Data on student demographics that is disaggregated by distinct ethnic categories within racial subgroups so that analyses may be conducted on student achievement using the disaggregated data; and

(b) Starting no later than the 2016-17 school year, data on students from military families. The K-12 data governance group established in RCW 28A.300.507 must develop best practice guidelines for the collection and regular updating of this data on students from military families. Collection and updating of this data must use the United States department of education 2007 race and ethnicity reporting guidelines, including the subracial and subethnic categories within those guidelines, with the following modifications:

(i) Further disaggregation of the Black category to differentiate students of African origin and students native to the United States with African ancestors;

(ii) Further disaggregation of countries of origin for Asian students;

(iii) Further disaggregation of the White category to include subethnic categories for Eastern European nationalities that have significant populations in Washington; and

(iv) For students who report as multiracial, collection of their racial and ethnic combination of categories.

(3) For the purposes of this section, "students from military families" means the following categories of students, with data to be collected and submitted separately for each category:

(a) Students with a parent or guardian who is a member of the active duty United States armed forces; and

(b) Students with a parent or guardian who is a member of the reserves of the United States armed forces or a member of the Washington national guard.

NEW SECTION. Sec. 3. Using the definitions in RCW 28A.300.505, the office of the superintendent of public instruction shall conduct an analysis of the average number of students from military families who are special education students. The data reported must include state, district, and school-level information. To protect the privacy of students, the data from schools and districts that have fewer than ten students from military families who are special education students shall not be reported. The office of the superintendent of public instruction shall report its analysis to the appropriate committees of the legislature by December 31, 2017.

Passed by the Senate April 16, 2015.

Passed by the House April 8, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 211

[Substitute Senate Bill 5202]

K-12 EDUCATION--FINANCIAL EDUCATION PUBLIC-PRIVATE PARTNERSHIP

AN ACT Relating to the financial education public-private partnership; amending RCW 28A.300.450, 28A.300.460, and 28A.655.070; and adding new sections to chapter 28A.300 RCW.

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

Sec. 1. RCW 28A.300.450 and 2011 c 262 s 1 are each amended to read as follows:

(1) A financial education public-private partnership is established, composed of the following members:

(a) Four members of the legislature, with one member from each caucus of the house of representatives appointed for a two-year term of service by the speaker of the house of representatives, and one member from each caucus of the senate appointed for a two-year term of service by the president of the senate;

(b) Four representatives from the private for-profit and nonprofit financial services sector, including at least one representative from the jumpstart coalition, to be appointed for a staggered two-year term of service by the governor;

(c) Four teachers to be appointed for a staggered two-year term of service by the superintendent of public instruction, with one each representing the elementary, middle, secondary, and postsecondary education sectors;

(d) A representative from the department of financial institutions to be appointed for a two-year term of service by the director;

(e) Two representatives from the office of the superintendent of public instruction, with one involved in curriculum development and one involved in teacher professional development, to be appointed for a staggered two-year term of service by the superintendent; and

(f) The state treasurer or the state treasurer's designee.

(2) The chair of the partnership shall be selected by the members of the partnership from among the legislative members.

(3) One-half of the members appointed under subsection (1)(b), (c), and (e) of this section shall be appointed for a one-year term beginning August 1, 2011, and a two-year term thereafter.

(4) To the extent funds are appropriated or are available for this purpose, the partnership may hire a staff person who shall reside in the office of the superintendent of public instruction for administrative purposes. Additional technical and logistical support may be provided by the office of the superintendent of public instruction, the department of financial institutions, the organizations composing the partnership, and other participants in the financial education public-private partnership.

(5) The initial members of the partnership shall be appointed by August 1, 2011.

(6) Legislative members of the partnership shall receive per diem and travel under RCW 44.04.120.

(7) Travel and other expenses of members of the partnership shall be provided by the agency, association, or organization that member represents. Teachers appointed as members by the superintendent of public instruction may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060 from funds available in the Washington financial education public-private

partnership account. If the attendance of a teacher member at an official meeting of the partnership results in a need for a school district to employ a substitute, payment for the substitute may be made by the superintendent of public instruction from funds available in the Washington financial education public-private partnership account. A school district must release a teacher member to attend an official meeting of the partnership if the partnership pays the district for a substitute or pays the travel expenses of the teacher member.

(8) This section shall be implemented to the extent funds are available.

Sec. 2. RCW 28A.300.460 and 2009 c 443 s 2 are each amended to read as follows:

(1) The task of the financial education public-private partnership is to seek out and determine the best methods of equipping students with the knowledge and skills they need, before they become self-supporting, in order for them to make critical decisions regarding their personal finances. The components of personal financial education shall include the achievement of skills and knowledge necessary to make informed judgments and effective decisions regarding earning, spending, and the management of money and credit.

(2) In carrying out its task, and to the extent funds are available, the partnership shall:

(a) Communicate to school districts the financial education standards adopted under RCW 28A.300.462, other important financial education skills and content knowledge, and strategies for expanding the provision and increasing the quality of financial education instruction;

(b) Review on an ongoing basis financial education curriculum that is available to school districts, including instructional materials and programs, online instructional materials and resources, and school-wide programs that include the important financial skills and content knowledge;

(c) Develop evaluation standards and a procedure for endorsing financial education curriculum that the partnership determines should be recommended for use in school districts;

(d) ~~((Identify assessments and outcome measures that schools and communities may use to determine whether students have met the financial education standards adopted under RCW 28A.300.462))~~ Work with the office of the superintendent of public instruction to integrate financial education skills and content knowledge into the state learning standards;

(e) Monitor and provide guidance for professional development for educators regarding financial education, including ways that teachers at different grade levels may integrate financial skills and content knowledge into mathematics, social studies, and other course content areas;

(f) Work with the office of the superintendent of public instruction and the professional educator standards board to create professional development ~~((that could lead to a certificate endorsement or other certification of competency))~~ in financial education;

(g) Develop academic guidelines and standards-based protocols for use by classroom volunteers who participate in delivering financial education to students in the public schools; and

(h) Provide an annual report beginning December 1, 2009, as provided in RCW 28A.300.464, to the governor, the superintendent of public instruction,

and the committees of the legislature with oversight over K-12 education and higher education.

(3) The partnership may seek federal and private funds to support the school districts in providing access to the materials listed pursuant to section 4(1) of this act, as well as related professional development opportunities for certificated staff.

Sec. 3. RCW 28A.655.070 and 2013 2nd sp.s. c 22 s 5 are each amended to read as follows:

(1) The superintendent of public instruction shall develop essential academic learning requirements that identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, develop student assessments, and implement the accountability recommendations and requests regarding assistance, rewards, and recognition of the state board of education.

(2) The superintendent of public instruction shall:

(a) Periodically revise the essential academic learning requirements, as needed, based on the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the essential academic learning requirements; and

(b) Review and prioritize the essential academic learning requirements and identify, with clear and concise descriptions, the grade level content expectations to be assessed on the statewide student assessment and used for state or federal accountability purposes. The review, prioritization, and identification shall result in more focus and targeting with an emphasis on depth over breadth in the number of grade level content expectations assessed at each grade level. Grade level content expectations shall be articulated over the grades as a sequence of expectations and performances that are logical, build with increasing depth after foundational knowledge and skills are acquired, and reflect, where appropriate, the sequential nature of the discipline. The office of the superintendent of public instruction, within seven working days, shall post on its web site any grade level content expectations provided to an assessment vendor for use in constructing the statewide student assessment.

(3)(a) In consultation with the state board of education, the superintendent of public instruction shall maintain and continue to develop and revise a statewide academic assessment system in the content areas of reading, writing, mathematics, and science for use in the elementary, middle, and high school years designed to determine if each student has mastered the essential academic learning requirements identified in subsection (1) of this section. School districts shall administer the assessments under guidelines adopted by the superintendent of public instruction. The academic assessment system may include a variety of assessment methods, including criterion-referenced and performance-based measures.

(b) Effective with the 2009 administration of the Washington assessment of student learning and continuing with the statewide student assessment, the superintendent shall redesign the assessment in the content areas of reading, mathematics, and science in all grades except high school by shortening test administration and reducing the number of short answer and extended response questions.

(c) By the 2014-15 school year, the superintendent of public instruction, in consultation with the state board of education, shall modify the statewide student assessment system to transition to assessments developed with a multistate consortium, as provided in this subsection:

(i) The assessments developed with a multistate consortium to assess student proficiency in English language arts and mathematics shall be administered beginning in the 2014-15 school year. The reading and writing assessments shall not be administered by the superintendent of public instruction or schools after the 2013-14 school year.

(ii) The high school assessments in English language arts and mathematics in (c)(i) of this subsection shall be used for the purposes of earning a certificate of academic achievement for high school graduation under the timeline established in RCW 28A.655.061 and for assessing student career and college readiness.

(iii) During the transition period specified in RCW 28A.655.061, the superintendent of public instruction shall use test items and other resources from the consortium assessment to develop and administer a tenth grade high school English language arts assessment, an end-of-course mathematics assessment to assess the standards common to algebra I and integrated mathematics I, and an endofcourse mathematics assessment to assess the standards common to geometry and integrated mathematics II.

(4) If the superintendent proposes any modification to the essential academic learning requirements or the statewide assessments, then the superintendent shall, upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the essential academic learning requirements before the modifications are adopted.

(5) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the essential academic learning requirements at the appropriate periods in the student's educational development.

(6) By September 2007, the results for reading and mathematics shall be reported in a format that will allow parents and teachers to determine the academic gain a student has acquired in those content areas from one school year to the next.

(7) To assist parents and teachers in their efforts to provide educational support to individual students, the superintendent of public instruction shall provide as much individual student performance information as possible within the constraints of the assessment system's item bank. The superintendent shall also provide to school districts:

(a) Information on classroom-based and other assessments that may provide additional achievement information for individual students; and

(b) A collection of diagnostic tools that educators may use to evaluate the academic status of individual students. The tools shall be designed to be inexpensive, easily administered, and quickly and easily scored, with results provided in a format that may be easily shared with parents and students.

(8) To the maximum extent possible, the superintendent shall integrate knowledge and skill areas in development of the assessments.

(9) Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the essential academic learning requirements and assessments for goals one and two.

(10) The superintendent shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

(11) The superintendent shall consider methods to address the unique needs of special education students when developing the assessments under this section.

(12) The superintendent shall consider methods to address the unique needs of highly capable students when developing the assessments under this section.

(13) The superintendent shall post on the superintendent's web site lists of resources and model assessments in social studies, the arts, and health and fitness.

(14) The superintendent shall integrate financial education skills and content knowledge into the state learning standards pursuant to RCW 28A.300.460(2)(d).

NEW SECTION. Sec. 4. A new section is added to chapter 28A.300 RCW to read as follows:

(1) After consulting with the financial education public-private partnership, the office of the superintendent of public instruction shall make available to all school districts a list of materials that align with the financial education standards integrated into the state learning standards pursuant to RCW 28A.300.460(2)(d).

(2) School districts shall provide all students in grades nine through twelve the opportunity to access the financial education standards, whether through a regularly scheduled class period; before or after school; during lunch periods; at library and study time; at home; via online learning opportunities; through career and technical education course equivalencies; or other opportunities. School districts shall publicize the availability of financial education opportunities to students and their families. School districts are encouraged to grant credit toward high school graduation to students who successfully complete financial education courses.

NEW SECTION. Sec. 5. A new section is added to chapter 28A.300 RCW to read as follows:

Standards in K-12 personal finance education developed by a national coalition for personal financial literacy that includes partners from business, finance, government, academia, education, and state affiliates are adopted as the state financial education learning standards.

Passed by the Senate April 16, 2015.

Passed by the House April 8, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 212

[Substitute Senate Bill 5328]

HIGHER EDUCATION--FINANCIAL AID INFORMATION

AN ACT Relating to disseminating financial aid information; and amending RCW 28B.92.005.

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

Sec. 1. RCW 28B.92.005 and 2014 c 53 s 2 are each amended to read as follows:

Community and technical colleges shall provide financial aid application due dates and information on whether or not financial aid will be awarded on a rolling basis to their admitted students at the time of acceptance. ~~((Institutions of higher education are encouraged to post financial aid application dates and distribution policies on their web sites))~~ State universities, regional universities, and The Evergreen State College shall provide financial aid application due dates and distribution policies on their web sites, including whether financial aid is awarded on a rolling basis, for prospective and admitted students.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 213

[Engrossed Substitute Senate Bill 5441]

INSURANCE--PRESCRIPTION COVERAGE--MEDICATION SYNCHRONIZATION

AN ACT Relating to patient medication coordination; adding a new section to chapter 48.43 RCW; 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 48.43 RCW to read as follows:

(1) A health benefit plan issued or renewed after December 31, 2015, that provides coverage for prescription drugs must implement a medication synchronization policy for the dispensing of prescription drugs to the plan's enrollees.

(a) If an enrollee requests medication synchronization for a new prescription, the health plan must permit filling the drug: (i) For less than a one-month supply of the drug if synchronization will require more than a fifteen-day supply of the drug; or (ii) for more than a one-month supply of the drug if synchronization will require a fifteen-day supply of the drug or less.

(b) The health benefit plan shall adjust the enrollee cost-sharing for a prescription drug subject to coinsurance that is dispensed for less than the standard refill amount for the purpose of synchronizing the medications.

(c) The health benefit plan shall adjust the enrollee cost-sharing for a prescription drug with a copayment that is dispensed for less than the standard refill amount for the purpose of synchronizing the medications by:

(i) Discounting the copayment rate by fifty percent;

(ii) Discounting the copayment rate based on fifteen-day increments; or

(iii) Any other method that meets the intent of this section and is approved by the office of the insurance commissioner.

(2) Upon request of an enrollee, the prescribing provider or pharmacist shall:

(a) Determine that filling or refilling the prescription is in the best interest of the enrollee, taking into account the appropriateness of synchronization for the drug being dispensed;

(b) Inform the enrollee that the prescription will be filled to less than the standard refill amount for the purpose of synchronizing his or her medications; and

(c) Deny synchronization on the grounds of threat to patient safety or suspected fraud or abuse.

(3) For purposes of this section, the following terms have the following meanings unless the context clearly requires otherwise:

(a) "Medication synchronization" means the coordination of medication refills for a patient taking two or more medications for a chronic condition such that the patient's medications are refilled on the same schedule for a given time period.

(b) "Prescription" has the same meaning as in RCW 18.64.011.

NEW SECTION. Sec. 2. A new section is added to chapter 41.05 RCW to read as follows:

(1) A health benefit plan offered to public employees and their covered dependents under this chapter that is not subject to chapter 48.43 RCW, that is issued or renewed after December 31, 2015, and that provides coverage for prescription drugs must implement a medication synchronization policy for the dispensing of prescription drugs to the plan's enrollees.

(a) If an enrollee requests medication synchronization for a new prescription, the health plan must permit filling the drug: (i) For less than a one-month supply of the drug if synchronization will require more than a fifteen-day supply of the drug; or (ii) for more than a one-month supply of the drug if synchronization will require a fifteen-day supply of the drug or less.

(b) The health benefit plan shall adjust the enrollee cost-sharing for a prescription drug subject to coinsurance that is dispensed for less than the standard refill amount for the purpose of synchronizing the medications.

(c) The health benefit plan shall adjust the enrollee cost-sharing for a prescription drug with a copayment that is dispensed for less than the standard refill amount for the purpose of synchronizing the medications by:

(i) Discounting the copayment rate by fifty percent;

(ii) Discounting the copayment rate based on fifteen-day increments; or

(iii) Any other method that meets the intent of this section and is approved by the office of the insurance commissioner.

(2) Upon request of an enrollee, the prescribing provider or pharmacist shall:

(a) Determine that filling or refilling the prescription is in the best interest of the enrollee, taking into account the appropriateness of synchronization for the drug being dispensed;

(b) Inform the enrollee that the prescription will be filled to less than the standard refill amount for the purpose of synchronizing his or her medications; and

(c) Deny synchronization on the grounds of threat to patient safety or suspected fraud or abuse.

(3) For purposes of this section, the following terms have the following meanings unless the context clearly requires otherwise:

(a) "Medication synchronization" means the coordination of medication refills for a patient taking two or more medications for a chronic condition such that the patient's medications are refilled on the same schedule for a given time period.

(b) "Prescription" has the same meaning as in RCW 18.64.011.

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CHAPTER 214

[Engrossed Substitute Senate Bill 5498]

UNIFORM INTERSTATE FAMILY SUPPORT ACT

AN ACT Relating to revising the uniform interstate family support act; amending RCW 26.21A.010, 26.21A.015, 26.21A.020, 26.21A.100, 26.21A.110, 26.21A.115, 26.21A.125, 26.21A.130, 26.21A.135, 26.21A.140, 26.21A.150, 26.21A.200, 26.21A.215, 26.21A.220, 26.21A.225, 26.21A.230, 26.21A.235, 26.21A.245, 26.21A.250, 26.21A.260, 26.21A.275, 26.21A.280, 26.21A.285, 26.21A.290, 26.21A.350, 26.21A.415, 26.21A.420, 26.21A.430, 26.21A.500, 26.21A.505, 26.21A.510, 26.21A.515, 26.21A.520, 26.21A.525, 26.21A.530, 26.21A.535, 26.21A.540, 26.21A.545, 26.21A.550, and 26.21A.570; adding new sections to chapter 26.21A RCW; adding a new section to chapter 4.24 RCW; creating new sections; repealing RCW 26.21A.105, 26.21A.145, and 26.21A.600; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 26.21A.010 and 2002 c 198 s 102 are each amended to read as follows:

In this chapter:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(3) "Convention" means the convention on the international recovery of child support and other forms of family maintenance, concluded at the Hague on November 23, 2007.

(4) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

~~((4))~~ (5) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

(a) Which has been declared under the law of the United States to be a foreign reciprocating country;

(b) Which has established a reciprocal arrangement for child support with this state as provided in RCW 26.21A.235;

(c) Which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter; or

(d) In which the convention is in force with respect to the United States.

(6) "Foreign support order" means a support order of a foreign tribunal.

(7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the convention.

(8) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

~~((5))~~ (9) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

~~((6))~~ (10) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by RCW 50.04.080, to withhold support from the income of the obligor.

~~((7) "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to this chapter.~~

~~(8))~~ (11) "Initiating tribunal" means the ~~((authorized))~~ tribunal ~~((in an initiating))~~ of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

~~((9))~~ (13) "Issuing state" means the state in which a tribunal issues a support order or ~~((renders))~~ a judgment determining parentage of a child.

~~((10))~~ (14) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or ~~((renders))~~ a judgment determining parentage of a child.

~~((11))~~ (15) "Law" includes decisional and statutory law and rules having the force of law.

~~((12))~~ (16) "Obligee" means:

(a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage of a child has been ~~((rendered))~~ issued;

(b) A foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support; ~~((or))~~

(c) An individual seeking a judgment determining parentage of the individual's child; or

(d) A person that is a creditor in a proceeding under Article 7 of this chapter.

~~((13))~~ (17) "Obligor" means an individual, or the estate of a decedent that:

(a) ~~((Who))~~ Owns or is alleged to owe a duty of support;

(b) ~~((Who))~~ Is alleged but has not been adjudicated to be a parent of a child;
~~((or))~~

(c) ~~((Who))~~ Is liable under a support order; or

(d) Is a debtor in a proceeding under Article 7 of this chapter.

~~((14))~~ (18) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(19) "Person" means~~((:))~~ an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government~~((:))~~ or governmental subdivision, agency, or instrumentality~~((: public corporation;))~~, or any other legal or commercial entity.

~~((15))~~ (20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~((16))~~ (21) "Register" means to record or file in a tribunal of this state a support order or judgment determining parentage ~~((in the appropriate location for the recording or filing of foreign judgments generally or foreign support orders specifically))~~ of a child issued in another state or a foreign country.

~~((17))~~ (22) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.

~~((18))~~ (23) "Responding state" means a state in which a ~~((proceeding))~~ petition or comparable pleading for support or to determine parentage of a child is filed or to which a ~~((proceeding))~~ petition or comparable pleading is forwarded for filing from ~~((an initiating))~~ another state ~~((under this chapter or a law or procedure substantially similar to this chapter))~~ or foreign country.

~~((19))~~ (24) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

~~((20))~~ (25) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

~~((21))~~ (26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession ~~((subject to))~~ under the jurisdiction of the United States. The term includes~~((:~~

(a) an Indian nation or tribe~~((: and~~

(b) A foreign country or political subdivision that:

(i) ~~Has been declared to be a foreign reciprocating country or political subdivision under federal law;~~

(ii) ~~Has established a reciprocal arrangement for child support with this state as provided in RCW 26.21A.235; or~~

(iii) ~~Has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter).~~

~~((22))~~ (27) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to ~~((seek))~~:

(a) Seek enforcement of support orders or laws relating to the duty of support;

- (b) Seek establishment or modification of child support;
- (c) Request determination of parentage of a child;
- (d) ~~((Location of))~~ Attempt to locate obligors or their assets; or
- (e) Request determination of the controlling child support order.

~~((23))~~ (28) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued ~~((by a tribunal))~~ in a state or foreign country for the benefit of a child, a spouse, or a former spouse, ~~((that))~~ which provides for monetary support, health care, arrearages, retroactive support, or reimbursement~~((, and))~~ for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorneys' fees, and other relief.

~~((24))~~ (29) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

Sec. 2. RCW 26.21A.015 and 2002 c 198 s 103 are each amended to read as follows:

(1) The superior court is the ~~((state))~~ tribunal for judicial proceedings, and the department of social and health services division of child support is the ~~((state))~~ tribunal for administrative proceedings, of this state.

(2) The department of social and health services division of child support is the support enforcement agency of this state.

Sec. 3. RCW 26.21A.020 and 2002 c 198 s 104 are each amended to read as follows:

(1) Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law~~((, including))~~ or the recognition of a foreign support order ~~((of a foreign country or political subdivision))~~ on the basis of comity.

(2) This chapter does not:

(a) Provide the exclusive method of establishing or enforcing a support order under the law of this state; or

(b) Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this chapter.

Sec. 4. RCW 26.21A.100 and 2002 c 198 s 201 are each amended to read as follows:

(1) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(a) The individual is personally served with a citation, summons, or notice within this state;

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

(c) The individual resided with the child in this state;

(d) The individual resided in this state and provided prenatal expenses or support for the child;

(e) The child resides in this state as a result of the acts or directives of the individual;

(f) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; or

(g) ~~((The individual asserted parentage in the putative father registry maintained in this state by the state registrar of vital statistics; or~~

~~(h)) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.~~

(2) The bases of personal jurisdiction set forth in subsection (1) of this section or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of ~~((the))~~ this state to modify a child support order of another state unless the requirements of RCW 26.21A.550 ~~((or 26.21A.570))~~ are met, or, in the case of a foreign support order, unless the requirements of RCW 26.21A.570 are met.

~~((3) Personal jurisdiction acquired under subsection (1) of this section continues so long as the tribunal of this state that acquired personal jurisdiction has continuing, exclusive jurisdiction to enforce or modify its order.))~~

Sec. 5. RCW 26.21A.110 and 2002 c 198 s 203 are each amended to read as follows:

Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated in another state or a foreign country.

Sec. 6. RCW 26.21A.115 and 2002 c 198 s 204 are each amended to read as follows:

(1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a ~~((petition or comparable))~~ pleading is filed in another state or a foreign country only if:

(a) The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country;

(b) The contesting party timely challenges the exercise of jurisdiction in the other state or the foreign country; and

(c) If relevant, this state is the home state of the child.

(2) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if:

(a) The petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(b) The contesting party timely challenges the exercise of jurisdiction in this state; and

(c) If relevant, the other state or foreign country is the home state of the child.

Sec. 7. RCW 26.21A.125 and 2002 c 198 s 206 are each amended to read as follows:

(1) A tribunal of this state that has issued a child support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to enforce:

(a) The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the uniform interstate family support act; or

(b) A money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of ~~((other))~~ another state is the controlling order.

(2) A tribunal of this state having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

Sec. 8. RCW 26.21A.130 and 2002 c 198 s 207 are each amended to read as follows:

(1) If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

(2) If a proceeding is brought under this chapter, and two or more child support orders have been issued by tribunals of this state, or another state, or a foreign country with regard to the same obligor and same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls and must be recognized:

(a) If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls ~~((and must be so recognized))~~.

(b) If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter~~((:))~~:

(i) An order issued by a tribunal in the current home state of the child controls~~((However,))~~; or

(ii) If an order has not been issued in the current home state of the child, the order most recently issued controls.

(c) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state shall issue a child support order, which controls.

(3) If two or more child support orders have been issued for the same obligor and same child, upon request of a party who is an individual or that is a support enforcement agency, a tribunal of this state having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection (2) of this section. The request may be filed with a registration for enforcement or registration for modification pursuant to Article 6 of this chapter, or may be filed as a separate proceeding.

(4) A request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(5) The tribunal that issued the controlling order under subsection (1), (2), or (3) of this section has continuing jurisdiction to the extent provided in RCW 26.21A.120 or 26.21A.125.

(6) A tribunal of this state that determines by order which is the controlling order under subsection (2)(a) or (b) or (3) of this section or that issues a new controlling order under subsection (2)(c) of this section shall state in that order:

(a) The basis upon which the tribunal made its determination;

(b) The amount of prospective support, if any; and

(c) The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by RCW 26.21A.140.

(7) Within thirty days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

(8) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this chapter.

Sec. 9. RCW 26.21A.135 and 2002 c 198 s 208 are each amended to read as follows:

In responding to registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state or a foreign country, a tribunal of this state shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this state.

Sec. 10. RCW 26.21A.140 and 2002 c 198 s 209 are each amended to read as follows:

A tribunal of this state shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this (~~or~~) state, another state, or a foreign country.

Sec. 11. RCW 26.21A.150 and 2002 c 198 s 211 are each amended to read as follows:

(1) A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

(2) A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(3) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as:

(a) An initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or

(b) A responding tribunal to enforce or modify its own spousal support order.

Sec. 12. RCW 26.21A.200 and 2002 c 198 s 301 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, this article applies to all proceedings under this chapter.

(2) An individual petitioner or a support enforcement agency may initiate a proceeding authorized under this chapter by filing a petition in an initiating

tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or a foreign country which has or can obtain personal jurisdiction over the respondent.

Sec. 13. RCW 26.21A.215 and 2002 c 198 s 304 are each amended to read as follows:

(1) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward the petition and its accompanying documents:

(a) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(b) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) If requested by the responding tribunal, a tribunal of this state shall issue a certificate or other document and make findings required by the law of the responding state. If the responding (~~(state)~~) tribunal is in a foreign country (~~(or political subdivision)~~), upon request the tribunal of this state shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate(~~(s)~~) as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding (~~(state)~~) foreign tribunal.

Sec. 14. RCW 26.21A.220 and 2002 c 198 s 305 are each amended to read as follows:

(1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to RCW 26.21A.200(2), it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(2) A responding tribunal of this state, to the extent not prohibited by other law, may do one or more of the following:

(a) (~~(Issue)~~) Establish or enforce a support order, modify a child support order, determine the controlling child support order, or determine parentage of a child;

(b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(c) Order income withholding;

(d) Determine the amount of any arrearages, and specify a method of payment;

(e) Enforce orders by civil or criminal contempt, or both;

(f) Set aside property for satisfaction of the support order;

(g) Place liens and order execution on the obligor's property;

(h) Order an obligor to keep the tribunal informed of the obligor's current residential address, email address, telephone number, employer, address of employment, and telephone number at the place of employment;

(i) Issue a bench warrant (~~(or writ of arrest)~~) for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant (~~(or writ of arrest)~~) in any local and state computer systems for criminal warrants;

(j) Order the obligor to seek appropriate employment by specified methods;

(k) Award reasonable attorneys' fees and other fees and costs; and

(1) Grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(5) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

(6) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate((s)) as publicly reported.

Sec. 15. RCW 26.21A.225 and 2002 c 198 s 306 are each amended to read as follows:

If a petition or comparable pleading is received by an inappropriate tribunal of this state, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal ((~~it~~)) of this state or another state and notify the petitioner where and when the pleading was sent.

Sec. 16. RCW 26.21A.230 and 2002 c 198 s 307 are each amended to read as follows:

(1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(2) A support enforcement agency of this state that is providing services to the petitioner shall:

(a) Take all steps necessary to enable an appropriate tribunal ((~~it~~)) of this state ((~~or~~)), another state, or a foreign country to obtain jurisdiction over the respondent;

(b) Request an appropriate tribunal to set a date, time, and place for a hearing;

(c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(e) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:

(a) To ensure that the order to be registered is the controlling order; or

(b) If two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(4) A support enforcement agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate(s) as publicly reported.

(5) A support enforcement agency of this state shall issue or request a tribunal of this state to issue a child support order and an income-withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to RCW 26.21A.290.

(6) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 17. RCW 26.21A.235 and 2002 c 198 s 308 are each amended to read as follows:

(1) If the appropriate state official or agency determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the state official or agency may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

(2) The appropriate state official or agency may determine that a foreign country (~~(or political subdivision)~~) has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

Sec. 18. RCW 26.21A.245 and 2002 c 198 s 310 are each amended to read as follows:

(1) The Washington state support registry under chapter 26.23 RCW is the state information agency under this chapter.

(2) The state information agency shall:

(a) Compile and maintain a current list, including addresses, of the tribunals in this state (~~(that)~~) which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) Maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

(c) Forward to the appropriate tribunal in the county in this state in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from (~~(an initiating tribunal or the state information agency of the initiating)~~) another state or a foreign country; and

(d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law,

those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Sec. 19. RCW 26.21A.250 and 2002 c 198 s 311 are each amended to read as follows:

(1) In a proceeding under this chapter, a petitioner seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or a foreign country must file a petition. Unless otherwise ordered under RCW 26.21A.255, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

(2) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

~~((3) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this chapter shall file a properly completed confidential information form or equivalent as described in RCW 26.23.050 to satisfy the requirements of subsection (1) of this section. A completed confidential information form shall be deemed an "accompanying document" under subsection (1) of this section.))~~

Sec. 20. RCW 26.21A.260 and 2002 c 198 s 313 are each amended to read as follows:

(1) The petitioner may not be required to pay a filing fee or other costs.

(2) If an obligee prevails, a responding tribunal of this state may assess against an obligor filing fees, reasonable attorneys' fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or ~~((the))~~ responding state or foreign country, except as provided by other law. Attorneys' fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(3) The tribunal shall order the payment of costs and reasonable attorneys' fees if it determines that a hearing was requested primarily for delay. In a proceeding under Article 6 of this chapter, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Sec. 21. RCW 26.21A.275 and 2002 c 198 s 316 are each amended to read as follows:

(1) The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or

modification of a support order or the rendition of a judgment determining parentage of a child.

(2) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, ~~((that))~~ which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing ~~((in another))~~ outside this state.

(3) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(4) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(5) Documentary evidence transmitted from ~~((another))~~ outside this state to a tribunal of this state by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(6) In a proceeding under this chapter, a tribunal of this state shall permit a party or witness residing ~~((in another))~~ outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location ~~((in that state))~~. A tribunal of this state shall cooperate with other tribunals ~~((of other states))~~ in designating an appropriate location for the deposition or testimony.

(7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(8) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

(9) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

(10) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

Sec. 22. RCW 26.21A.280 and 2002 c 198 s 317 are each amended to read as follows:

A tribunal of this state may communicate with a tribunal ~~((of another))~~ outside this state ~~((or foreign country or political subdivision))~~ in a record, or by telephone, email, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding ~~((in the other state or foreign country or political subdivision))~~. A tribunal of this state may furnish similar information by similar means to a tribunal ~~((of another))~~ outside this state ~~((or foreign country or political subdivision))~~.

Sec. 23. RCW 26.21A.285 and 2002 c 198 s 318 are each amended to read as follows:

A tribunal of this state may:

(1) Request a tribunal (~~(of another)~~) outside this state to assist in obtaining discovery; and

(2) Upon request, compel a person over (~~(whom)~~) which it has jurisdiction to respond to a discovery order issued by a tribunal (~~(of another)~~) outside this state.

Sec. 24. RCW 26.21A.290 and 2002 c 198 s 319 are each amended to read as follows:

(1) A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state or a foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.

(2) If neither the obligor, nor the obligee who is an individual, (~~(or)~~) nor the child (~~(does not)~~) resides in this state, upon request from the support enforcement agency of this state or another state, the support enforcement agency of this state or a tribunal of this state shall:

(a) Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

(b) Issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(3) The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection (2) of this section shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

Sec. 25. RCW 26.21A.350 and 2002 c 198 s 401 are each amended to read as follows:

(1) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:

(a) The individual seeking the order resides (~~(in another)~~) outside this state; or

(b) The support enforcement agency seeking the order is located (~~(in another)~~) outside this state.

(2) The tribunal may issue a temporary child support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

(a) A presumed father of the child;

(b) Petitioning to have his paternity adjudicated;

(c) Identified as the father of the child through genetic testing;

(d) An alleged father who has declined to submit to genetic testing;

(e) Shown by clear and convincing evidence to be the father of the child;

(f) An acknowledged father as provided by applicable state law;

(g) The mother of the child; or

(h) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to RCW 26.21A.220.

Sec. 26. RCW 26.21A.415 and 2002 c 198 s 504 are each amended to read as follows:

An employer (~~(who)~~) that complies with an income-withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

Sec. 27. RCW 26.21A.420 and 2002 c 198 s 505 are each amended to read as follows:

An employer (~~(who)~~) that willfully fails to comply with an income-withholding order issued (~~(by)~~) in another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

Sec. 28. RCW 26.21A.430 and 2002 c 198 s 507 are each amended to read as follows:

(1) A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued (~~(by a tribunal of)~~) in another state or a foreign support order may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

Sec. 29. RCW 26.21A.500 and 2002 c 198 s 601 are each amended to read as follows:

A support order or income-withholding order issued (~~(by a tribunal of)~~) in another state or a foreign support order may be registered in this state for enforcement.

Sec. 30. RCW 26.21A.505 and 2002 c 198 s 602 are each amended to read as follows:

(1) Except as otherwise provided in section 51 of this act, a support order or income-withholding order of another state or a foreign support order may be registered in this state by sending the following records (~~(and information)~~) to the appropriate tribunal in this state:

(a) A letter of transmittal to the tribunal requesting registration and enforcement;

(b) Two copies, including one certified copy, of the order to be registered, including any modification of the order;

(c) A sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(d) The name of the obligor and, if known:

(i) The obligor's address and social security number;

(ii) The name and address of the obligor's employer and any other source of income of the obligor; and

(iii) A description and the location of property of the obligor in this state not exempt from execution; and

(e) Except as otherwise provided in RCW 26.21A.255, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as ~~((a foreign judgment))~~ an order of a tribunal of another state or a foreign support order, together with one copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

(4) If two or more orders are in effect, the person requesting registration shall:

(a) Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

(b) Specify the order alleged to be the controlling order, if any; and

(c) Specify the amount of consolidated arrears, if any.

(5) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

Sec. 31. RCW 26.21A.510 and 2002 c 198 s 603 are each amended to read as follows:

(1) A support order or income-withholding order issued in another state or a foreign support order is registered when the order is filed in the registering tribunal of this state.

(2) A registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(3) Except as otherwise provided in this ~~((article))~~ chapter, a tribunal of this state shall recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction.

Sec. 32. RCW 26.21A.515 and 2002 c 198 s 604 are each amended to read as follows:

(1) Except as otherwise provided in subsection (4) of this section, the law of the issuing state or foreign country governs:

(a) The nature, extent, amount, and duration of current payments under a registered support order;

(b) The computation and payment of arrearages and accrual of interest on the arrearages under the ~~((registered))~~ support order; and

(c) The existence and satisfaction of other obligations under the ~~((registered))~~ support order.

(2) In a proceeding for arrears under a registered support order, the statute of limitation of this state or of the issuing state or foreign country, whichever is longer, applies.

(3) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state or foreign country registered in this state.

(4) After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state or foreign country issuing the ~~((registered))~~ controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

Sec. 33. RCW 26.21A.520 and 2002 c 198 s 605 are each amended to read as follows:

(1) When a support order or income-withholding order issued in another state or a foreign support order is registered, the registering tribunal of this state shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) A notice must inform the nonregistering party:

(a) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after notice unless the registered order is under section 52 of this act;

(c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(d) Of the amount of any alleged arrearages.

(3) If the registering party asserts that two or more orders are in effect, a notice must also:

(a) Identify the two or more orders and the order alleged by the registering ~~((person))~~ party to be the controlling order and the consolidated arrears, if any;

(b) Notify the nonregistering party of the right to a determination of which is the controlling order;

(c) State that the procedures provided in subsection (2) of this section apply to the determination of which is the controlling order; and

(d) State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(4) Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to the income-withholding law of this state.

Sec. 34. RCW 26.21A.525 and 2002 c 198 s 606 are each amended to read as follows:

(1) A nonregistering party seeking to contest the validity or enforcement of a registered support order in this state shall request a hearing within ~~((twenty days after notice of the registration))~~ the time required by RCW 26.21A.520. The nonregistering party may seek to vacate the registration, to assert any

defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to RCW 26.21A.530.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

Sec. 35. RCW 26.21A.530 and 2002 c 198 s 607 are each amended to read as follows:

(1) A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(a) The issuing tribunal lacked personal jurisdiction over the contesting party;

(b) The order was obtained by fraud;

(c) The order has been vacated, suspended, or modified by a later order;

(d) The issuing tribunal has stayed the order pending appeal;

(e) There is a defense under the law of this state to the remedy sought;

(f) Full or partial payment has been made;

(g) The statute of limitation under RCW 26.21A.515 precludes enforcement of some or all of the alleged arrearages; or

(h) The alleged controlling order is not the controlling order.

(2) If a party presents evidence establishing a full or partial defense under subsection (1) of this section, a tribunal may stay enforcement of ~~((the))~~ a registered support order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered support order may be enforced by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under subsection (1) of this section to the validity or enforcement of ~~((the))~~ a registered support order, the registering tribunal shall issue an order confirming the order.

Sec. 36. RCW 26.21A.535 and 2002 c 198 s 608 are each amended to read as follows:

Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Sec. 37. RCW 26.21A.540 and 2002 c 198 s 609 are each amended to read as follows:

A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in ~~((Part 1 of this article))~~ RCW 26.21A.500 through 26.21A.535 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

Sec. 38. RCW 26.21A.545 and 2002 c 198 s 610 are each amended to read as follows:

A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered support order may be modified only if the requirements of RCW 26.21A.550 or 26.21A.560 have been met.

Sec. 39. RCW 26.21A.550 and 2002 c 198 s 611 are each amended to read as follows:

(1) If RCW 26.21A.560 does not apply, (~~except as otherwise provided in RCW 26.21A.570;~~) upon petition a tribunal of this state may modify a child support order issued in another state which is registered in this state if, after notice and hearing the tribunal finds that:

(a) The following requirements are met:

(i) Neither the child, nor the obligee who is an individual, (~~and~~) nor the obligor (~~do not~~) resides in the issuing state;

(ii) A petitioner who is a nonresident of this state seeks modification; and

(iii) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) This state is (~~either the state of~~) the residence of the child, or (~~of~~) a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction.

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(3) (~~Except as otherwise provided in RCW 26.21A.570;~~) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and same child, the order that controls and must be so recognized under RCW 26.21A.130 establishes the aspects of the support order (~~that~~) which are nonmodifiable.

(4) In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

(5) On the issuance of an order by a tribunal of this state modifying a child support order issued in another state, the tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.

(6) Notwithstanding subsections (1) through (5) of this section and RCW 26.21A.100(2), a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:

(a) One party resides in another state; and

(b) The other party resides outside the United States.

Sec. 40. RCW 26.21A.570 and 2002 c 198 s 615 are each amended to read as follows:

(1) Except as otherwise provided in section 56 of this act, if a foreign country ((or political subdivision that is a state will not or may not modify its order)) lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a child support order otherwise required of the individual pursuant to RCW 26.21A.550 has been given or whether the individual seeking modification is a resident of this state or of the foreign country ((or political subdivision)).

(2) An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order.

NEW SECTION. **Sec. 41.** A new section is added to chapter 26.21A RCW under the subchapter heading "Article 1" to read as follows:

APPLICATION OF CHAPTER TO RESIDENT OF FOREIGN COUNTRY AND FOREIGN SUPPORT PROCEEDING. (1) A tribunal of this state shall apply Articles 1 through 6 of this chapter and, as applicable, Article 7 of this chapter, to a support proceeding involving:

- (a) A foreign support order;
- (b) A foreign tribunal; or
- (c) An obligee, obligor, or child residing in a foreign country.

(2) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of Articles 1 through 6 of this chapter.

(3) Article 7 of this chapter applies only to a support proceeding under the convention. In such a proceeding, if a provision of Article 7 of this chapter is inconsistent with a provision of Articles 1 through 6 of this chapter, Article 7 of this chapter controls.

NEW SECTION. **Sec. 42.** A new section is added to chapter 26.21A RCW under the subchapter heading "Article 2" to read as follows:

DURATION OF PERSONAL JURISDICTION. Personal jurisdiction acquired by a tribunal of this state in a proceeding under this chapter or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by RCW 26.21A.120, 26.21A.125, and 26.21A.150.

NEW SECTION. **Sec. 43.** A new section is added to chapter 26.21A RCW under the subchapter heading "Article 2" to read as follows:

APPLICATION OF CHAPTER TO NONRESIDENT SUBJECT TO PERSONAL JURISDICTION. A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this chapter, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to RCW 26.21A.275, communicate with a tribunal outside this state pursuant to RCW 26.21A.280, and obtain discovery through a tribunal outside this state pursuant to RCW 26.21A.285. In all other respects, Articles 3 through 6 of this chapter do

not apply and the tribunal shall apply the procedural and substantive law of this state.

NEW SECTION. Sec. 44. A new section is added to chapter 26.21A RCW under the subchapter heading "Article 4" to read as follows:

PROCEEDING TO DETERMINE PARENTAGE. A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under this chapter or a law or procedure substantially similar to this chapter.

NEW SECTION. Sec. 45. A new section is added to chapter 26.21A RCW to read as follows:

PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF FOREIGN COUNTRY FOR MODIFICATION. A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not under the convention may register that order in this state under RCW 26.21A.500 through 26.21A.535 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification.

NEW SECTION. Sec. 46. DEFINITIONS. In this article:

(1) "Application" means a request under the convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United States or a foreign country described in RCW 26.21A.010(5)(d) to perform the functions specified in the convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in RCW 26.21A.010(5)(d).

(4) "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in RCW 26.21A.010(5)(d) to perform the functions specified in the convention.

(6) "Foreign support agreement":

(a) Means an agreement for support in a record that:

(i) Is enforceable as a support order in the country of origin;

(ii) Has been:

(A) Formally drawn up or registered as an authentic instrument by a foreign tribunal; or

(B) Authenticated by or concluded, registered, or filed with a foreign tribunal; and

(iii) May be reviewed and modified by a foreign tribunal; and

(b) Includes a maintenance arrangement or authentic instrument under the convention.

(7) "United States central authority" means the secretary of the United States department of health and human services.

NEW SECTION. Sec. 47. APPLICABILITY. This article applies only to a support proceeding under the convention. In such a proceeding, if a provision of

this article is inconsistent with Articles 1 through 6 of this chapter, this article controls.

NEW SECTION. Sec. 48. RELATIONSHIP OF DEPARTMENT OF SOCIAL AND HEALTH SERVICES TO UNITED STATES CENTRAL AUTHORITY. The department of social and health services of this state is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

NEW SECTION. Sec. 49. INITIATION BY DEPARTMENT OF SOCIAL AND HEALTH SERVICES OF SUPPORT PROCEEDING UNDER CONVENTION. (1) In a support proceeding under this article, the department of social and health services of this state shall:

(a) Transmit and receive applications; and

(b) Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

(2) The following support proceedings are available to an obligee under the convention:

(a) Recognition or recognition and enforcement of a foreign support order;

(b) Enforcement of a support order issued or recognized in this state;

(c) Establishment of a support order if there is no existing order including, if necessary, determination of parentage of a child;

(d) Establishment of a support order if recognition of a foreign support order is refused under section 53(2) (b), (d), or (i) of this act;

(e) Modification of a support order of a tribunal of this state; and

(f) Modification of a support order of a tribunal of another state or a foreign country.

(3) The following support proceedings are available under the convention to an obligor against which there is an existing support order:

(a) Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;

(b) Modification of a support order of a tribunal of this state; and

(c) Modification of a support order of a tribunal of another state or a foreign country.

(4) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the convention.

NEW SECTION. Sec. 50. DIRECT REQUEST. (1) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In such a proceeding, the law of this state applies.

(2) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, sections 51 through 58 of this act apply.

(3) In a direct request for recognition and enforcement of a convention support order or foreign support agreement:

(a) A security, bond, or deposit is not required to guarantee the payment of costs and expenses; and

(b) An obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free

legal assistance provided for by the law of this state under the same circumstances.

(4) A petitioner filing a direct request is not entitled to assistance from the department of social and health services.

(5) This article does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

NEW SECTION. Sec. 51. REGISTRATION OF CONVENTION SUPPORT ORDER. (1) Except as otherwise provided in this article, a party who is an individual or a support enforcement agency seeking recognition of a convention support order shall register the order in this state as provided in Article 6 of this chapter.

(2) Notwithstanding RCW 26.21A.250 and 26.21A.505(1), a request for registration of a convention support order must be accompanied by:

(a) A complete text of the support order, or an abstract or extract of the support order drawn up by the issuing foreign tribunal, which may be in the form recommended by the Hague conference on private international law;

(b) A record stating that the support order is enforceable in the issuing country;

(c) If the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(d) A record showing the amount of arrears, if any, and the date the amount was calculated;

(e) A record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(f) If necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(3) A request for registration of a convention support order may seek recognition and partial enforcement of the order.

(4) A tribunal of this state may vacate the registration of a convention support order without the filing of a contest under section 52 of this act, only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(5) The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a convention support order.

NEW SECTION. Sec. 52. CONTEST OF REGISTERED CONVENTION SUPPORT ORDER. (1) Except as otherwise provided in this article, RCW 26.21A.520 through 26.21A.535 apply to a contest of a registered convention support order.

(2) A party contesting a registered convention support order shall file a contest not later than thirty days after notice of the registration, but if the contesting party does not reside in the United States, the contest must be filed not later than sixty days after notice of the registration.

(3) If the nonregistering party fails to contest the registered convention support order by the time specified in subsection (2) of this section, the order is enforceable.

(4) A contest of a registered convention support order may be based only on grounds set forth in section 53 of this act. The contesting party bears the burden of proof.

(5) In a contest of a registered convention support order, a tribunal of this state:

(a) Is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(b) May not review the merits of the order.

(6) A tribunal of this state deciding a contest of a registered convention support order shall promptly notify the parties of its decision.

(7) A challenge or appeal, if any, does not stay the enforcement of a convention support order unless there are exceptional circumstances.

NEW SECTION. Sec. 53. RECOGNITION AND ENFORCEMENT OF REGISTERED CONVENTION SUPPORT ORDER. (1) Except as otherwise provided in subsection (2) of this section, a tribunal of this state shall recognize and enforce a registered convention support order.

(2) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:

(a) Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(b) The issuing tribunal lacked personal jurisdiction consistent with RCW 26.21A.100;

(c) The order is not enforceable in the issuing country;

(d) The order was obtained by fraud in connection with a matter of procedure;

(e) A record transmitted in accordance with section 51 of this act lacks authenticity or integrity;

(f) A proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(g) The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this chapter in this state;

(h) Payment, to the extent alleged arrears have been paid in whole or in part;

(i) In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(i) If the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(ii) If the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

or

(j) The order was made in violation of section 56 of this act.

(3) If a tribunal of this state does not recognize a convention support order under subsection (2)(b), (d), or (i) of this section:

(a) The tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order; and

(b) The department of social and health services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 49 of this act.

NEW SECTION. Sec. 54. PARTIAL ENFORCEMENT. If a tribunal of this state does not recognize and enforce a convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a convention support order.

NEW SECTION. Sec. 55. FOREIGN SUPPORT AGREEMENT. (1) Except as otherwise provided in subsections (3) and (4) of this section, a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.

(2) An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by:

(a) A complete text of the foreign support agreement; and

(b) A record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(3) A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(4) In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:

(a) Recognition and enforcement of the agreement is manifestly incompatible with public policy;

(b) The agreement was obtained by fraud or falsification;

(c) The agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state, or a foreign country if the support order is entitled to recognition and enforcement under this chapter in this state; or

(d) The record submitted under subsection (2) of this section lacks authenticity or integrity.

(5) A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

NEW SECTION. Sec. 56. MODIFICATION OF CONVENTION CHILD SUPPORT ORDER. (1) A tribunal of this state may not modify a convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless:

(a) The obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(b) The foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

(2) If a tribunal of this state does not modify a convention child support order because the order is not recognized in this state, section 53(3) of this act applies.

NEW SECTION. Sec. 57. PERSONAL INFORMATION—LIMIT ON USE. Personal information gathered or transmitted under this article may be used only for the purposes for which it was gathered or transmitted.

NEW SECTION. Sec. 58. RECORD IN ORIGINAL LANGUAGE—ENGLISH TRANSLATION. A record filed with a tribunal of this state under this article must be in the original language and, if not in English, must be accompanied by an English translation.

NEW SECTION. Sec. 59. The following acts or parts of acts are each repealed:

(1) RCW 26.21A.105 (Procedure when exercising jurisdiction over nonresident) and 2002 c 198 s 202;

(2) RCW 26.21A.145 (Continuing, exclusive jurisdiction over nonresident party) and 2002 c 198 s 210; and

(3) RCW 26.21A.600 (Proceeding to determine parentage) and 2002 c 198 s 701.

NEW SECTION. Sec. 60. A new section is added to chapter 26.21A RCW under the subchapter heading "Article 9" to read as follows:

TRANSITIONAL PROVISION. This act applies to proceedings begun on or after the effective date of this section to establish a support order or determine parentage of a child or to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.

NEW SECTION. Sec. 61. A new section is added to chapter 4.24 RCW to read as follows:

(1) Washington's courts, administrative agencies, or any other Washington tribunal shall not recognize, base any ruling on, or enforce any order issued under foreign law, or by a foreign legal system, that is manifestly incompatible with public policy.

(2) For purposes of this chapter, a foreign law, an order issued by a foreign legal system or foreign tribunal is presumed manifestly incompatible with public policy, when it does not, or would not, grant the parties all of the same rights, or when the enforcement of any order would result in a violation of any right, guaranteed by the Washington state and United States Constitutions.

NEW SECTION. Sec. 62. 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 Washington department of social and health services shall submit a request to obtain a statutory or regulatory waiver of provisions to the extent of the conflicting requirements in Title IV-D of the federal social security act from the federal department of health and human services.

NEW SECTION. Sec. 63. If after submission of a waiver request pursuant to section 62 of this act, the federal department of health and human services

denies the request for the waiver, then section 61 of this act is inoperative with respect to sections 1 through 60 of this act.

NEW SECTION. Sec. 64. RCW 26.21A.570 and section 45 of this act are to be codified under the subchapter heading "Article 6" of chapter 26.21A RCW under the subheading:

**"PART 4
REGISTRATION AND MODIFICATION OF FOREIGN CHILD
SUPPORT ORDER"**

NEW SECTION. Sec. 65. Sections 46 through 58 of this act are each added to chapter 26.21A RCW under the subchapter heading "Article 7."

NEW SECTION. Sec. 66. 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, 2015.

Passed by the Senate April 21, 2015.

Passed by the House April 10, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 215

[Substitute Senate Bill 5534]

HIGHER EDUCATION--ACCOUNTING SCHOLARSHIP PROGRAM

AN ACT Relating to creating a certified public accounting scholarship program; amending RCW 18.04.065; and adding a new chapter to Title 28B RCW.

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

NEW SECTION. Sec. 1. (1) The certified public accounting scholarship program is established.

(2) The purpose of this scholarship program is to increase the number of students pursuing the certified public accounting license in Washington state.

(3) Scholarships shall be awarded to eligible students based on merit and without regard to age, gender, race, creed, religion, ethnic or national origin, or sexual orientation. In the selection process, the foundation is encouraged to consider the level of financial need demonstrated by applicants who otherwise meet merit-based scholarship criteria.

(4) Scholarships shall be awarded every year not to exceed the net balance of the foundation's scholarship award account.

(5) Scholarships shall be awarded to eligible students for one year. Qualified applicants may reapply in subsequent years.

(6) Scholarships awarded to program participants shall be paid directly to the Washington-based college or university where the program participant is enrolled.

(7) A scholarship award for any program participant shall not exceed the cost of tuition and fees assessed by the college or university on that individual program participant for the academic year of the award.

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

(1) "Board" means the board of accountancy created in RCW 18.04.035.

(2) "Eligible student" means a student enrolled at an accredited Washington-based college or university with a declared major in accounting, entering his or her junior year or higher. "Eligible student" includes community college transfer students, residents of Washington pursuing an online degree in accounting, and students pursuing a masters in tax, masters in accounting, or a PhD in accounting.

(3) "Foundation" means the Washington CPA foundation.

(4) "Program" means the certificated public accounting scholarship program created in this chapter.

(5) "Program participant" means an eligible student who is awarded a scholarship under the program.

(6) "Resident student" has the definition in RCW 28B.15.012.

NEW SECTION. Sec. 3. The board must contract with a foundation to develop and administer the program. The board shall provide oversight and guidance for the program in light of established legislative priorities and to fulfill the duties and responsibilities under this chapter and chapter 18.04 RCW, including determining eligible education programs for purposes of the program. The board shall negotiate a reasonable administrative fee for the services provided by the foundation. In addition to its contractual obligations with the board, the foundation has the duties and responsibilities to:

(1) Establish a separate scholarship award account to receive state funds and from which to disburse scholarship awards;

(2) Manage and invest funds in the separate scholarship award account to maximize returns at a prudent level of risk and to maintain books and records of the account for examination by the board as it deems necessary or appropriate;

(3) In consultation with the board, make an assessment of the reasonable annual eligible expenses associated with eligible education programs identified by the board;

(4) Work with board, institutions of higher education, the student achievement council, and other organizations to promote and publicize the program to obtain a wide and diverse group of applicants;

(5) Develop and implement an application, selection, and notification process for awarding certified public accounting scholarships;

(6) Determine the annual amount of the certified public accounting scholarship for each program participant;

(7) Distribute scholarship awards to colleges and universities for program participants; and

(8) Notify the student achievement council and colleges and universities of enrolled program participants and inform them of the terms and conditions of the scholarship award.

NEW SECTION. Sec. 4. By January 1, 2016, and annually each January 1st thereafter, the foundation contracted with under section 3 of this act shall report to the board regarding the program, including:

(1) An accounting of receipts and disbursements of the foundation's separate scholarship award account including any realized or unrealized gains or losses and the resulting change in account balance;

(2) A list of the program participants and the scholarship amount awarded, by year; and

(3) Other outcome measures necessary for the board to assess the impacts of the program.

NEW SECTION. Sec. 5. (1) The certified public accounting scholarship transfer account is created in the custody of the state treasurer. Expenditures from the account may be used solely for scholarships and the administration of the program created in section 1 of this act.

(2) Revenues to the account shall consist of appropriations by the legislature and any gifts, grants, or donations received by the board for this purpose.

(3) Only the director of the board or the director's designee may authorize expenditures from the certified public accounting scholarship transfer account. The account is not subject to the allotment procedures under chapter 43.88 RCW and an appropriation is not required for expenditures.

Sec. 6. RCW 18.04.065 and 2001 c 294 s 6 are each amended to read as follows:

The board shall set its fees at a level adequate to pay the costs of administering this chapter. All fees for licenses, registrations of nonlicensee partners, shareholders, and managers of licensed firms, renewals of licenses, renewals of registrations of nonlicensee partners, shareholders, and managers of licensed firms, renewals of certificates, reinstatements of lapsed licenses, reinstatements of lapsed certificates, reinstatements of lapsed registrations of nonlicensee partners, shareholders, and managers of licensed firms, practice privileges under RCW 18.04.350, and delinquent filings received under the authority of this chapter shall be deposited in the certified public accountants' account created by RCW 18.04.105. Appropriation from such account shall be made only for the cost of administering the provisions of this chapter or for the purpose of administering the certified public accounting scholarship program created in chapter 28B.--- RCW (the new chapter created in section 7 of this act).

NEW SECTION. Sec. 7. Sections 1 through 5 of this act constitute a new chapter in Title 28B RCW.

Passed by the Senate April 16, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 216

[Substitute Senate Bill 5633]

VETERANS AFFAIRS--HELMETS TO HARDHATS PROGRAM

AN ACT Relating to creating a coordinator for the helmets to hardhats program in the department of veterans affairs; and adding a new section to chapter 43.60A RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.60A RCW to read as follows:

The coordinator for the helmets to hardhats program is created in the department of veterans affairs, subject to the availability of amounts

appropriated for this specific purpose. The department shall establish procedures for coordinating with the national helmets to hardhats program and other opportunities for veterans to obtain skilled training and employment in the construction industry.

Passed by the Senate April 16, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 217

[Substitute Senate Bill 5679]

K-12 EDUCATION--SPECIAL EDUCATION STUDENTS--TRANSITION SERVICES

AN ACT Relating to transition services for special education students; amending RCW 28A.155.220; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that research continues to suggest that high expectations for students with disabilities is paramount to improving student outcomes. The legislature further finds that to increase the number of students with disabilities who are prepared for higher education, teachers and administrators in K-12 education should continue to improve their acceptance of students with disabilities as full-fledged learners for whom there are high expectations. The legislature also encourages continuous development in transition services to higher education opportunities for these students. The legislature recognizes that other states have authorized transition planning to postsecondary settings for students with disabilities as early as the age of fourteen. To remove barriers and obstacles for students with disabilities to access to postsecondary settings including higher education, the legislature intends to authorize transition planning for students with disabilities as soon as practicable when educationally and developmentally appropriate.

Sec. 2. RCW 28A.155.220 and 2014 c 47 s 1 are each amended to read as follows:

(1) The office of the superintendent of public instruction must establish interagency agreements with the department of social and health services, the department of services for the blind, and any other state agency that provides high school transition services for special education students. Such interagency agreements shall not interfere with existing individualized education programs, nor override any individualized education program team's decision-making power. The purpose of the interagency agreements is to foster effective collaboration among the multiple agencies providing transition services for individualized education (~~(plan))~~ program-eligible special education students from the beginning of transition planning, as soon as educationally and developmentally appropriate, through age twenty-one, or through high school graduation, whichever occurs first. Interagency agreements are also intended to streamline services and programs, promote efficiencies, and establish a uniform focus on improved outcomes related to self-sufficiency. (~~(This subsection does not require transition services plan development in addition to what exists on June 12, 2014.))~~)

(2)(a) When educationally and developmentally appropriate, the interagency responsibilities and linkages with transition services under subsection (1) of this section must be addressed in a transition plan to a postsecondary setting in the individualized education program of a student with disabilities.

(b) Transition planning shall be based upon educationally and developmentally appropriate transition assessments that outline the student's individual needs, strengths, preferences, and interests. Transition assessments may include observations, interviews, inventories, situational assessments, formal and informal assessments, as well as academic assessments.

(c) The transition services that the transition plan must address include activities needed to assist the student in reaching postsecondary goals and courses of study to support postsecondary goals.

(d) Transition activities that the transition plan may address include instruction, related services, community experience, employment and other adult living objectives, daily living skills, and functional vocational evaluation.

(e) When educationally and developmentally appropriate, a discussion must take place with the student and parents, and others as needed, to determine the postsecondary goals or postschool vision for the student. This discussion may be included as part of an annual individualized education program review, high school and beyond plan meeting, or any other meeting that includes parents, students, and educators. The postsecondary goals included in the transition plan shall be goals that are measurable and must be based on appropriate transition assessments related to training, education, employment, and independent living skills, when necessary. The goals must also be based on the student's needs, while considering the strengths, preferences, and interests of the student.

(f) As the student gets older, changes in the transition plan may be noted in the annual update of the student's individualized education program.

(g) A student with disabilities who has a high school and beyond plan may use the plan to comply with the transition plan required under this subsection (2).

(3) To the extent that data is available through data-sharing agreements established by the education data center under RCW 43.41.400, the education data center must monitor the following outcomes for individualized education ~~(plan)~~ program-eligible special education students after high school graduation:

(a) The number of students who, within one year of high school graduation:

(i) Enter integrated employment paid at the greater of minimum wage or competitive wage for the type of employment, with access to related employment and health benefits; or

(ii) Enter a postsecondary education or training program focused on leading to integrated employment;

(b) The wages and number of hours worked per pay period;

(c) The impact of employment on any state and federal benefits for individuals with disabilities;

(d) Indicators of the types of settings in which students who previously received transition services primarily reside;

(e) Indicators of improved economic status and self-sufficiency;

(f) Data on those students for whom a postsecondary or integrated employment outcome does not occur within one year of high school graduation, including:

- (i) Information on the reasons that the desired outcome has not occurred;
- (ii) The number of months the student has not achieved the desired outcome; and
- (iii) The efforts made to ensure the student achieves the desired outcome.

~~((3))~~ (4) To the extent that the data elements in subsection ~~((2))~~ (3) of this section are available to the education data center through data-sharing agreements, the office of the superintendent of public instruction must prepare an annual report using existing resources and submit the report to the legislature.

Passed by the Senate April 24, 2015.

Passed by the House April 23, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 218

[Senate Bill 5746]

HIGHER EDUCATION--AEROSPACE EDUCATION--EVERETT COMMUNITY COLLEGE

AN ACT Relating to including Everett Community College as an aerospace training or educational program; and amending RCW 28B.122.010.

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

Sec. 1. RCW 28B.122.010 and 2012 c 50 s 4 are each amended to read as follows:

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

(1) "Aerospace training or educational program" means a course in the aerospace industry offered by the Washington aerospace training and research center, the Spokane aerospace technology center, ~~((R))~~ Renton technical college, or Everett Community College.

(2) "Eligible student" means a student who is registered for an aerospace training or educational program, is making satisfactory progress as defined by the program, and has a declared intention to work in the aerospace industry in the state of Washington.

(3) "Office" means the office of student financial assistance.

(4) "Participant" means an eligible student who has received an aerospace training student loan.

(5) "Student loan" means a loan that is approved by the office and awarded to an eligible student.

Passed by the Senate March 3, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 219

[Senate Bill 5958]

VETERANS AFFAIRS ADVISORY COMMITTEE--STATE VETERANS' HOMES

AN ACT Relating to providing for representation of the state veterans' homes on the governor's veterans affairs advisory committee; and amending RCW 43.60A.080.

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

Sec. 1. RCW 43.60A.080 and 1995 c 25 s 1 are each amended to read as follows:

(1) There is hereby created a veterans affairs advisory committee which shall serve in an advisory capacity to the governor and the director of the department of veterans affairs. The committee shall appoint members to serve as liaisons to each of the state veterans' homes, unless the home has a representative appointed to the committee. This liaison must share information on committee meetings and business with the resident council of the states veterans' homes, as well as bring information back for the committee's consideration to ensure veterans' home resident issues are included at regular committee meetings. The committee shall be composed of seventeen members to be appointed by the governor, and shall consist of the following:

(a) One representative of the Washington soldiers' home and colony at Orting and one representative of the Washington veterans' home at Retsil. Each home's resident council may nominate up to three individuals whose names are to be forwarded by the director to the governor. In making the appointments, the governor shall consider these recommendations or request additional nominations. If the resident council does not provide any nomination, the governor may appoint a member at large in place of the home's representative.

(b) One representative each from the three congressionally chartered or nationally recognized veterans service organizations as listed in the current "Directory of Veterans Service Organizations" published by the United States department of veterans affairs with the largest number of active members in the state of Washington as determined by the director. The organizations' state commanders may each submit a list of three names to be forwarded to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(c) Ten members shall be chosen to represent those congressionally chartered or nationally recognized veterans service organizations listed in the directory under (b) of this subsection and having at least one active chapter within the state of Washington. Up to three nominations may be forwarded from each organization to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(d) Two members shall be veterans at large, as well as any other at large member appointed pursuant to (a) of this subsection. Any individual or organization may nominate a veteran for an at-large position. Organizational affiliation shall not be a prerequisite for nomination or appointment. All nominations for the at-large positions shall be forwarded by the director to the governor.

(e) No organization shall have more than one official representative on the committee at any one time.

(f) In making appointments to the committee, care shall be taken to ensure that members represent all geographical portions of the state and minority viewpoints, and that the issues and views of concern to women veterans are represented.

(2) All members shall have terms of four years. In the case of a vacancy, appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member may serve more than two consecutive terms, with vacancy appointments to an unexpired term not considered as a term. Members appointed before June 11, 1992, shall continue to serve until the expiration of their current terms; and then, subject to the conditions contained in this section, are eligible for reappointment.

(3) The committee shall adopt an order of business for conducting its meetings.

(4) The committee shall have the following powers and duties:

(a) To serve in an advisory capacity to the governor and the director on matters pertaining to the department of veterans affairs;

(b) To acquaint themselves fully with the operations of the department and recommend such changes to the governor and the director as they deem advisable.

(5) Members of the committee shall receive no compensation for the performance of their duties but shall receive a per diem allowance and mileage expense according to the provisions of chapter 43.03 RCW.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 220

[Substitute House Bill 1853]

ELECTRIC VEHICLES-INFRASTRUCTURE BUILD-OUT--CAPITAL INVESTMENTS

AN ACT Relating to utility leadership in electric vehicle charging infrastructure build-out; adding a new section to chapter 80.28 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that the transportation sector is Washington's largest contributor to greenhouse emissions and hazardous air pollutants as defined by federal national ambient air quality standards and mobile source air toxics rules. The sector's portion is considerably higher than the national average because our state relies heavily on hydropower for electricity generation, unlike other states that rely on fossil fuels such as coal, petroleum, and natural gas to generate electricity.

(2) The legislature also finds that federal clean air act regulations and complementary Washington policies supporting renewable energy generation, energy efficiency, and energy conservation are likely to result in further reduction of emissions in the electricity and in the combined residential, commercial, and industrial sectors. The legislature finds that state policy can achieve the greatest return on investment in reducing greenhouse gas emissions

and improving air quality by expediting the transition to alternative fuel vehicles, including electric vehicles.

(3) The legislature finds that utilities, who are traditionally responsible for understanding and engineering the electrical grid for safety and reliability, must be fully empowered and incentivized to be engaged in electrification of our transportation system. The legislature further finds that it has given utilities other policy directives to promote energy conservation which do not make the benefits of building out electric vehicle infrastructure, as well as any subsequent increase in energy consumption, readily apparent. Therefore the legislature intends to provide a clear policy directive and financial incentive to utilities for electric vehicle infrastructure build-out.

NEW SECTION. Sec. 2. A new section is added to chapter 80.28 RCW to read as follows:

(1) In establishing rates for each electrical company regulated under this title, the commission may allow an incentive rate of return on investment on capital expenditures for electric vehicle supply equipment that is deployed for the benefit of ratepayers, provided that the capital expenditures do not increase costs to ratepayers in excess of one-quarter of one percent. The commission must consider and may adopt other policies to improve access to and promote fair competition in the provision of electric vehicle supply equipment.

(2) An incentive rate of return on investment under this section may be allowed only if the company chooses to pursue capital investment in electric vehicle supply equipment on a fully regulated basis similar to other capital investments behind a customer's meter. In the case of an incentive rate of return on investment allowed under this section, an increment of up to two percent must be added to the rate of return on common equity allowed on the company's other investments.

(3) The incentive rate of return on investment authorized in subsection (2) of this section applies only to projects which have been installed after July 1, 2015, and which are reasonably expected, at the time they are placed in the rate base, to result in real and tangible benefits for rate payers by being installed and located where electric vehicles are most likely to be parked for intervals longer than two hours.

(4) The incentive rate of return on investment increment pursuant to this section may be earned only for a period up to the depreciable life of the electric vehicle supply equipment as defined in the depreciation schedules developed by the company and submitted to the commission for review. When the capital investment has fully depreciated, an electrical company may gift the electric vehicle supply equipment to the owner of the property on which it is located.

(5) By December 31, 2017, the commission must report to the appropriate committees of the legislature with regard to the use of any incentives allowed under this section, the quantifiable impacts of the incentives on actual electric vehicle deployment, and any recommendations to the legislature about utility participation in the electric vehicle market.

Passed by the House April 24, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 221

[Substitute House Bill 1069]

DNA WORK PRODUCT--PRESERVATION

AN ACT Relating to preservation of DNA work product; and adding a new chapter to Title 5 RCW.

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

NEW SECTION. Sec. 1. (1) In any felony case initially charged as a violent or sex offense, as defined in RCW 9.94A.030, a governmental entity shall preserve any DNA work product that has been secured in connection with the criminal case according to the following guidelines:

(a) Except as provided in (b) of this subsection, where a defendant has been charged and convicted in connection with the case, the DNA work product must be maintained throughout the length of the sentence, including any period of community custody extending through final discharge;

(b) Where a defendant has been convicted and sentenced under RCW 9.94A.507 in connection with the case, the DNA work product must be maintained for ninety-nine years or until the death of the defendant, whichever is sooner; and

(c) Where no conviction has been made in connection with the case, the DNA work product must be maintained for ninety-nine years or throughout the period of the statute of limitations pursuant to RCW 9A.04.080, whichever is sooner.

(2) Notwithstanding subsection (1) of this section, in any felony case regardless of whether the identity of the offender is known and law enforcement has probable cause sufficient to believe the elements of a violent or sex offense as defined in RCW 9.94A.030 have been committed, a governmental entity shall preserve any DNA work product, including a sexual assault examination kit, secured in connection with the criminal case for ninety-nine years or throughout the period of the statute of limitations pursuant to RCW 9A.04.080, whichever is sooner.

(3) For purposes of this section:

(a) "Amplified DNA" means DNA generated during scientific analysis using a polymerase chain reaction.

(b) "DNA work product" means (i) product generated during the process of scientific analysis of such material, except amplified DNA, material that had been subjected to DNA extraction, and DNA extracts from reference samples; or (ii) any material contained on a microscope slide, swab, in a sample tube, cutting, DNA extract, or some other similar retention method used to isolate potential biological evidence that has been collected by law enforcement as part of its investigation and prepared for scientific analysis, whether or not it is submitted for scientific analysis and derived from:

(A) The contents of a sexual assault examination kit;

(B) Blood;

(C) Semen;

(D) Hair;

(E) Saliva;

- (F) Skin tissue;
- (G) Fingerprints;
- (H) Bones;
- (I) Teeth; or
- (J) Any other identifiable human biological material or physical evidence.

Notwithstanding the foregoing, "DNA work product" does not include a reference sample collected unless it has been shown through DNA comparison to associate the source of the sample with the criminal case for which it was collected.

(c) "Governmental entity" means any general law enforcement agency or any person or organization officially acting on behalf of the state or any political subdivision of the state involved in the collection, examination, tracking, packaging, storing, or disposition of biological material collected in connection with a criminal investigation relating to a felony offense.

(d) "Reference sample" means a known sample collected from an individual by a governmental entity for the purpose of comparison to DNA profiles developed in a criminal case.

(4) The failure of a law enforcement agency to preserve DNA work product does not constitute grounds in any criminal proceeding for challenging the admissibility of other DNA work product that was preserved in a case, and any evidence offered may not be excluded by a court on those grounds. The court may not set aside the conviction or sentence or order the reversal of a conviction under this section on the grounds that the DNA work product is no longer available. Unless the court finds that DNA work product was destroyed with malicious intent to violate this section, a person accused of committing a crime against a person has no cause of action against a law enforcement agency for failure to comply with the requirements of this section. If the court finds that DNA work product was destroyed with malicious intent to violate this section, the court may impose appropriate sanctions. Nothing in this section may be construed to create a private right of action on the part of any individual or entity against any law enforcement agency or any contractor of a law enforcement agency.

NEW SECTION. Sec. 2. (1) Nothing in this chapter precludes the trial court from ordering the destruction of DNA reference samples contributed by a defendant who was charged and acquitted or whose conviction was overturned in connection with a violent or sex offense as defined in RCW 9.94A.030.

(2)(a) A person may submit an application to the Washington state patrol to have his or her DNA reference sample data expunged from the Washington state patrol's DNA identification system in cases where: (i) The person's DNA reference sample was collected and entered into the system and (ii) the charges against the person were dismissed with prejudice or the person was found not guilty.

(b) The Washington state patrol must expunge the person's DNA reference sample data if he or she meets the criteria established in law or by rule.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 4.** Sections 1 and 2 of this act constitute a new chapter in Title 5 RCW.

Passed by the House April 20, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 222

[Engrossed Substitute House Bill 1440]

CELL SITE SIMULATOR DEVICES--COLLECTION OF DATA--WARRANT

AN ACT Relating to prohibiting the use of a cell site simulator device without a warrant; amending RCW 9.73.260; adding a new section to chapter 9.73 RCW; 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 9.73 RCW to read as follows:

The state and its political subdivisions shall not, by means of a cell site simulator device, collect or use a person's electronic data or metadata without (1) that person's informed consent, (2) a warrant, based upon probable cause, that describes with particularity the person, place, or thing to be searched or seized, or (3) acting in accordance with a legally recognized exception to the warrant requirements.

Sec. 2. RCW 9.73.260 and 1998 c 217 s 1 are each amended to read as follows:

(1) As used in this section:

(a) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception, including the use of such connection in a switching station, furnished or operated by any person engaged in providing or operating such facilities for the transmission of intrastate, interstate, or foreign communications, and such term includes any electronic storage of such communication.

(b) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, but does not include:

(i) Any wire or oral communication;

(ii) Any communication made through a tone-only paging device; or

(iii) Any communication from a tracking device, but solely to the extent the tracking device is owned by the applicable law enforcement agency.

(c) "Electronic communication service" means any service that provides to users thereof the ability to send or receive wire or electronic communications.

(d) "Pen register" means a device that records or decodes electronic or other impulses that identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a

provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.

(e) "Trap and trace device" means a device that captures the incoming electronic or other impulses that identify the originating number of an instrument or device from which a wire or electronic communication was transmitted.

(f) "Cell site simulator device" means a device that transmits or receives radio waves for the purpose of conducting one or more of the following operations: (i) Identifying, locating, or tracking the movements of a communications device; (ii) intercepting, obtaining, accessing, or forwarding the communications, stored data, or metadata of a communications device; (iii) affecting the hardware or software operations or functions of a communications device; (iv) forcing transmissions from or connections to a communications device; (v) denying a communications device access to other communications devices, communications protocols, or services; or (vi) spoofing or simulating a communications device, cell tower, cell site, or service, including, but not limited to, an international mobile subscriber identity catcher or other invasive cell phone or telephone surveillance or eavesdropping device that mimics a cell phone tower and sends out signals to cause cell phones in the area to transmit their locations, identifying information, and communications content, or a passive interception device or digital analyzer that does not send signals to a communications device under surveillance. A cell site simulator device does not include any device used or installed by an electric utility, as defined in RCW 19.280.020, solely to the extent such device is used by that utility to measure electrical usage, to provide services to customers, or to operate the electric grid.

(2) No person may install or use a pen register (~~(or)~~), trap and trace device, or cell site simulator device without a prior court order issued under this section except as provided under subsection (6) of this section or RCW 9.73.070.

(3) A law enforcement officer may apply for and the superior court may issue orders and extensions of orders authorizing the installation and use of pen registers (~~(and)~~), trap and trace devices, and cell site simulator devices as provided in this section. The application shall be under oath and shall include the identity of the officer making the application and the identity of the law enforcement agency conducting the investigation. The applicant must certify that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

(4) If the court finds that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation and finds that there is probable cause to believe that the pen register (~~(or)~~), trap and trace device, or cell site simulator device will lead to obtaining evidence of a crime, contraband, fruits of crime, things criminally possessed, weapons, or other things by means of which a crime has been committed or reasonably appears about to be committed, or will lead to learning the location of a person who is unlawfully restrained or reasonably believed to be a witness in a criminal investigation or for whose arrest there is probable cause, the court shall enter an ex parte order authorizing the installation and use of a pen register (~~(or a)~~), trap and trace device, or cell site simulator device. The order shall specify:

(a)(i) In the case of a pen register or trap and trace device, the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached; or

(ii) In the case of a cell site simulator device, the identity, if known, of (A) the person to whom is subscribed or in whose name is subscribed the electronic communications service utilized by the device to which the cell site simulator device is to be used and (B) the person who possesses the device to which the cell site simulator device is to be used;

(b) The identity, if known, of the person who is the subject of the criminal investigation;

(c)(i) In the case of a pen register or trap and trace device, the number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; or

(ii) In the case of a cell site simulator device: (A) The telephone number or other unique subscriber account number identifying the wire or electronic communications service account used by the device to which the cell site simulator device is to be attached or used; (B) if known, the physical location of the device to which the cell site simulator device is to be attached or used; (C) the type of device, and the communications protocols being used by the device, to which the cell site simulator device is to be attached or used; (D) the geographic area that will be covered by the cell site simulator device; (E) all categories of metadata, data, or information to be collected by the cell site simulator device from the targeted device including, but not limited to, call records and geolocation information; (F) whether or not the cell site simulator device will incidentally collect metadata, data, or information from any parties or devices not specified in the court order, and if so, what categories of information or metadata will be collected; and (G) any disruptions to access or use of a communications or internet access network that may be created by use of the device; and

(d) A statement of the offense to which the information likely to be obtained by the pen register ((~~or~~)), trap and trace device, or cell site simulator device relates.

The order shall direct, if the applicant has requested, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register ((~~or~~)), trap and trace device, or cell site simulator device. An order issued under this section shall authorize the installation and use of a: (i) Pen register or a trap and trace device for a period not to exceed sixty days; and (ii) a cell site simulator device for sixty days. An extension of the original order may only be granted upon: A new application for an order under subsection (3) of this section; and a showing that there is a probability that the information or items sought under this subsection are more likely to be obtained under the extension than under the original order. No extension beyond the first extension shall be granted unless: There is a showing that there is a high probability that the information or items sought under this subsection are much more likely to be obtained under the second or subsequent extension than under the original order; and there are extraordinary circumstances such as a direct and immediate danger of death or serious bodily injury to a law enforcement officer. The period of extension shall be for a period not to exceed sixty days.

An order authorizing or approving the installation and use of a pen register ~~((or a))~~, trap and trace device, or cell site simulator device shall direct that the order be sealed until otherwise ordered by the court and that the person owning or leasing the line to which the pen register ~~((or))~~, trap and trace device, and cell site simulator devices is attached or used, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register ~~((or))~~, trap and trace device, or cell site simulator device or the existence of the investigation to the listed subscriber or to any other person, unless or until otherwise ordered by the court.

(5) Upon the presentation of an order, entered under subsection (4) of this section, by an officer of a law enforcement agency authorized to install and use a pen register under this chapter, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish such law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in subsection (4) of this section.

Upon the request of an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate line and shall furnish such law enforcement officer all additional information, facilities, and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in subsection (4) of this section. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court order, at reasonable intervals during regular business hours for the duration of the order.

A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this subsection shall be reasonably compensated by the law enforcement agency that requests the facilities or assistance for such reasonable expenses incurred in providing such facilities and assistance.

No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under this section. A good faith reliance on a court order under this section, a request pursuant to this section, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under this chapter or any other law.

(6)(a) Notwithstanding any other provision of this chapter, a law enforcement officer and a prosecuting attorney or deputy prosecuting attorney who jointly and reasonably determine that there is probable cause to believe that an emergency situation exists that involves immediate danger of death or serious bodily injury to any person that requires the installation and use of a pen register

~~((e)-(a))~~, trap and trace device, or cell site simulator device before an order authorizing such installation and use can, with due diligence, be obtained, and there are grounds upon which an order could be entered under this chapter to authorize such installation and use, may have installed and use a pen register ~~((e))~~, trap and trace device, or cell site simulator device if, within forty-eight hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with subsection (4) of this section. In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when forty-eight hours have lapsed since the installation of the pen register ~~((e))~~, trap and trace device, or cell site simulator device, whichever is earlier. If an order approving the installation or use is not obtained within forty-eight hours, any information obtained is not admissible as evidence in any legal proceeding. The knowing installation or use by any law enforcement officer of a pen register ~~((e))~~, trap and trace device, or cell site simulator device pursuant to this subsection without application for the authorizing order within forty-eight hours of the installation shall constitute a violation of this chapter and be punishable as a gross misdemeanor. A provider of a wire or electronic service, landlord, custodian, or other person who furnished facilities or technical assistance pursuant to this subsection shall be reasonably compensated by the law enforcement agency that requests the facilities or assistance for such reasonable expenses incurred in providing such facilities and assistance.

(b) A law enforcement agency that authorizes the installation of a pen register ~~((e))~~, trap and trace device, or cell site simulator device under this subsection (6) shall file a monthly report with the administrator for the courts. The report shall indicate the number of authorizations made, the date and time of each authorization, whether a court authorization was sought within forty-eight hours, and whether a subsequent court authorization was granted.

(c) A law enforcement agency authorized to use a cell site simulator device in accordance with this section must: (i) Take all steps necessary to limit the collection of any information or metadata to the target specified in the applicable court order; (ii) take all steps necessary to permanently delete any information or metadata collected from any party not specified in the applicable court order immediately following such collection and must not transmit, use, or retain such information or metadata for any purpose whatsoever; and (iii) must delete any information or metadata collected from the target specified in the court order within thirty days if there is no longer probable cause to support the belief that such information or metadata is evidence of a crime.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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 immediately.

Passed by the House April 16, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 223

[Engrossed House Bill 1868]

COUNTIES--COUNTY ROAD FUND

AN ACT Relating to county road fund purposes for certain counties; amending RCW 36.82.070; and reenacting and amending RCW 36.79.140.

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

Sec. 1. RCW 36.82.070 and 2010 c 43 s 1 are each amended to read as follows:

(1) Any money paid to any county road fund may be used for the construction, alteration, repair, improvement, or maintenance of county roads and bridges thereon and for wharves necessary for ferriage of motor vehicle traffic, and for ferries, and for the acquiring, operating, and maintaining of machinery, equipment, quarries, or pits for the extraction of materials, and for the cost of establishing county roads, acquiring rights-of-way therefor, and expenses for the operation of the county engineering office, and for any of the following programs when directly related to county road purposes: ~~((1))~~ (a) Insurance; ~~((2))~~ (b) self-insurance programs; and ~~((3))~~ (c) risk management programs; and for any other proper county road purpose. Such expenditure may be made either independently or in conjunction with the state or any city, town, or tax district within the county. County road purposes include the construction, maintenance, or improvement of park and ride lots. County road purposes also include the removal of barriers to fish passage related to county roads, and include, but are not limited to, the following activities associated with the removal of these barriers: Engineering and technical services; stream bank stabilization; streambed restoration; the placement of weirs, rock, or woody debris; planting; and channel modification. County road funds may be used beyond the county right-of-way for activities clearly associated with removal of fish passage barriers that are the responsibility of the county. Activities related to the removal of barriers to fish passage performed beyond the county right-of-way must not exceed twenty-five percent of the total cost of activities related to fish barrier removal on any one project, and the total annual cost of activities related to the removal of barriers to fish passage performed beyond the county rights-of-way must not exceed one-half of one percent of a county's annual road construction budget. The use of county road funds beyond the county right-of-way for activities associated with the removal of fish barriers is permissive, and wholly within the discretion of the county legislative authority. The use of county road funds beyond the county right-of-way for such activities does not create or impose a legal duty upon a county for salmon recovery work beyond the county right-of-way.

(2) For counties that consist entirely of islands, county road purposes also include marine uses relating to navigation and moorage. Such a county may deposit revenue collected under RCW 84.52.043 and 36.82.040, in the amount or percentage determined by the county, into a subaccount within the county road fund to be used for marine facilities, including mooring buoys, docks, and aids to navigation.

Sec. 2. RCW 36.79.140 and 2001 c 221 s 2 and 2001 c 212 s 26 are each reenacted and amended to read as follows:

At the time the board reviews the six-year program of each county each even-numbered year, it shall consider and shall approve for inclusion in its recommended budget, as required by RCW 36.79.130, the portion of the rural arterial construction program scheduled to be performed during the biennial period beginning the following July 1st. Subject to the appropriations actually approved by the legislature, the board shall as soon as feasible approve rural arterial trust account funds to be spent during the ensuing biennium for preliminary proposals in priority sequence as established pursuant to RCW 36.79.090. Only those counties that during the preceding twelve months have spent all revenues collected for road purposes only for such purposes, including removal of barriers to fish passage and accompanying streambed and stream bank repair as specified in RCW 36.82.070, and including traffic law enforcement, as are allowed to the state by Article II, section 40 of the state Constitution or RCW 36.82.070(2) are eligible to receive funds from the rural arterial trust account, except that: (1) Counties with a population of less than eight thousand are exempt from this eligibility restriction; (2) counties expending revenues collected for road purposes only on other governmental services after authorization from the voters of that county under RCW 84.55.050 are also exempt from this eligibility restriction; and (3) this restriction shall not apply to any moneys diverted from the road district levy under chapter 39.89 RCW. The board shall authorize rural arterial trust account funds for the construction project portion of a project previously authorized for a preliminary proposal in the sequence in which the preliminary proposal has been completed and the construction project is to be placed under contract. At such time the board may reserve rural arterial trust account funds for expenditure in future years as may be necessary for completion of preliminary proposals and construction projects to be commenced in the ensuing biennium.

The board may, within the constraints of available rural arterial trust funds, consider additional projects for authorization upon a clear and conclusive showing by the submitting county that the proposed project is of an emergent nature and that its need was unable to be anticipated at the time the six-year program of the county was developed. The proposed projects shall be evaluated on the basis of the priority rating factors specified in RCW 36.79.080.

Passed by the House April 21, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 224

[Engrossed Substitute House Bill 1980]

SUNSHINE COMMITTEE--RECOMMENDATIONS

AN ACT Relating to implementing recommendations of the sunshine committee; amending RCW 13.34.100, 42.56.230, and 70.148.060; reenacting and amending RCW 42.56.240 and 42.56.330; and adding new sections to chapter 38.52 RCW.

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

**Sec. 1. RCW 13.34.100 and 2014 c 108 s 2 are each amended to read as follows:*

(1) The court shall appoint a guardian ad litem for a child who is the subject of an action under this chapter, unless a court for good cause finds the appointment unnecessary. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by an independent attorney in the proceedings. The court shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs.

(2) If the court does not have available to it a guardian ad litem program with a sufficient number of volunteers, the court may appoint a suitable person to act as guardian ad litem for the child under this chapter. Another party to the proceeding or the party's employee or representative shall not be so appointed.

(3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background information record shall include, but is not limited to, the following information:

(a) Level of formal education;

(b) General training related to the guardian ad litem's duties;

(c) Specific training related to issues potentially faced by children in the dependency system;

(d) Specific training or education related to child disability or developmental issues;

(e) Number of years' experience as a guardian ad litem;

(f) Number of appointments as a guardian ad litem and the county or counties of appointment;

(g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause;

(h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;

(i) The results of an examination of state and national criminal identification data. The examination shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the federal bureau of investigation. The background check shall be done through the Washington state patrol criminal identification section and must include a national check from the federal bureau of investigation based on the submission of fingerprints; and

(j) Criminal history, as defined in RCW 9.94A.030, for the period covering ten years prior to the appointment.

The background information record shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program a suitable person appointed by the court to act as guardian ad litem shall provide the background information record to the court.

Upon appointment, the guardian ad litem, or guardian ad litem program, shall provide the parties or their attorneys with a copy of the background information record containing the results of the background check conducted through the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834. The portion of the background information record containing the results of the criminal background check and the criminal history from the federal bureau of investigation shall not be disclosed to the parties or their attorneys. The background information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) The appointment of the guardian ad litem shall remain in effect until the court discharges the appointment or no longer has jurisdiction, whichever comes first. The guardian ad litem may also be discharged upon entry of an order of guardianship.

(5) A guardian ad litem through an attorney, or as otherwise authorized by the court, shall have the right to present evidence, examine and cross-examine witnesses, and to be present at all hearings. A guardian ad litem shall receive copies of all pleadings and other documents filed or submitted to the court, and notice of all hearings according to court rules. The guardian ad litem shall receive all notice contemplated for a parent or other party in all proceedings under this chapter.

(6)(a) The court must appoint an attorney for a child in a dependency proceeding six months after granting a petition to terminate the parent and child relationship pursuant to RCW 13.34.180 and when there is no remaining parent with parental rights.

The court must appoint an attorney for a child when there is no remaining parent with parental rights for six months or longer prior to July 1, 2014, if the child is not already represented.

The court may appoint one attorney to a group of siblings, unless there is a conflict of interest, or such representation is otherwise inconsistent with the rules of professional conduct.

(b) Legal services provided by an attorney appointed pursuant to (a) of this subsection do not include representation of the child in any appellate proceedings relative to the termination of the parent and child relationship.

(c)(i) Subject to the availability of amounts appropriated for this specific purpose, the state shall pay the costs of legal services provided by an attorney appointed pursuant to (a) of this subsection, if the legal services are provided in accordance with the standards of practice, voluntary training, and caseload limits developed and recommended by the statewide children's representation work group pursuant to section 5, chapter 180, Laws of 2010. Caseload limits must be calculated pursuant to (c)(ii) of this subsection.

(ii) Counties are encouraged to set caseloads as low as possible and to account for the individual needs of the children in care. Notwithstanding the caseload limits developed and recommended by the statewide children's representation work group pursuant to section 5, chapter 180, Laws of 2010, when one attorney represents a sibling group, the first child is counted as one case, and each child thereafter is counted as one-half case to determine

compliance with the caseload standards pursuant to (c)(i) of this subsection and RCW 2.53.045.

(iii) The office of civil legal aid is responsible for implementation of (c)(i) and (ii) of this subsection as provided in RCW 2.53.045.

(7)(a) The court may appoint an attorney to represent the child's position in any dependency action on its own initiative, or upon the request of a parent, the child, a guardian ad litem, a caregiver, or the department.

(b)(i) If the court has not already appointed an attorney for a child, or the child is not represented by a privately retained attorney:

(A) The child's caregiver, or any individual, may refer the child to an attorney for the purposes of filing a motion to request appointment of an attorney at public expense; or

(B) The child or any individual may retain an attorney for the child for the purposes of filing a motion to request appointment of an attorney at public expense.

(ii) Nothing in this subsection (7)(b) shall be construed to change or alter the confidentiality provisions of RCW 13.50.100.

(c) Pursuant to this subsection, the department or supervising agency and the child's guardian ad litem shall each notify a child of his or her right to request an attorney and shall ask the child whether he or she wishes to have an attorney. The department or supervising agency and the child's guardian ad litem shall notify the child and make this inquiry immediately after:

(i) The date of the child's twelfth birthday;

(ii) Assignment of a case involving a child age twelve or older; or

(iii) July 1, 2010, for a child who turned twelve years old before July 1, 2010.

(d) The department or supervising agency and the child's guardian ad litem shall repeat the notification and inquiry at least annually and upon the filing of any motion or petition affecting the child's placement, services, or familial relationships.

(e) The notification and inquiry is not required if the child has already been appointed an attorney.

(f) The department or supervising agency shall note in the child's individual service and safety plan, and the guardian ad litem shall note in his or her report to the court, that the child was notified of the right to request an attorney and indicate the child's position regarding appointment of an attorney.

(g) At the first regularly scheduled hearing after:

(i) The date of the child's twelfth birthday;

(ii) The date that a dependency petition is filed pursuant to this chapter on a child age twelve or older; or

(iii) July 1, 2010, for a child who turned twelve years old before July 1, 2010;

the court shall inquire whether the child has received notice of his or her right to request an attorney from the department or supervising agency and the child's guardian ad litem. The court shall make an additional inquiry at the first regularly scheduled hearing after the child's fifteenth birthday. No inquiry is necessary if the child has already been appointed an attorney.

(8) For the purposes of child abuse prevention and treatment act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247, or any related state or federal legislation, a person appointed pursuant to this section shall be deemed a guardian ad litem.

(9) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends. The program shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. The court shall immediately appoint the person recommended by the program.

(10) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified.

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

Sec. 2. RCW 42.56.230 and 2014 c 142 s 1 are each amended to read as follows:

The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2)(a) Personal information:

(i) For a child enrolled in licensed child care in any files maintained by the department of early learning; or

(ii) For a child enrolled in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs.

(b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial (~~(account numbers)~~) information as defined in RCW 9.35.005 including social security numbers, except when disclosure is expressly required by or governed by other law;

(6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093;

(7)(a) Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identocard.

(b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.

(c) Any record pertaining to a vehicle license plate, driver's license, or identocard issued under RCW 46.08.066 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity. This exemption does not prevent the release of the total number of vehicle license plates, drivers' licenses, or identocards that, under RCW 46.08.066, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

(d) Any record pertaining to a vessel registration issued under RCW 88.02.330 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement activity. This exemption does not prevent the release of the total number of vessel registrations that, under RCW 88.02.330, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse; and

(8) All information related to individual claims resolution structured settlement agreements submitted to the board of industrial insurance appeals under RCW 51.04.063, other than final orders from the board of industrial insurance appeals.

Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in subsection (7)(c) and (d) of this section that is subject to public disclosure.

(9) Voluntarily submitted information contained in a database that is part of or associated with enhanced 911 emergency communications systems, or information contained or used in emergency notification systems as provided under sections 6 and 7 of this act.

Sec. 3. RCW 42.56.240 and 2013 c 315 s 2, 2013 c 190 s 7, and 2013 c 183 s 1 are each reenacted and amended to read as follows:

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

(2) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the

commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;

(5) Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator;

(6) Information contained in a local or regionally maintained gang database as well as the statewide gang database referenced in RCW 43.43.762;

(7) Data from the electronic sales tracking system established in RCW 69.43.165;

(8) Information submitted to the statewide unified sex offender notification and registration program under RCW 36.28A.040(6) by a person for the purpose of receiving notification regarding a registered sex offender, including the person's name, residential address, and email address;

(9) Personally identifying information collected by law enforcement agencies pursuant to local security alarm system programs and vacation crime watch programs. Nothing in this subsection shall be interpreted so as to prohibit the legal owner of a residence or business from accessing information regarding his or her residence or business; (~~and~~)

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822; (~~and~~)

(11) The identity of a state employee or officer who has in good faith filed a complaint with an ethics board, as provided in RCW 42.52.410, or who has in good faith reported improper governmental action, as defined in RCW 42.40.020, to the auditor or other public official, as defined in RCW 42.40.020; and

(12) The following security threat group information collected and maintained by the department of corrections pursuant to RCW 72.09.745: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates.

Sec. 4. RCW 42.56.330 and 2014 c 170 s 2 and 2014 c 33 s 1 are each reenacted and amended to read as follows:

The following information relating to public utilities and transportation is exempt from disclosure under this chapter:

(1) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 or 81.77.210 that a court has determined are confidential under RCW 80.04.095 or 81.77.210;

(2) The addresses, telephone numbers, electronic contact information, and customer-specific utility usage and billing information in increments less than a billing cycle of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order;

(3) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service(~~(, however, these records)~~), Participant's names, general locations, and point of contact may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides;

(4) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons;

(5) The personally identifying information of persons who acquire and use transit passes or other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose personally identifying information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media for the purpose of preventing fraud(~~(, or to the news media when reporting on public transportation or public safety)~~). As used in this subsection, "personally identifying information" includes acquisition or use information pertaining to a specific, individual transit pass or fare payment media.

(a) Information regarding the acquisition or use of transit passes or fare payment media may be disclosed in aggregate form if the data does not contain any personally identifying information.

(b) Personally identifying information may be released to law enforcement agencies if the request is accompanied by a court order;

(6) Any information obtained by governmental agencies that is collected by the use of a motor carrier intelligent transportation system or any comparable information equipment attached to a truck, tractor, or trailer; however, the information may be given to other governmental agencies or the owners of the truck, tractor, or trailer from which the information is obtained. As used in this subsection, "motor carrier" has the same definition as provided in RCW 81.80.010;

(7) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying

information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order; and

(8) The personally identifying information of persons who acquire and use a driver's license or identicaid that includes a radio frequency identification chip or similar technology to facilitate border crossing. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. Personally identifying information may be released to law enforcement agencies only for United States customs and border protection enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order.

Sec. 5. RCW 70.148.060 and 2005 c 274 s 341 are each amended to read as follows:

(1) All ~~((examination and proprietary reports and))~~ information except for proprietary reports or information obtained by the director and the director's staff in soliciting bids from insurers and in monitoring the insurer selected by the director shall ~~((not))~~ be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the director may furnish all or part of examination reports prepared by the director or by any person, firm, corporation, association, or other entity preparing the reports on behalf of the director to:

- (a) The Washington state insurance commissioner;
- (b) A person or organization officially connected with the insurer as officer, director, attorney, auditor, or independent attorney or independent auditor; and
- (c) The attorney general in his or her role as legal advisor to the director.

(3) Subsection (1) of this section notwithstanding, the director may furnish all or part of the examination or proprietary reports or information obtained by the director to:

- (a) The Washington state insurance commissioner; and
- (b) A person, firm, corporation, association, governmental body, or other entity with whom the director has contracted for services necessary to perform his or her official duties.

(4) ~~((Examination reports and))~~ Proprietary information obtained by the director and the director's staff ~~((are))~~ is not subject to public disclosure under chapter 42.56 RCW.

(5) A person who violates any provision of this section is guilty of a gross misdemeanor.

NEW SECTION. **Sec. 6.** A new section is added to chapter 38.52 RCW to read as follows:

(1) Information contained in an automatic number identification or automatic location identification database that is part of a county enhanced 911 emergency communications system as defined in RCW 82.14B.020 and intended for display at a public safety answering point with incoming 911 voice or data is exempt from public inspection and copying under chapter 42.56 RCW.

(2) Information voluntarily submitted to be contained in a database that is part of or associated with a county enhanced 911 emergency communications system as defined in RCW 82.14B.020 and intended for the purpose of display at a public safety answering point with incoming 911 voice or data is exempt from public inspection and copying under chapter 42.56 RCW.

(3) This section shall not be interpreted to prohibit:

(a) Display of information at a public safety answering point;

(b) Dissemination of information by the public safety answering point to police, fire, or emergency medical responders for display on a device used by police, fire, or emergency medical responders for the purpose of handling or responding to emergency calls or for training;

(c) Maintenance of the database by a county;

(d) Dissemination of information by a county to local agency personnel for inclusion in an emergency notification system that makes outgoing calls to telephone numbers to provide notification of a community emergency event;

(e) Inspection or copying by the subject of the information or an authorized representative; or

(f) The public disclosure of information prepared, retained, disseminated, transmitted, or recorded, for the purpose of handling or responding to emergency calls, unless disclosure of any such information is otherwise exempted under chapter 42.56 RCW or other law.

NEW SECTION. Sec. 7. A new section is added to chapter 38.52 RCW to read as follows:

Information obtained from an automatic number identification or automatic location identification database or voluntarily submitted to a local agency for inclusion in an emergency notification system is exempt from public inspection and copying under chapter 42.56 RCW. This section shall not be interpreted to prohibit:

(1) Making outgoing calls to telephone numbers to provide notification of a community emergency event;

(2) Maintenance of the database by a local agency; or

(3) Inspection or copying by the subject of the information or an authorized representative.

Passed by the House April 23, 2015.

Passed by the Senate April 9, 2015.

Approved by the Governor May 11, 2015, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 12, 2015.

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

"I am returning herewith, without my approval as to Section 1, Engrossed Substitute House Bill No. 1980 entitled:

"AN ACT Relating to implementing recommendations of the sunshine committee."

Guardian Ad Litem undergo a rigorous evaluation of their backgrounds and qualifications, which include background checks that are required by law. There is no need for this information to be distributed to parties. I believe that

enactment of this law would have a chilling effect on GAL programs and their ability to recruit volunteers if this information were shared with parties in dependency actions.

For these reasons I have vetoed Section 1 of Engrossed Substitute House Bill No. 1980.

With the exception of Section 1, Engrossed Substitute House Bill No. 1980 is approved."

CHAPTER 225

[Senate Bill 5024]

STATE GOVERNMENT--FUNCTIONS, POWERS, DUTIES--TECHNICAL CORRECTIONS

AN ACT Relating to conforming amendments made necessary by reorganizing and streamlining central service functions, powers, and duties of state government; amending RCW 2.36.054, 2.36.057, 2.36.0571, 2.68.060, 4.92.110, 4.96.020, 8.26.085, 15.24.086, 15.64.060, 15.65.285, 15.66.280, 15.88.070, 15.89.070, 15.100.080, 15.115.180, 17.15.020, 19.27.097, 19.27.150, 19.27A.020, 19.27A.190, 19.34.100, 19.285.060, 27.34.075, 27.34.410, 27.48.040, 28A.150.530, 28A.335.300, 28B.10.417, 35.21.779, 35.68.076, 35A.65.010, 36.28A.070, 39.04.155, 39.04.220, 39.04.290, 39.04.320, 39.04.330, 39.04.370, 39.04.380, 39.24.050, 39.30.050, 39.32.020, 39.32.040, 39.32.060, 39.35.060, 39.35A.050, 39.35B.040, 39.35C.050, 39.35C.090, 39.59.010, 41.04.017, 41.04.220, 41.04.375, 41.06.094, 43.01.090, 43.01.091, 43.01.240, 43.01.250, 43.01.900, 43.15.020, 43.17.050, 43.17.100, 43.17.400, 43.19.647, 43.19.651, 43.19.670, 43.19.682, 43.19.691, 43.19.757, 43.19A.022, 43.19A.040, 43.21F.045, 43.34.090, 43.82.035, 43.82.055, 43.82.130, 43.83.116, 43.83.120, 43.83.136, 43.83.142, 43.83.156, 43.83.176, 43.83.188, 43.83.202, 43.88.090, 43.88.350, 43.88.560, 43.96B.215, 43.101.080, 43.325.020, 43.325.030, 43.330.907, 43.331.040, 43.331.050, 44.68.065, 44.73.010, 46.08.065, 46.08.150, 46.08.172, 47.60.830, 70.58.005, 70.94.537, 70.94.551, 70.95.265, 70.95C.110, 70.95H.030, 70.95M.060, 70.235.050, 71A.20.190, 72.01.430, 72.09.450, 77.12.177, 77.12.451, 79.19.080, 79.24.300, 79.24.530, 79.24.540, 79.24.560, 79.24.570, 79.24.664, 79.24.710, 79.24.720, 79.24.730, and 79A.15.010; reenacting RCW 42.17A.110; adding a new section to chapter 49.74 RCW; decodifying RCW 37.14.010, 43.19.533, 43.320.012, 43.320.013, 43.320.014, 43.320.015, 43.320.901, and 70.120.210; repealing RCW 43.105.041, 43.105.178, 43.105.330, 43.105.070, and 49.74.040; and providing an expiration date.

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

Sec. 1. RCW 2.36.054 and 2011 1st sp.s. c 43 s 812 are each amended to read as follows:

Unless otherwise specified by rule of the supreme court, the jury source list and master jury list for each county shall be created as provided by this section.

(1) The superior court of each county, after consultation with the county clerk and county auditor of that jurisdiction, shall annually notify the consolidated technology services agency not later than March 1st of each year of its election to use either a jury source list that is merged by the county or a jury source list that is merged by the consolidated technology services agency. The consolidated technology services agency shall annually furnish at no charge to the superior court of each county a separate list of the registered voters residing in that county as supplied annually by the secretary of state and a separate list of driver's license and identocard holders residing in that county as supplied annually by the department of licensing, or a merged list of all such persons residing in that county, in accordance with the annual notification required by this subsection. The lists provided by the consolidated technology services agency shall be in an electronic format mutually agreed upon by the superior court requesting it and the (~~department of information services~~) consolidated

technology services agency. The annual merger of the list of registered voters residing in each county with the list of licensed drivers and identicard holders residing in each county to form a jury source list for each county shall be in accordance with the standards and methodology established in this chapter or by superseding court rule whether the merger is accomplished by the consolidated technology services agency or by a county.

(2) Persons on the lists of registered voters and driver's license and identicard holders shall be identified by a minimum of last name, first name, middle initial where available, date of birth, gender, and county of residence. Identifying information shall be used when merging the lists to ensure to the extent reasonably possible that persons are only listed once on the merged list. Conflicts in addresses are to be resolved by using the most recent record by date of last vote in a general election, date of driver's license or identicard address change or date of voter registration.

(3) The consolidated technology services agency shall provide counties that elect to receive a jury source list merged by the consolidated technology services agency with a list of names which are possible duplicates that cannot be resolved based on the identifying information required under subsection (2) of this section. If a possible duplication cannot subsequently be resolved satisfactorily through reasonable efforts by the county receiving the merged list, the possible duplicate name shall be stricken from the jury source list until the next annual jury source list is prepared.

Sec. 2. RCW 2.36.057 and 1993 c 408 s 1 are each amended to read as follows:

The supreme court is requested to adopt court rules to be effective by September 1, 1994, regarding methodology and standards for merging the list of registered voters in Washington state with the list of licensed drivers and identicard holders in Washington state for purposes of creating an expanded jury source list. The rules should specify the standard electronic format or formats in which the lists will be provided to requesting superior courts by the department of ~~((information services))~~ enterprise services. In the interim, and until such court rules become effective, the methodology and standards provided in RCW 2.36.054 shall apply. An expanded jury source list shall be available to the courts for use by September 1, 1994.

Sec. 3. RCW 2.36.0571 and 1993 c 408 s 2 are each amended to read as follows:

Not later than January 1, 1994, the secretary of state, the department of licensing, and the department of ~~((information services))~~ enterprise services shall adopt administrative rules as necessary to provide for the implementation of the methodology and standards established pursuant to RCW 2.36.057 and 2.36.054 or by supreme court rule.

Sec. 4. RCW 2.68.060 and 2010 c 282 s 7 are each amended 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))~~ 43.41A.110;

(2) Participate in the development of an enterprise-based statewide information technology strategy (~~(as defined in RCW 43.105.019)~~);

(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))~~ office of the chief information officer.

Sec. 5. RCW 4.92.110 and 2009 c 433 s 3 are each amended to read as follows:

No action subject to the claim filing requirements of RCW 4.92.100 shall be commenced against the state, or against any state officer, employee, or volunteer, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim is presented to the office of risk management ((division)) in the department of enterprise services. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

Sec. 6. RCW 4.96.020 and 2012 c 250 s 2 are each amended to read as follows:

(1) The provisions of this section apply to claims for damages against all local governmental entities and their officers, employees, or volunteers, acting in such capacity.

(2) The governing body of each local governmental entity shall appoint an agent to receive any claim for damages made under this chapter. The identity of the agent and the address where he or she may be reached during the normal business hours of the local governmental entity are public records and shall be recorded with the auditor of the county in which the entity is located. All claims for damages against a local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, shall be presented to the agent within the applicable period of limitations within which an action must be commenced. A claim is deemed presented when the claim form is delivered in person or is received by the agent by regular mail, registered mail, or certified mail, with return receipt requested, to the agent or other person designated to accept delivery at the agent's office. The failure of a local governmental entity to comply with the requirements of this section precludes that local governmental entity from raising a defense under this chapter.

(3) For claims for damages presented after July 26, 2009, all claims for damages must be presented on the standard tort claim form that is maintained by the office of risk management ((division of the office of financial management)) in the department of enterprise services, except as allowed under (c) of this subsection. The standard tort claim form must be posted on the ~~((office of financial management's))~~ department of enterprise services' web site.

(a) The standard tort claim form must, at a minimum, require the following information:

- (i) The claimant's name, date of birth, and contact information;
- (ii) A description of the conduct and the circumstances that brought about the injury or damage;
- (iii) A description of the injury or damage;
- (iv) A statement of the time and place that the injury or damage occurred;
- (v) A listing of the names of all persons involved and contact information, if known;
- (vi) A statement of the amount of damages claimed; and
- (vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

(b) The standard tort claim form must be signed either:

- (i) By the claimant, verifying the claim;
- (ii) Pursuant to a written power of attorney, by the attorney in fact for the claimant;
- (iii) By an attorney admitted to practice in Washington state on the claimant's behalf; or
- (iv) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(c) Local governmental entities shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity. If a local governmental entity chooses to also make available its own tort claim form in lieu of the standard tort claim form, the form:

(i) May require additional information beyond what is specified under this section, but the local governmental entity may not deny a claim because of the claimant's failure to provide that additional information;

(ii) Must not require the claimant's social security number; and

(iii) Must include instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity appointed to receive the claim.

(d) If any claim form provided by the local governmental entity fails to require the information specified in this section, or incorrectly lists the agent with whom the claim is to be filed, the local governmental entity is deemed to have waived any defense related to the failure to provide that specific information or to present the claim to the proper designated agent.

(e) Presenting either the standard tort claim form or the local government tort claim form satisfies the requirements of this chapter.

(f) The amount of damages stated on the claim form is not admissible at trial.

(4) No action subject to the claim filing requirements of this section shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim has first been presented to the agent of the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty calendar day period. For the purposes of the applicable period of limitations, an action commenced within

five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

(5) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory.

Sec. 7. RCW 8.26.085 and 2011 c 336 s 281 are each amended to read as follows:

(1) The lead agency, after full consultation with the department of (~~general administration~~) enterprise services, shall adopt rules and establish such procedures as the lead agency may determine to be necessary to assure:

(a) That the payments and assistance authorized by this chapter are administered in a manner that is fair and reasonable and as uniform as practicable;

(b) That a displaced person who makes proper application for a payment authorized for that person by this chapter is paid promptly after a move or, in hardship cases, is paid in advance; and

(c) That a displaced person who is aggrieved by a program or project that is under the authority of a state agency or local public agency may have his or her application reviewed by the state agency or local public agency.

(2) The lead agency, after full consultation with the department of (~~general administration~~) enterprise services, may adopt such other rules and procedures, consistent with the provisions of this chapter, as the lead agency deems necessary or appropriate to carry out this chapter.

(3) State agencies and local public agencies shall comply with the rules adopted pursuant to this section by April 2, 1989.

Sec. 8. RCW 15.24.086 and 1994 c 164 s 1 are each amended to read as follows:

All such printing contracts provided for in this section (~~and RCW 15.24.085~~) shall be executed and performed under conditions of employment which shall substantially conform to the laws of this state respecting hours of labor, the minimum wage scale, and the rules and regulations of the department of labor and industries regarding conditions of employment, hours of labor, and minimum wages, and the violation of such provision of any contract shall be ground for cancellation thereof.

Sec. 9. RCW 15.64.060 and 2008 c 215 s 2 are each amended to read as follows:

(1) A farm-to-school program is created within the department to facilitate increased procurement of Washington grown food by schools.

(2) The department, in consultation with the department of health, the office of the superintendent of public instruction, the department of (~~general administration~~) enterprise services, and Washington State University, shall, in order of priority:

(a) Identify and develop policies and procedures to implement and evaluate the farm-to-school program, including coordinating with school procurement officials, buying cooperatives, and other appropriate organizations to develop uniform procurement procedures and materials, and practical recommendations to facilitate the purchase of Washington grown food by the common schools.

These policies, procedures, and recommendations shall be made available to school districts to adopt at their discretion;

(b) Assist food producers, distributors, and food brokers to market Washington grown food to schools by informing them of food procurement opportunities, bid procedures, school purchasing criteria, and other requirements;

(c) Assist schools in connecting with local producers by informing them of the sources and availability of Washington grown food as well as the nutritional, environmental, and economic benefits of purchasing Washington grown food;

(d) Identify and recommend mechanisms that will increase the predictability of sales for producers and the adequacy of supply for purchasers;

(e) Identify and make available existing curricula, programs and publications that educate students on the nutritional, environmental, and economic benefits of preparing and consuming locally grown food;

(f) Support efforts to advance other farm-to-school connections such as school gardens or farms and farm visits; and

(g) As resources allow, seek additional funds to leverage state expenditures.

(3) The department in cooperation with the office of the superintendent of public instruction shall collect data on the activities conducted pursuant to chapter 215, Laws of 2008 and communicate such data biennially to the appropriate committees of the legislature beginning November 15, 2009. Data collected may include the numbers of schools and farms participating and any increases in the procurement of Washington grown food by the common schools.

(4) As used in this section, RCW ((43.19.1905, 43.19.1906,)) 28A.335.190, and 28A.235.170, "Washington grown" means grown and packed or processed in Washington.

Sec. 10. RCW 15.65.285 and 1972 ex.s. c 112 s 2 are each amended to read as follows:

The restrictive provisions of chapter ((43.78)) 43.19 RCW((~~as now or hereafter amended~~)) shall not apply to promotional printing and literature for any commodity board.

Sec. 11. RCW 15.66.280 and 1972 ex.s. c 112 s 5 are each amended to read as follows:

The restrictive provisions of chapter ((43.78)) 43.19 RCW ((~~as now or hereafter amended~~)) shall not apply to promotional printing and literature for any commission formed under this chapter.

Sec. 12. RCW 15.88.070 and 2010 c 8 s 6114 are each amended to read as follows:

The powers and duties of the commission include:

(1) To elect a chair and such officers as the commission deems advisable. The officers shall include a treasurer who is responsible for all receipts and disbursements by the commission and the faithful discharge of whose duties shall be guaranteed by a bond at the sole expense of the commission. The commission shall adopt rules for its own governance, which shall provide for the holding of an annual meeting for the election of officers and transaction of other business and for such other meetings as the commission may direct;

(2) To do all things reasonably necessary to effect the purposes of this chapter. However, the commission shall have no legislative power;

(3) At the pleasure of the commission, to employ and discharge managers, secretaries, agents, attorneys, and employees and to engage the services of independent contractors as the commission deems necessary, to prescribe their duties, and to fix their compensation;

(4) To receive donations of wine from wineries for promotional purposes;

(5) To engage directly or indirectly in the promotion of Washington wine, including without limitation the acquisition in any lawful manner and the dissemination without charge of wine, which dissemination shall not be deemed a sale for any purpose and in which dissemination the commission shall not be deemed a wine producer, supplier, or manufacturer of any kind or the clerk, servant, or agent of a producer, supplier, or manufacturer of any kind. Such dissemination shall be for agricultural development or trade promotion, which may include promotional hosting and shall in the good faith judgment of the commission be in aid of the marketing, advertising, or sale of wine, or of research related to such marketing, advertising, or sale;

(6) To acquire and transfer personal and real property, establish offices, incur expense, enter into contracts (including contracts for creation and printing of promotional literature, which contracts shall not be subject to chapter ~~(43.78)~~ 43.19 RCW, but which shall be cancelable by the commission unless performed under conditions of employment which substantially conform to the laws of this state and the rules of the department of labor and industries). The commission may create such debt and other liabilities as may be reasonable for proper discharge of its duties under this chapter;

(7) To maintain such account or accounts with one or more qualified public depositaries as the commission may direct, to cause moneys to be deposited therein, and to expend moneys for purposes authorized by this chapter by drafts made by the commission upon such institutions or by other means;

(8) To cause to be kept and annually closed, in accordance with generally accepted accounting principles, accurate records of all receipts, disbursements, and other financial transactions, available for audit by the state auditor;

(9) To create and maintain a list of producers and to disseminate information among and solicit the opinions of producers with respect to the discharge of the duties of the commission, directly or by arrangement with trade associations or other instrumentalities;

(10) To employ, designate as agent, act in concert with, and enter into contracts with any person, council, commission or other entity for the purpose of promoting the general welfare of the vinifera grape industry and particularly for the purpose of assisting in the sale and distribution of Washington wine in domestic and foreign commerce, expending moneys as it may deem necessary or advisable for such purpose and for the purpose of paying its proportionate share of the cost of any program providing direct or indirect assistance to the sale and distribution of Washington wine in domestic or foreign commerce, employing and paying for vendors of professional services of all kinds; and

(11) To sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this chapter.

Sec. 13. RCW 15.89.070 and 2011 c 103 s 16 are each amended to read as follows:

The commission shall:

(1) Elect a chair and officers. The officers must include a treasurer who is responsible for all receipts and disbursements by the commission and the faithful discharge of whose duties shall be guaranteed by a bond at the sole expense of the commission. The commission must adopt rules for its own governance that provide for the holding of an annual meeting for the election of officers and the transaction of other business and for other meetings the commission may direct;

(2) Do all things reasonably necessary to effect the purposes of this chapter. However, the commission has no rule-making power except as provided in this chapter;

(3) Employ and discharge managers, secretaries, agents, attorneys, and employees and engage the services of independent contractors;

(4) Retain, as necessary, the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general;

(5) Receive donations of beer from producers for promotional purposes under subsections (6) and (7) of this section and for fund-raising purposes under subsection (8) of this section. Donations of beer for promotional purposes may only be disseminated without charge;

(6) Engage directly or indirectly in the promotion of Washington beer, including, without limitation, the acquisition in any lawful manner and the dissemination without charge of beer. This dissemination is not deemed a sale for any purpose and the commission is not deemed a producer, supplier, or manufacturer, or the clerk, servant, or agent of a producer, supplier, distributor, or manufacturer. This dissemination without charge shall be for agricultural development or trade promotion, and not for fund-raising purposes under subsection (8) of this section. Dissemination for promotional purposes may include promotional hosting and must in the good faith judgment of the commission be in the aid of the marketing, advertising, sale of beer, or of research related to such marketing, advertising, or sale;

(7) Promote Washington beer by conducting unique beer tastings without charge;

(8) Beginning July 1, 2007, fund the Washington beer commission through sponsorship of up to twelve beer festivals annually at which beer may be sold to festival participants. For this purpose, the commission would qualify for issue of a special occasion license as an exception to WAC 314-05-020 but must comply with laws under Title 66 RCW and rules adopted by the liquor control board under which such events may be conducted;

(9) Participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, regulation, distribution, sale, or use of beer including activities authorized under RCW 42.17A.635, including the reporting of those activities to the public disclosure commission;

(10) Acquire and transfer personal and real property, establish offices, incur expenses, and enter into contracts, including contracts for the creation and printing of promotional literature. The contracts are not subject to chapter ~~((43.78))~~ 43.19 RCW, and are cancelable by the commission unless performed under conditions of employment that substantially conform to the laws of this state and the rules of the department of labor and industries. The commission may create debt and other liabilities that are reasonable for proper discharge of its duties under this chapter;

(11) Maintain accounts with one or more qualified public depositories as the commission may direct, for the deposit of money, and expend money for purposes authorized by this chapter by drafts made by the commission upon such institutions or by other means;

(12) Cause to be kept and annually closed, in accordance with generally accepted accounting principles, accurate records of all receipts, disbursements, and other financial transactions, available for audit by the state auditor;

(13) Create and maintain a list of producers and disseminate information among and solicit the opinions of producers with respect to the discharge of the duties of the commission, directly or by arrangement with trade associations or other instrumentalities;

(14) Employ, designate as an agent, act in concert with, and enter into contracts with any person, council, commission, or other entity to promote the general welfare of the beer industry and particularly to assist in the sale and distribution of Washington beer in domestic and foreign commerce. The commission shall expend money necessary or advisable for this purpose and to pay its proportionate share of the cost of any program providing direct or indirect assistance to the sale and distribution of Washington beer in domestic or foreign commerce, employing and paying for vendors of professional services of all kinds;

(15) Sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this chapter;

(16) Serve as liaison with the liquor control board on behalf of the commission and not for any individual producer;

(17) Receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the commission and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

Sec. 14. RCW 15.100.080 and 2010 c 8 s 6115 are each amended to read as follows:

The powers and duties of the commission include:

(1) To elect a chair and such officers as the commission deems advisable. The commission shall adopt rules for its own governance, which provide for the holding of an annual meeting for the election of officers and transaction of other business and for such other meetings as the commission may direct;

(2) To adopt any rules necessary to carry out the purposes of this chapter, in conformance with chapter 34.05 RCW;

(3) To administer and do all things reasonably necessary to carry out the purposes of this chapter;

(4) At the pleasure of the commission, to employ a treasurer who is responsible for all receipts and disbursements by the commission and the faithful discharge of whose duties shall be guaranteed by a bond at the sole expense of the commission;

(5) At the pleasure of the commission, to employ and discharge managers, secretaries, agents, attorneys, and employees and to engage the services of independent contractors as the commission deems necessary, to prescribe their duties, and to fix their compensation;

(6) To engage directly or indirectly in the promotion of Washington forest products and managed forests, and shall in the good faith judgment of the commission be in aid of the marketing, advertising, or sale of forest products, or of research related to such marketing, advertising, or sale of forest products, or of research related to managed forests;

(7) To enforce the provisions of this chapter, including investigating and prosecuting violations of this chapter;

(8) To acquire and transfer personal and real property, establish offices, incur expense, and enter into contracts. Contracts for creation and printing of promotional literature are not subject to chapter ((43-78)) 43.19 RCW, but such contracts may be canceled by the commission unless performed under conditions of employment which substantially conform to the laws of this state and the rules of the department of labor and industries. The commission may create such debt and other liabilities as may be reasonable for proper discharge of its duties under this chapter;

(9) To maintain such account or accounts with one or more qualified public depositaries as the commission may direct, to cause moneys to be deposited therein, and to expend moneys for purposes authorized by this chapter by drafts made by the commission upon such institutions or by other means;

(10) To cause to be kept and annually closed, in accordance with generally accepted accounting principles, accurate records of all receipts, disbursements, and other financial transactions, available for audit by the state auditor;

(11) To create and maintain a list of producers and to disseminate information among and solicit the opinions of producers with respect to the discharge of the duties of the commission, directly or by arrangement with trade associations or other instrumentalities;

(12) To employ, designate as agent, act in concert with, and enter into contracts with any person, council, commission, or other entity for the purpose of promoting the general welfare of the forest products industry and particularly for the purpose of assisting in the sale and distribution of Washington forest products in domestic and foreign commerce, expending moneys as it may deem necessary or advisable for such purpose and for the purpose of paying its proportionate share of the cost of any program providing direct or indirect assistance to the sale and distribution of Washington forest products in domestic or foreign commerce, and employing and paying for vendors of professional services of all kinds;

(13) To sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this chapter;

(14) To propose assessment levels for producers subject to referendum approval under RCW 15.100.110; and

(15) To participate in federal and state agency hearings, meetings, and other proceedings relating to the regulation, production, manufacture, distribution, sale, or use of forest products.

Sec. 15. RCW 15.115.180 and 2009 c 33 s 19 are each amended to read as follows:

(1) The restrictive provisions of chapter ((43-78)) 43.19 RCW do not apply to promotional printing and literature for the commission.

(2) All promotional printing contracts entered into by the commission must be executed and performed under conditions of employment that substantially conform to the laws of this state respecting hours of labor, the minimum wage scale, and the rules and regulations of the department of labor and industries regarding conditions of employment, hours of labor, and minimum wages, and the violation of such a provision of any contract is grounds for cancellation of the contract.

Sec. 16. RCW 17.15.020 and 1997 c 357 s 3 are each amended to read as follows:

Each of the following state agencies or institutions shall implement integrated pest management practices when carrying out the agency's or institution's duties related to pest control:

- (1) The department of agriculture;
- (2) The state noxious weed control board;
- (3) The department of ecology;
- (4) The department of fish and wildlife;
- (5) The department of transportation;
- (6) The parks and recreation commission;
- (7) The department of natural resources;
- (8) The department of corrections;
- (9) The department of (~~general administration~~) enterprise services; and
- (10) Each state institution of higher education, for the institution's own building and grounds maintenance.

Sec. 17. RCW 19.27.097 and 2010 c 271 s 302 are each amended to read as follows:

(1) Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building. Evidence may be in the form of a water right permit from the department of ecology, a letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply. In addition to other authorities, the county or city may impose conditions on building permits requiring connection to an existing public water system where the existing system is willing and able to provide safe and reliable potable water to the applicant with reasonable economy and efficiency. An application for a water right shall not be sufficient proof of an adequate water supply.

(2) Within counties not required or not choosing to plan pursuant to RCW 36.70A.040, the county and the state may mutually determine those areas in the county in which the requirements of subsection (1) of this section shall not apply. The departments of health and ecology shall coordinate on the implementation of this section. Should the county and the state fail to mutually determine those areas to be designated pursuant to this subsection, the county may petition the department of (~~general administration~~) enterprise services to mediate or, if necessary, make the determination.

(3) Buildings that do not need potable water facilities are exempt from the provisions of this section. The department of ecology, after consultation with local governments, may adopt rules to implement this section, which may recognize differences between high-growth and low-growth counties.

Sec. 18. RCW 19.27.150 and 2010 c 271 s 303 are each amended to read as follows:

Every month a copy of the United States department of commerce, bureau of the census' "report of building or zoning permits issued and local public construction" or equivalent report shall be transmitted by the governing bodies of counties and cities to the department of (~~general administration~~) enterprise services.

**Sec. 19. RCW 19.27A.020 and 2010 c 271 s 304 are each amended to read as follows:*

(1) The state building code council shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. Climate zone 1 shall include all counties not included in climate zone 2. Climate zone 2 includes: Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties.

(4) The Washington state energy code for residential buildings shall be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

(5) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 2006 edition, or as amended by the council by rule.

(6)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

(7) The state building code council shall consult with the department of (~~general administration~~) enterprise services as provided in RCW 34.05.310 prior to publication of proposed rules. The director of the department of (~~general administration~~) enterprise services shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(8) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(9) The definitions in RCW 19.27A.140 apply throughout this section.

Sec. 19 was vetoed. See message at end of chapter.

Sec. 20. RCW 19.27A.190 and 2009 c 423 s 8 are each amended to read as follows:

(1) The requirements of this section apply to the department of (~~general administration~~) enterprise services and other qualifying state agencies only to the extent that specific appropriations are provided to those agencies referencing chapter 423, Laws of 2009 or chapter number and this section.

(2) By July 1, 2010, each qualifying public agency shall:

(a) Create an energy benchmark for each reporting public facility using a portfolio manager;

(b) Report to (~~general administration~~) the department of enterprise services, the environmental protection agency national energy performance rating for each reporting public facility included in the technical requirements for this rating; and

(c) Link all portfolio manager accounts to the state portfolio manager master account to facilitate public reporting.

(3) By January 1, 2010, (~~general administration~~) the department of enterprise services shall establish a state portfolio manager master account. The account must be designed to provide shared reporting for all reporting public facilities.

(4) By July 1, 2010, (~~general administration~~) the department of enterprise services shall select a standardized portfolio manager report for reporting public facilities. (~~General administration~~) The department of enterprise services, in collaboration with the United States environmental protection agency, shall make the standard report of each reporting public facility available to the public through the portfolio manager web site.

(5) (~~General administration~~) The department of enterprise services shall prepare a biennial report summarizing the statewide portfolio manager master account reporting data. The first report must be completed by December 1, 2012. Subsequent reporting shall be completed every two years thereafter.

(6) By July 1, 2010, (~~general administration~~) the department of enterprise services shall develop a technical assistance program to facilitate the implementation of a preliminary audit and the investment grade energy audit. (~~General administration~~) The department of enterprise services shall design the technical assistance program to utilize audit services provided by utilities or energy services contracting companies when possible.

(7) For a reporting public facility that is leased by the state with a national energy performance rating score below seventy-five, a qualifying public agency may not enter into a new lease or lease renewal on or after January 1, 2010, unless:

(a) A preliminary audit has been conducted within the last two years; and

(b) The owner or lessor agrees to perform an investment grade audit and implement any cost-effective energy conservation measures within the first two years of the lease agreement if the preliminary audit has identified potential cost-effective energy conservation measures.

(8)(a) Except as provided in (b) of this subsection, for each reporting public facility with a national energy performance rating score below fifty, the qualifying public agency, in consultation with ~~((general administration))~~ the department of enterprise services, shall undertake a preliminary energy audit by July 1, 2011. If potential cost-effective energy savings are identified, an investment grade energy audit must be completed by July 1, 2013. Implementation of cost-effective energy conservation measures are required by July 1, 2016. For a major facility that is leased by a state agency, college, or university, energy audits and implementation of cost-effective energy conservation measures are required only for that portion of the facility that is leased by the state agency, college, or university.

(b) A reporting public facility that is leased by the state is deemed in compliance with (a) of this subsection if the qualifying public agency has already complied with the requirements of subsection (7) of this section.

(9) Schools are strongly encouraged to follow the provisions in subsections (2) through (8) of this section.

(10) The director of the department of ~~((general administration))~~ enterprise services, in consultation with the affected state agencies and the office of financial management, shall review the cost and delivery of agency programs to determine the viability of relocation when a facility leased by the state has a national energy performance rating score below fifty. The department of ~~((general administration))~~ enterprise services shall establish a process to determine viability.

(11) ~~((General administration))~~ The department of enterprise services, in consultation with the office of financial management, shall develop a waiver process for the requirements in subsection (7) of this section. The director of the office of financial management, in consultation with ~~((general administration))~~ the department of enterprise services, may waive the requirements in subsection (7) of this section if the director determines that compliance is not cost-effective or feasible. The director of the office of financial management shall consider the review conducted by the department of ~~((general administration))~~ enterprise services on the viability of relocation as established in subsection (10) of this section, if applicable, prior to waiving the requirements in subsection (7) of this section.

(12) By July 1, 2011, ~~((general administration))~~ the department of enterprise services shall conduct a review of facilities not covered by the national energy performance rating. Based on this review, ~~((general administration))~~ the department of enterprise services shall develop a portfolio of additional facilities that require preliminary energy audits. For these facilities, the qualifying public agency, in consultation with ~~((general administration))~~ the department of enterprise services, shall undertake a preliminary energy audit by July 1, 2012. If potential cost-effective energy savings are identified, an investment grade energy audit must be completed by July 1, 2013.

Sec. 21. RCW 19.34.100 and 1999 c 287 s 5 are each amended to read as follows:

- (1) To obtain or retain a license, a certification authority must:
 - (a) Provide proof of identity to the secretary;
 - (b) Employ only certified operative personnel in appropriate positions;

(c) File with the secretary an appropriate, suitable guaranty, unless the certification authority is a city or county that is self-insured or the department of ((information services)) enterprise services;

(d) Use a trustworthy system;

(e) Maintain an office in this state or have established a registered agent for service of process in this state; and

(f) Comply with all further licensing and practice requirements established by rule by the secretary.

(2) The secretary may by rule create license classifications according to specified limitations, and the secretary may issue licenses restricted according to the limits of each classification.

(3) The secretary may impose license restrictions specific to the practices of an individual certification authority. The secretary shall set forth in writing and maintain as part of the certification authority's license application file the basis for such license restrictions.

(4) The secretary may revoke or suspend a certification authority's license, in accordance with the administrative procedure act, chapter 34.05 RCW, for failure to comply with this chapter or for failure to remain qualified under subsection (1) of this section. The secretary may order the summary suspension of a license pending proceedings for revocation or other action, which must be promptly instituted and determined, if the secretary includes within a written order a finding that the certification authority has either:

(a) Utilized its license in the commission of a violation of a state or federal criminal statute or of chapter 19.86 RCW; or

(b) Engaged in conduct giving rise to a serious risk of loss to public or private parties if the license is not immediately suspended.

(5) The secretary may recognize by rule the licensing or authorization of certification authorities by other governmental entities, in whole or in part, provided that those licensing or authorization requirements are substantially similar to those of this state. If licensing by another government is so recognized:

(a) RCW 19.34.300 through 19.34.350 apply to certificates issued by the certification authorities licensed or authorized by that government in the same manner as it applies to licensed certification authorities of this state; and

(b) The liability limits of RCW 19.34.280 apply to the certification authorities licensed or authorized by that government in the same manner as they apply to licensed certification authorities of this state.

(6) A certification authority that has not obtained a license is not subject to the provisions of this chapter, except as specifically provided.

Sec. 22. RCW 19.285.060 and 2007 c 1 s 6 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a qualifying utility that fails to comply with the energy conservation or renewable energy targets established in RCW 19.285.040 shall pay an administrative penalty to the state of Washington in the amount of fifty dollars for each megawatt-hour of shortfall. Beginning in 2007, this penalty shall be adjusted annually according to the rate of change of the inflation indicator, gross domestic product-implicit price deflator, as published by the bureau of economic analysis of the United States department of commerce or its successor.

(2) A qualifying utility that does not meet an annual renewable energy target established in RCW 19.285.040(2) is exempt from the administrative penalty in subsection (1) of this section for that year if the commission for investor-owned utilities or the auditor for all other qualifying utilities determines that the utility complied with RCW 19.285.040(2) (d) or (i) or 19.285.050(1).

(3) A qualifying utility must notify its retail electric customers in published form within three months of incurring a penalty regarding the size of the penalty and the reason it was incurred.

(4) The commission shall determine if an investor-owned utility may recover the cost of this administrative penalty in electric rates, and may consider providing positive incentives for an investor-owned utility to exceed the targets established in RCW 19.285.040.

(5) Administrative penalties collected under this chapter shall be deposited into the energy independence act special account which is hereby created. All receipts from administrative penalties collected under this chapter must be deposited into the account. Expenditures from the account may be used only for the purchase of renewable energy credits or for energy conservation projects at public facilities, local government facilities, community colleges, or state universities. The state shall own and retire any renewable energy credits purchased using moneys from the account. Only the director of (~~general administration~~) enterprise services 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.

(6) For a qualifying utility that is an investor-owned utility, the commission shall determine compliance with the provisions of this chapter and assess penalties for noncompliance as provided in subsection (1) of this section.

(7) For qualifying utilities that are not investor-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

Sec. 23. RCW 27.34.075 and 1994 c 82 s 2 are each amended to read as follows:

The provisions of chapter (~~43.78~~) 43.19 RCW shall not apply to the printing of educational publications of the state historical societies.

Sec. 24. RCW 27.34.410 and 2007 c 333 s 4 are each amended to read as follows:

(1) The heritage barn preservation fund is created as an account in the state treasury. All receipts from appropriations and private sources must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to provide assistance to owners of heritage barns in Washington state in the stabilization and restoration of their barns so that these historic properties may continue to serve the community.

(2) The department shall minimize the amount of funds that are used for program administration, which shall include consultation with the department of (~~general administration's~~) enterprise services' barrier-free facilities program for input regarding accessibility for people with disabilities where public access to historic barns is permitted.

(3) The primary public benefit of funding through the heritage barn preservation program is the preservation and enhancement of significant historic properties that provide economic benefit to the state's citizens and enrich communities throughout the state.

**Sec. 25. RCW 27.48.040 and 1999 c 343 s 2 are each amended to read as follows:*

(1) Unless the context clearly requires otherwise, the definitions in this section apply throughout this section.

(a) "State capitol group" includes the legislative building, the insurance building, the Cherberg building, the John L. O'Brien building, the Newhouse building, and the temple of justice building.

(b) "Historic furnishings" means furniture, fixtures, and artwork fifty years of age or older.

(2) The capitol furnishings preservation committee is established to promote and encourage the recovery and preservation of the original and historic furnishings of the state capitol group, prevent future loss of historic furnishings, and review and advise future remodeling and restoration projects as they pertain to historic furnishings. The committee's authority does not extend to the placement of any historic furnishings within the state capitol group.

(3) The capitol furnishings preservation committee account is created in the custody of the state treasurer. All receipts designated for the account from appropriations and from other sources must be deposited into the account. Expenditures from the account may be used only to finance the activities of the capitol furnishings preservation committee. Only the director of the Washington state historical society or the director's designee may authorize expenditures from the account when authorized to do so by the committee. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) The committee may:

(a) Authorize the director of the Washington state historical society or the director's designee to expend funds from the capitol furnishings preservation committee account for limited purposes of purchasing and preserving historic furnishings of the state capitol group;

(b) Accept monetary donations, grants, and donations of historic furnishings from, but not limited to, (i) current and former legislators, state officials, and lobbyists; (ii) the families of former legislators, state officials, and lobbyists; and (iii) the general public. Moneys received under this section must be deposited in the capitol furnishings preservation committee account; and

(c) Engage in or encourage fund-raising activities including the solicitation of charitable gifts, grants, or donations specifically for the limited purpose of the recovery of the original and historic furnishings.

(5) The membership of the committee shall include: Two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives; two members of the senate, one from each major caucus, appointed by the president of the senate; the chief clerk of the house of representatives; the secretary of the senate; the governor or the governor's designee; the lieutenant governor or the lieutenant governor's

designee; a representative from the office of the secretary of state, the office of the state treasurer, the office of the state auditor, and the office of the insurance commissioner; a representative from the supreme court; a representative from the Washington state historical society, the department of ((general administration)) enterprise services, and the Thurston county planning council, each appointed by the governor; and three private citizens, appointed by the governor.

(6) Original or historic furnishings from the state capitol group are not surplus property under chapter 43.19 RCW or other authority unless designated as such by the committee.

Sec. 25 was vetoed. See message at end of chapter.

Sec. 26. RCW 28A.150.530 and 2006 c 263 s 326 are each amended to read as follows:

(1) In adopting implementation rules, the superintendent of public instruction, in consultation with the department of ~~((general administration))~~ enterprise services, shall review and modify the current requirement for an energy conservation report review by the department of ~~((general administration as provided in WAC 180-27-075))~~ enterprise services.

(2) In adopting implementation rules, the superintendent of public instruction shall:

(a) Review and modify the current requirements for value engineering, constructibility review, and building commissioning ~~((as provided in WAC 180-27-080))~~;

(b) Review private and public utility providers' capacity and financial/technical assistance programs for affected public school districts to monitor and report utility consumption for purposes of reporting to the superintendent of public instruction as provided in RCW 39.35D.040;

(c) Coordinate with the department of ~~((general administration))~~ enterprise services, the state board of health, the department of ecology, federal agencies, and other affected agencies as appropriate in their consideration of rules to implement this section.

Sec. 27. RCW 28A.335.300 and 1991 c 297 s 18 are each amended to read as follows:

Every school board of directors shall consider the purchase of playground matting manufactured from shredded waste tires in undertaking construction or maintenance of playgrounds. The department of ~~((general administration))~~ enterprise services shall upon request assist in the development of product specifications and vendor identification.

Sec. 28. RCW 28B.10.417 and 2011 1st sp.s. c 47 s 6 are each amended to read as follows:

(1) This section applies only to those persons who are first employed by a higher education institution in a position eligible for participation in an annuity or retirement program under RCW 28B.10.400 prior to July 1, 2011.

(2) A faculty member or other employee exempt from civil service pursuant to RCW 41.06.070 (1)~~((fee))~~ (z) and (2) designated by the board of trustees of the applicable regional university or of The Evergreen State College as being subject to an annuity or retirement income plan and who, at the time of such designation, is a member of the Washington state teachers' retirement system,

shall retain credit for such service in the Washington state teachers' retirement system and, except as provided in subsection (3) of this section, shall leave his or her accumulated contributions in the teachers' retirement fund. Upon his or her attaining eligibility for retirement under the Washington state teachers' retirement system, such faculty member or other employee shall receive from the Washington state teachers' retirement system a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his or her age when becoming eligible for such retirement and a pension for each year of creditable service established and retained at the time of said designation as provided in RCW 41.32.497. Anyone who on July 1, 1967, was receiving pension payments from the teachers' retirement system based on thirty-five years of creditable service shall thereafter receive a pension based on the total years of creditable service established with the retirement system: PROVIDED, HOWEVER, That any such faculty member or other employee exempt from civil service pursuant to RCW 41.06.070 (1)((~~ee~~)) (z) and (2) who, upon attainment of eligibility for retirement under the Washington state teachers' retirement system, is still engaged in public educational employment, shall not be eligible to receive benefits under the Washington state teachers' retirement system until he or she ceases such public educational employment. Any retired faculty member or other employee who enters service in any public educational institution shall cease to receive pension payments while engaged in such service: PROVIDED FURTHER, That such service may be rendered up to seventy-five days in a school year without reduction of pension.

(3) A faculty member or other exempt employee designated by the board of trustees of the applicable regional university or of The Evergreen State College as being subject to the annuity and retirement income plan and who, at the time of such designation, is a member of the Washington state teachers' retirement system may, at his or her election and at any time, on and after midnight June 10, 1959, terminate his or her membership in the Washington state teachers' retirement system and withdraw his or her accumulated contributions and interest in the teachers' retirement fund upon written application to the board of trustees of the Washington state teachers' retirement system. Faculty members or other employees who withdraw their accumulated contributions, on and after the date of withdrawal of contributions, shall no longer be members of the Washington state teachers' retirement system and shall forfeit all rights of membership, including pension benefits, theretofore acquired under the Washington state teachers' retirement system.

Sec. 29. RCW 35.21.779 and 1995 c 399 s 39 are each amended to read as follows:

(1) In cities or towns where the estimated value of state-owned facilities constitutes ten percent or more of the total assessed valuation, the state agency or institution owning the facilities shall contract with the city or town to pay an equitable share for fire protection services. The contract shall be negotiated as provided in subsections (2) through (6) of this section and shall provide for payment by the agency or institution to the city or town.

(2) A city or town seeking to enter into fire protection contract negotiations shall provide written notification to the department of (~~community, trade, and economic development~~) commerce and the state agencies or institutions that

own property within the jurisdiction, of its intent to contract for fire protection services. Where there are multiple state agencies located within a single jurisdiction, a city may choose to notify only the department of (~~community, trade, and economic development~~) commerce, which in turn shall notify the agencies or institution that own property within the jurisdiction of the city's intent to contract for fire protection services. Any such notification shall be based on the valuation procedures, based on commonly accepted standards, adopted by the department of (~~community, trade, and economic development~~) commerce in consultation with the department of (~~general administration~~) enterprise services and the association of Washington cities.

(3) The department of (~~community, trade, and economic development~~) commerce shall review any such notification to ensure that the valuation procedures and results are accurate. The department will notify each affected city or town and state agency or institution of the results of their review within thirty days of receipt of notification.

(4) The parties negotiating fire protection contracts under this section shall conduct those negotiations in good faith. Whenever there are multiple state agencies located within a single jurisdiction, every effort shall be made by the state to consolidate negotiations on behalf of all affected agencies.

(5) In the event of notification by one of the parties that an agreement cannot be reached on the terms and conditions of a fire protection contract, the director of the department of (~~community, trade, and economic development~~) commerce shall mediate a resolution of the disagreement. In the event of a continued impasse, the director of the department of (~~community, trade, and economic development~~) commerce shall recommend a resolution.

(6) If the parties reject the recommendation of the director and an impasse continues, the director shall direct the parties to arbitration. The parties shall agree on a neutral arbitrator, and the fees and expenses of the arbitrator shall be shared equally between the parties. The arbitration shall be a final offer, total arbitration, with the arbitrator empowered only to pick the final offer of one of the parties or the recommended resolution by the director of the department of (~~community, trade, and economic development~~) commerce. The decision of the arbitrator shall be final, binding, and nonappealable on the parties.

(7) The provisions of this section shall not apply if a city or town and a state agency or institution have contracted pursuant to RCW 35.21.775.

(8) The provisions of this section do not apply to cities and towns not meeting the conditions in subsection (1) of this section. Cities and towns not meeting the conditions of subsection (1) of this section may enter into contracts pursuant to RCW 35.21.775.

Sec. 30. RCW 35.68.076 and 1989 c 175 s 84 are each amended to read as follows:

The department of (~~general administration~~) enterprise services shall, pursuant to chapter 34.05 RCW, the Administrative Procedure Act, adopt several suggested model design, construction, or location standards to aid counties, cities, and towns in constructing curb ramps to allow reasonable access to the crosswalk for (~~physically handicapped~~) persons with physical disabilities without uniquely endangering blind persons. The department of (~~general administration~~) enterprise services shall consult with (~~handicapped~~) persons

with physical disabilities, blind persons, counties, cities, and the state building code council in adopting the suggested standards.

Sec. 31. RCW 35A.65.010 and 1967 ex.s. c 119 s 35A.65.010 are each amended to read as follows:

All printing, binding and stationery work done for any code city shall be done within the state and all proposals, requests and invitations to submit bids, prices or contracts thereon and all contracts for such work shall so stipulate subject to the limitations contained in RCW (~~(43.78.130)~~) 43.19.748 and 35.23.352.

Sec. 32. RCW 36.28A.070 and 2003 c 102 s 3 are each amended to read as follows:

(1) The Washington association of sheriffs and police chiefs in consultation with the Washington state emergency management office, the Washington association of county officials, the Washington association of cities, the (~~information services board~~) office of the chief information officer, the Washington state fire chiefs' association, and the Washington state patrol shall convene a committee to establish guidelines related to the statewide first responder building mapping information system. The committee shall have the following responsibilities:

(a) Develop the type of information to be included in the statewide first responder building mapping information system. The information shall include, but is not limited to: Floor plans, fire protection information, evacuation plans, utility information, known hazards, and text and digital images showing emergency personnel contact information;

(b) Develop building mapping software standards that must be utilized by all entities participating in the statewide first responder building mapping information system;

(c) Determine the order in which buildings shall be mapped when funding is received;

(d) Develop guidelines on how the information shall be made available. These guidelines shall include detailed procedures and security systems to ensure that the information is only made available to the government entity that either owns the building or is responding to an incident at the building;

(e) Recommend training guidelines regarding using the statewide first responder building mapping information system to the criminal justice training commission and the Washington state patrol fire protection bureau.

(2)(a) Nothing in this section supersedes the authority of the (~~information services board~~) office of the chief information officer under chapter (~~(43.105)~~) 43.41A RCW.

(b) Nothing in this section supersedes the authority of state agencies and local governments to control and maintain access to information within their independent systems.

Sec. 33. RCW 39.04.155 and 2009 c 74 s 1 are each amended to read as follows:

(1) This section provides uniform small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property that may be used by state agencies and by any local government that is expressly authorized to use these provisions. These

provisions may be used in lieu of other procedures to award contracts for such work with an estimated cost of three hundred thousand dollars or less. The small works roster process includes the limited public works process authorized under subsection (3) of this section and any local government authorized to award contracts using the small works roster process under this section may award contracts using the limited public works process under subsection (3) of this section.

(2)(a) A state agency or authorized local government may create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work. Where applicable, small works rosters may make distinctions between contractors based upon different geographic areas served by the contractor. The small works roster or rosters shall consist of all responsible contractors who have requested to be on the list, and where required by law are properly licensed or registered to perform such work in this state. A state agency or local government establishing a small works roster or rosters may require eligible contractors desiring to be placed on a roster or rosters to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the state agency or local government as a condition of being placed on a roster or rosters. At least once a year, the state agency or local government shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. In addition, responsible contractors shall be added to an appropriate roster or rosters at any time they submit a written request and necessary records. Master contracts may be required to be signed that become effective when a specific award is made using a small works roster.

(b) A state agency establishing a small works roster or rosters shall adopt rules implementing this subsection. A local government establishing a small works roster or rosters shall adopt an ordinance or resolution implementing this subsection. Procedures included in rules adopted by the department of (~~general administration~~) enterprise services in implementing this subsection must be included in any rules providing for a small works roster or rosters that is adopted by another state agency, if the authority for that state agency to engage in these activities has been delegated to it by the department of (~~general administration~~) enterprise services under chapter 43.19 RCW. An interlocal contract or agreement between two or more state agencies or local governments establishing a small works roster or rosters to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the provisions of this subsection.

(c) Procedures shall be established for securing telephone, written, or electronic quotations from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 39.04.010. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative,

quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. However, if the estimated cost of the work is from one hundred fifty thousand dollars to three hundred thousand dollars, a state agency or local government that chooses to solicit bids from less than all the appropriate contractors on the appropriate small works roster must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The government has the sole option of determining whether this notice to the remaining contractors is made by: (i) Publishing notice in a legal newspaper in general circulation in the area where the work is to be done; (ii) mailing a notice to these contractors; or (iii) sending a notice to these contractors by facsimile or other electronic means. For purposes of this subsection (2)(c), "equitably distribute" means that a state agency or local government soliciting bids may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

(d) A contract awarded from a small works roster under this section need not be advertised.

(e) Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

(3) In lieu of awarding contracts under subsection (2) of this section, a state agency or authorized local government may award a contract for work, construction, alteration, repair, or improvement projects estimated to cost less than thirty-five thousand dollars using the limited public works process provided under this subsection. Public works projects awarded under this subsection are exempt from the other requirements of the small works roster process provided under subsection (2) of this section and are exempt from the requirement that contracts be awarded after advertisement as provided under RCW 39.04.010.

For limited public works projects, a state agency or authorized local government shall solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.010. After an award is made, the quotations shall be open to public inspection and available by electronic request. A state agency or authorized local government shall attempt to distribute opportunities for limited public works projects equitably among contractors willing to perform in the geographic area of the work. A state agency or authorized local government shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded. For limited public works projects, a state agency or authorized local government may waive the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialpersons, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project, however the state agency or authorized local government shall have the right of

recovery against the contractor for any payments made on the contractor's behalf.

(4) The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process or limited public works process.

(5)(a) A state agency or authorized local government may use the limited public works process of subsection (3) of this section to solicit and award small works roster contracts to small businesses that are registered contractors with gross revenues under one million dollars annually as reported on their federal tax return.

(b) A state agency or authorized local government may adopt additional procedures to encourage small businesses that are registered contractors with gross revenues under two hundred fifty thousand dollars annually as reported on their federal tax returns to submit quotations or bids on small works roster contracts.

(6) As used in this section, "state agency" means the department of (~~general administration~~) enterprise services, the state parks and recreation commission, the department of natural resources, the department of fish and wildlife, the department of transportation, any institution of higher education as defined under RCW 28B.10.016, and any other state agency delegated authority by the department of (~~general administration~~) enterprise services to engage in construction, building, renovation, remodeling, alteration, improvement, or repair activities.

Sec. 34. RCW 39.04.220 and 1996 c 18 s 5 are each amended to read as follows:

(1) In addition to currently authorized methods of public works contracting, and in lieu of the requirements of RCW 39.04.010 and 39.04.020 through 39.04.060, capital projects funded for over ten million dollars authorized by the legislature for the department of corrections to construct or repair facilities may be accomplished under contract using the general contractor/construction manager method described in this section. In addition, the general contractor/construction manager method may be used for up to two demonstration projects under ten million dollars for the department of corrections. Each demonstration project shall aggregate capital projects authorized by the legislature at a single site to total no less than three million dollars with the approval of the office of financial management. The department of (~~general administration~~) enterprise services shall present its plan for the aggregation of projects under each demonstration project to the oversight advisory committee established under subsection (2) of this section prior to soliciting proposals for general contractor/construction manager services for the demonstration project.

(2) For the purposes of this section, "general contractor/construction manager" means a firm with which the department of (~~general administration~~) enterprise services has selected and negotiated a maximum allowable construction cost to be guaranteed by the firm, after competitive selection through a formal advertisement, and competitive bids to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative

construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase. The department of (~~general administration~~) enterprise services shall establish an independent oversight advisory committee with representatives of interest groups with an interest in this subject area, the department of corrections, and the private sector, to review selection and contracting procedures and contracting documents. The oversight advisory committee shall discuss and review the progress of the demonstration projects. The general contractor/construction manager method is limited to projects authorized on or before July 1, 1997.

(3) Contracts for the services of a general contractor/construction manager awarded under the authority of this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. Minority and women enterprise total project goals shall be specified in the bid instructions to the general contractor/construction manager finalists. The director of (~~general administration~~) enterprise services is authorized to include an incentive clause in any contract awarded under this section for savings of either time or cost or both from that originally negotiated. No incentives granted shall exceed five percent of the maximum allowable construction cost. The director of (~~general administration~~) enterprise services or his or her designee shall establish a committee to evaluate the proposals considering such factors as: Ability of professional personnel; past performance in negotiated and complex projects; ability to meet time and budget requirements; location; recent, current, and projected workloads of the firm; and the concept of their proposal. After the committee has selected the most qualified finalists, these finalists shall submit sealed bids for the percent fee, which is the percentage amount to be earned by the general contractor/construction manager as overhead and profit, on the estimated maximum allowable construction cost and the fixed amount for the detailed specified general conditions work. The maximum allowable construction cost may be negotiated between the department of (~~general administration~~) enterprise services and the selected firm after the scope of the project is adequately determined to establish a guaranteed contract cost for which the general contractor/construction manager will provide a performance and payment bond. The guaranteed contract cost includes the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, the percent fee on the negotiated maximum allowable construction cost, and sales tax. If the department of (~~general administration~~) enterprise services is unable to negotiate a satisfactory maximum allowable construction cost with the firm selected that the department of (~~general administration~~) enterprise services determines to be fair, reasonable, and within the available funds, negotiations with that firm shall be formally terminated and the department of (~~general administration~~) enterprise services shall negotiate with the next low bidder and continue until an agreement is reached or the process is terminated. If the maximum allowable construction cost varies more than fifteen percent from the bid estimated maximum allowable construction cost due to requested and approved changes in the scope by the state, the percent fee shall be renegotiated. All subcontract work shall be competitively bid with public bid openings. Specific contract requirements for women and minority enterprise participation shall be specified in each

subcontract bid package that exceeds ten percent of the department's estimated project cost. All subcontractors who bid work over two hundred thousand dollars shall post a bid bond and the awarded subcontractor shall provide a performance and payment bond for their contract amount if required by the general contractor/construction manager. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. Bidding on subcontract work by the general contractor/construction manager or its subsidiaries is prohibited. The general contractor/construction manager may negotiate with the low-responsive bidder only in accordance with RCW 39.04.015 or, if unsuccessful in such negotiations, rebid.

(4) If the project is completed for less than the agreed upon maximum allowable construction cost, any savings not otherwise negotiated as part of an incentive clause shall accrue to the state. If the project is completed for more than the agreed upon maximum allowable construction cost, excepting increases due to any contract change orders approved by the state, the additional cost shall be the responsibility of the general contractor/construction manager.

(5) The powers and authority conferred by this section shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained in this section may be construed as limiting any other powers or authority of the department of (~~general administration~~) enterprise services. However, all actions taken pursuant to the powers and authority granted to the director or the department of (~~general administration~~) enterprise services under this section may only be taken with the concurrence of the department of corrections.

Sec. 35. RCW 39.04.290 and 2001 c 34 s 1 are each amended to read as follows:

(1) A state agency or local government may award contracts of any value for the design, fabrication, and installation of building engineering systems by:

(a) Using a competitive bidding process or request for proposals process where bidders are required to provide final specifications and a bid price for the design, fabrication, and installation of building engineering systems, with the final specifications being approved by an appropriate design, engineering, and/or public regulatory body; or

(b) using a competitive bidding process where bidders are required to provide final specifications for the final design, fabrication, and installation of building engineering systems as part of a larger project with the final specifications for the building engineering systems portion of the project being approved by an appropriate design, engineering, and/or public regulatory body. The provisions of chapter 39.80 RCW do not apply to the design of building engineering systems that are included as part of a contract described under this section.

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

(a) "Building engineering systems" means those systems where contracts for the systems customarily have been awarded with a requirement that the contractor provide final approved specifications, including fire alarm systems, building sprinkler systems, pneumatic tube systems, extensions of heating, ventilation, or air conditioning control systems, chlorination and chemical feed

systems, emergency generator systems, building signage systems, pile foundations, and curtain wall systems.

(b) "Local government" means any county, city, town, school district, or other special district, municipal corporation, or quasi-municipal corporation.

(c) "State agency" means the department of (~~general administration~~) enterprise services, the state parks and recreation commission, the department of fish and wildlife, the department of natural resources, any institution of higher education as defined under RCW 28B.10.016, and any other state agency delegated authority by the department of (~~general administration~~) enterprise services to engage in building, renovation, remodeling, alteration, improvement, or repair activities.

Sec. 36. RCW 39.04.320 and 2009 c 197 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) through (d) of this subsection, from January 1, 2005, and thereafter, for all public works estimated to cost one million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(b)(i) This section does not apply to contracts advertised for bid before July 1, 2007, for any public works by the department of transportation.

(ii) For contracts advertised for bid on or after July 1, 2007, and before July 1, 2008, for all public works by the department of transportation estimated to cost five million dollars or more, all specifications shall require that no less than ten percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after July 1, 2008, and before July 1, 2009, for all public works by the department of transportation estimated to cost three million dollars or more, all specifications shall require that no less than twelve percent of the labor hours be performed by apprentices.

(iv) For contracts advertised for bid on or after July 1, 2009, for all public works by the department of transportation estimated to cost two million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(c)(i) This section does not apply to contracts advertised for bid before January 1, 2008, for any public works by a school district, or to any project funded in whole or in part by bond issues approved before July 1, 2007.

(ii) For contracts advertised for bid on or after January 1, 2008, for all public works by a school district estimated to cost three million dollars or more, all specifications shall require that no less than ten percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after January 1, 2009, for all public works by a school district estimated to cost two million dollars or more, all specifications shall require that no less than twelve percent of the labor hours be performed by apprentices.

(iv) For contracts advertised for bid on or after January 1, 2010, for all public works by a school district estimated to cost one million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(d)(i) For contracts advertised for bid on or after January 1, 2010, for all public works by a four-year institution of higher education estimated to cost

three million dollars or more, all specifications must require that no less than ten percent of the labor hours be performed by apprentices.

(ii) For contracts advertised for bid on or after January 1, 2011, for all public works by a four-year institution of higher education estimated to cost two million dollars or more, all specifications must require that no less than twelve percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after January 1, 2012, for all public works by a four-year institution of higher education estimated to cost one million dollars or more, all specifications must require that no less than fifteen percent of the labor hours be performed by apprentices.

(2) Awarding entities may adjust the requirements of this section for a specific project for the following reasons:

(a) The demonstrated lack of availability of apprentices in specific geographic areas;

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation;

(c) Participating contractors have demonstrated a good faith effort to comply with the requirements of RCW 39.04.300 and 39.04.310 and this section; or

(d) Other criteria the awarding entity deems appropriate, which are subject to review by the office of the governor.

(3) The secretary of the department of transportation shall adjust the requirements of this section for a specific project for the following reasons:

(a) The demonstrated lack of availability of apprentices in specific geographic areas; or

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation.

(4) This section applies to public works contracts awarded by the state, to public works contracts awarded by school districts, and to public works contracts awarded by state four-year institutions of higher education. However, this section does not apply to contracts awarded by state agencies headed by a separately elected public official.

(5)(a) The department of (~~general administration~~) enterprise services must provide information and technical assistance to affected agencies and collect the following data from affected agencies for each project covered by this section:

(i) The name of each apprentice and apprentice registration number;

(ii) The name of each project;

(iii) The dollar value of each project;

(iv) The date of the contractor's notice to proceed;

(v) The number of apprentices and labor hours worked by them, categorized by trade or craft;

(vi) The number of journey level workers and labor hours worked by them, categorized by trade or craft; and

(vii) The number, type, and rationale for the exceptions granted under subsection (2) of this section.

(b) The department of labor and industries shall assist the department of (~~general administration~~) enterprise services in providing information and technical assistance.

(6) The secretary of transportation shall establish an apprenticeship utilization advisory committee, which shall include statewide geographic representation and consist of equal numbers of representatives of contractors and labor. The committee must include at least one member representing contractor businesses with less than thirty-five employees. The advisory committee shall meet regularly with the secretary of transportation to discuss implementation of this section by the department of transportation, including development of the process to be used to adjust the requirements of this section for a specific project. The committee shall provide a report to the legislature by January 1, 2008, on the effects of the apprentice labor requirement on transportation projects and on the availability of apprentice labor and programs statewide.

(7) At the request of the senate labor, commerce, research and development committee, the house of representatives commerce and labor committee, or their successor committees, and the governor, the department of (~~general administration~~) enterprise services and the department of labor and industries shall compile and summarize the agency data and provide a joint report to both committees. The report shall include recommendations on modifications or improvements to the apprentice utilization program and information on skill shortages in each trade or craft.

Sec. 37. RCW 39.04.330 and 2005 c 12 s 11 are each amended to read as follows:

For purposes of determining compliance with chapter 39.35D RCW, the department of (~~general administration~~) enterprise services shall credit the project for using wood products with a credible third party sustainable forest certification or from forests regulated under chapter 76.09 RCW, the Washington forest practices act.

Sec. 38. RCW 39.04.370 and 2010 c 276 s 1 are each amended 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~~) enterprise services 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. 39. RCW 39.04.380 and 2011 c 345 s 1 are each amended to read as follows:

(1) The department of (~~general administration~~) enterprise services must conduct a survey and compile the results into a list of which states provide a bidding preference on public works contracts for their resident contractors. The list must include details on the type of preference, the amount of the preference, and how the preference is applied. The list must be updated periodically as needed. The initial survey must be completed by November 1, 2011, and by December 1, 2011, the department must submit a report to the appropriate committees of the legislature on the results of the survey. The report must include the list and recommendations necessary to implement the intent of this section and section 2, chapter 345, Laws of 2011.

(2) The department of (~~general administration~~) enterprise services must distribute the report, along with the requirements of this section and section 2, chapter 345, Laws of 2011, to all state and local agencies with the authority to procure public works. The department may adopt rules and procedures to implement the reciprocity requirements in subsection (3) of this section. However, subsection (3) (~~of this section~~) of this section does not take effect until the department of (~~general administration~~) enterprise services has adopted the rules and procedures for reciprocity under this subsection (~~((2) of this section~~ this subsection)) or announced that it will not be issuing rules or procedures pursuant to this section.

(3) In any bidding process for public works in which a bid is received from a nonresident contractor from a state that provides a percentage bidding

preference, a comparable percentage disadvantage must be applied to the bid of that nonresident contractor. This subsection does not apply until the department of (~~general administration~~) enterprise services has adopted the rules and procedures for reciprocity under subsection (2) of this section, or has determined and announced that rules are not necessary for implementation.

(4) A nonresident contractor from a state that provides a percentage bid preference means a contractor that:

(a) Is from a state that provides a percentage bid preference to its resident contractors bidding on public works contracts; and

(b) At the time of bidding on a public works project, does not have a physical office located in Washington.

(5) The state of residence for a nonresident contractor is the state in which the contractor was incorporated or, if not a corporation, the state where the contractor's business entity was formed.

(6) This section does not apply to public works procured pursuant to RCW 39.04.155, 39.04.280, or any other procurement exempt from competitive bidding.

Sec. 40. RCW 39.24.050 and 1982 c 61 s 3 are each amended to read as follows:

A governmental unit shall, to the maximum extent economically feasible, purchase paper products which meet the specifications established by the department of (~~general administration~~) enterprise services under RCW (~~43.19.538~~) 39.26.255.

Sec. 41. RCW 39.30.050 and 1982 c 61 s 4 are each amended to read as follows:

Any contract by a governmental unit shall require the use of paper products to the maximum extent economically feasible that meet the specifications established by the department of (~~general administration~~) enterprise services under RCW (~~43.19.538~~) 39.26.255.

Sec. 42. RCW 39.32.020 and 1995 c 137 s 3 are each amended to read as follows:

The director of (~~general administration~~) enterprise services is hereby authorized to purchase, lease or otherwise acquire from federal, state, or local government or any surplus property disposal agency thereof surplus property to be used in accordance with the provisions of this chapter.

Sec. 43. RCW 39.32.040 and 1998 c 105 s 4 are each amended to read as follows:

In purchasing federal surplus property on requisition for any eligible donee the director may advance the purchase price thereof from the (~~general administration~~) enterprise services account, and he or she shall then in due course bill the proper eligible donee for the amount paid by him or her for the property plus a reasonable amount to cover the expense incurred by him or her in connection with the transaction. In purchasing surplus property without requisition, the director shall be deemed to take title outright and he or she shall then be authorized to resell from time to time any or all of such property to such eligible donees as desire to avail themselves of the privilege of purchasing. All moneys received in payment for surplus property from eligible donees shall be deposited by the director in the (~~general administration~~) enterprise services

account. The director shall sell federal surplus property to eligible donees at a price sufficient only to reimburse the ~~((general administration))~~ enterprise services account for the cost of the property to the account, plus a reasonable amount to cover expenses incurred in connection with the transaction. Where surplus property is transferred to an eligible donee without cost to the transferee, the director may impose a reasonable charge to cover expenses incurred in connection with the transaction. The governor, through the director of ~~((general administration))~~ enterprise services, shall administer the surplus property program in the state and shall perform or supervise all those functions with respect to the program, its agencies and instrumentalities.

Sec. 44. RCW 39.32.060 and 1977 ex.s. c 135 s 5 are each amended to read as follows:

The director of ~~((general administration))~~ enterprise services shall have power to promulgate such rules and regulations as may be necessary to effectuate the purposes of RCW 39.32.010 through 39.32.060 and to carry out the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

Sec. 45. RCW 39.35.060 and 2001 c 292 s 1 are each amended to read as follows:

The department may impose fees upon affected public agencies for the review of life-cycle cost analyses. The fees shall be deposited in the ~~((general administration))~~ enterprise services account. The purpose of the fees is to recover the costs by the department for review of the analyses. The department shall set fees at a level necessary to recover all of its costs related to increasing the energy efficiency of state-supported new construction. The fees shall not exceed one-tenth of one percent of the total cost of any project or exceed two thousand dollars for any project unless mutually agreed to. The department shall provide detailed calculation ensuring that the energy savings resulting from its review of life-cycle cost analysis justify the costs of performing that review.

Sec. 46. RCW 39.35A.050 and 2001 c 214 s 19 are each amended to read as follows:

The state department of ~~((general administration))~~ enterprise services shall maintain a registry of energy service contractors and provide assistance to municipalities in identifying available performance-based contracting services.

Sec. 47. RCW 39.35B.040 and 1986 c 127 s 4 are each amended to read as follows:

The principal executives of all state agencies are responsible for implementing the policy set forth in this chapter. The office of financial management in conjunction with the department of ~~((general administration))~~ enterprise services may establish guidelines for compliance by the state government and its agencies, and state universities and community colleges. The office of financial management shall include within its biennial capital budget instructions:

(1) A discount rate for the use of all agencies in calculating the present value of future costs, and several examples of resultant trade-offs between annual operating costs eliminated and additional capital costs thereby justified; and

(2) Types of projects and building components that are particularly appropriate for life-cycle cost analysis.

**Sec. 48. RCW 39.35C.050 and 1996 c 186 s 409 are each amended to read as follows:*

In addition to any other authorities conferred by law:

(1) The department, with the consent of the state agency or school district responsible for a facility, a state or regional university acting independently, and any other state agency acting through the department of ((general administration)) enterprise services or as otherwise authorized by law, may:

(a) Develop and finance conservation at public facilities in accordance with express provisions of this chapter;

(b) Contract for energy services, including performance-based contracts;

(c) Contract to sell energy savings from a conservation project at public facilities to local utilities or the Bonneville power administration.

(2) A state or regional university acting independently, and any other state agency acting through the department of ((general administration)) enterprise services or as otherwise authorized by law, may undertake procurements for third-party development of conservation at its facilities.

(3) A school district may:

(a) Develop and finance conservation at school district facilities;

(b) Contract for energy services, including performance-based contracts at school district facilities; and

(c) Contract to sell energy savings from energy conservation projects at school district facilities to local utilities or the Bonneville power administration directly or to local utilities or the Bonneville power administration through third parties.

(4) In exercising the authority granted by subsections (1), (2), and (3) of this section, a school district or state agency must comply with the provisions of RCW 39.35C.040.

Sec. 48 was vetoed. See message at end of chapter.

**Sec. 49. RCW 39.35C.090 and 1996 c 186 s 413 are each amended to read as follows:*

In addition to any other authorities conferred by law:

(1) The department, with the consent of the state agency responsible for a facility, a state or regional university acting independently, and any other state agency acting through the department of ((general administration)) enterprise services or as otherwise authorized by law, may:

(a) Contract to sell electric energy generated at state facilities to a utility; and

(b) Contract to sell thermal energy produced at state facilities to a utility.

(2) A state or regional university acting independently, and any other state agency acting through the department of ((general administration)) enterprise services or as otherwise authorized by law, may:

(a) Acquire, install, permit, construct, own, operate, and maintain cogeneration and facility heating and cooling measures or equipment, or both, at its facilities;

(b) Lease state property for the installation and operation of cogeneration and facility heating and cooling equipment at its facilities;

(c) Contract to purchase all or part of the electric or thermal output of cogeneration plants at its facilities;

(d) Contract to purchase or otherwise acquire fuel or other energy sources needed to operate cogeneration plants at its facilities; and

(e) Undertake procurements for third-party development of cogeneration projects at its facilities, with successful bidders to be selected based on the responsible bid, including nonprice elements listed in RCW ((43.19.1911)) 39.26.160, that offers the greatest net achievable benefits to the state and its agencies.

(3) After July 28, 1991, a state agency shall consult with the department prior to exercising any authority granted by this section.

(4) In exercising the authority granted by subsections (1) and (2) of this section, a state agency must comply with the provisions of RCW 39.35C.080.

Sec. 49 was vetoed. See message at end of chapter.

Sec. 50. RCW 39.59.010 and 2002 c 332 s 22 are each amended to read as follows:

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

(1) "Bond" means any agreement which may or may not be represented by a physical instrument, including but not limited to bonds, notes, warrants, or certificates of indebtedness, that evidences an obligation under which the issuer agrees to pay a specified amount of money, with or without interest, at a designated time or times either to registered owners or bearers.

(2) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including any public corporation, authority, or other instrumentality created by such an entity.

(3) "Money market fund" means a mutual fund the portfolio which consists of only bonds having maturities or demand or tender provisions of not more than one year, managed by an investment advisor who has posted with the office of risk management (~~(division of the office of financial management)~~) in the department of enterprise services a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to RCW 39.59.030 (2) or (3).

(4) "Mutual fund" means a diversified mutual fund registered with the federal securities and exchange commission and which is managed by an investment advisor with assets under management of at least five hundred million dollars and with at least five years' experience in investing in bonds authorized for investment by this chapter and who has posted with the office of risk management (~~(division of the office of financial management)~~) in the department of enterprise services a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to RCW 39.59.030(1).

(5) "State" includes a state, agencies, authorities, and instrumentalities of a state, and public corporations created by a state or agencies, authorities, or instrumentalities of a state.

Sec. 51. RCW 41.04.017 and 2007 c 487 s 1 are each amended to read as follows:

A one hundred fifty thousand dollar death benefit shall be paid as a sundry claim to the estate of an employee of any state agency, the common school

system of the state, or institution of higher education who dies as a result of (1) injuries sustained in the course of employment; or (2) an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter, and is not otherwise provided a death benefit through coverage under their enrolled retirement system under chapter 402, Laws of 2003. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the director of the department of (~~general administration~~) enterprise services by order under RCW 51.52.050.

Sec. 52. RCW 41.04.220 and 1983 c 3 s 88 are each amended to read as follows:

Any governmental entity other than state agencies, may use the services of the department of (~~general administration~~) enterprise services upon the approval of the director, in procuring health benefit programs as provided by RCW 41.04.180, 28A.400.350 and 28B.10.660: PROVIDED, That the department of (~~general administration~~) enterprise services may charge for the administrative cost incurred in the procuring of such services.

Sec. 53. RCW 41.04.375 and 1993 c 194 s 2 are each amended to read as follows:

An agency may identify space they wish to use for child care facilities or they may request assistance from the department of (~~general administration~~) enterprise services in identifying the availability of suitable space in state-owned or state-leased buildings for use as child care centers for the children of state employees.

When suitable space is identified in state-owned or state-leased buildings, the department of (~~general administration~~) enterprise services shall establish a rental rate for organizations to pay for the space used by persons who are not state employees.

Sec. 54. RCW 41.06.094 and 1987 c 504 s 7 are each amended to read as follows:

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in the (~~department of information services~~) consolidated technology services agency to up to twelve positions in the planning component involved in policy development and/or senior professionals.

Sec. 55. RCW 42.17A.110 and 2011 1st sp.s. c 43 s 448 and 2011 c 60 s 20 are each reenacted to read as follows:

The commission may:

(1) Adopt, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint an executive director and set, within the limits established by the office of financial management under RCW 43.03.028, the executive director's compensation. The executive director shall perform such duties and have such powers as the commission may prescribe and delegate to implement

and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor may it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish 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) Conduct, as it deems appropriate, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence, and require the production of any records relevant to any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt a code of fair campaign practices;

(8) Adopt rules relieving candidates or political committees of obligations to comply with the election campaign provisions of this chapter, if they have not received contributions nor made expenditures in connection with any election campaign of more than five thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of, and reporting on a quarterly basis, costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. For the purposes of this subsection, "legislative information" 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 concerning those agencies; and

(10) 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. 56. RCW 43.01.090 and 2005 c 330 s 5 are each amended to read as follows:

The director of (~~(general administration)~~) enterprise services may assess a charge or rent against each state board, commission, agency, office, department, activity, or other occupant or user for payment of a proportionate share of costs for occupancy of buildings, structures, or facilities including but not limited to all costs of acquiring, constructing, operating, and maintaining such buildings, structures, or facilities and the repair, remodeling, or furnishing thereof and for the rendering of any service or the furnishing or providing of any supplies, equipment, historic furnishings, or materials.

The director of (~~(general administration)~~) enterprise services may recover the full costs including appropriate overhead charges of the foregoing by periodic billings as determined by the director including but not limited to transfers upon accounts and advancements into the (~~(general administration)~~)

enterprise services account. Charges related to the rendering of real estate services under RCW 43.82.010 and to the operation and maintenance of public and historic facilities at the state capitol, as defined in RCW 79.24.710, shall be allocated separately from other charges assessed under this section. Rates shall be established by the director of (~~(general administration)~~) enterprise services after consultation with the director of financial management. The director of (~~(general administration)~~) enterprise services may allot, provide, or furnish any of such facilities, structures, services, equipment, supplies, or materials to any other public service type occupant or user at such rates or charges as are equitable and reasonably reflect the actual costs of the services provided: PROVIDED, HOWEVER, That the legislature, its duly constituted committees, interim committees and other committees shall be exempted from the provisions of this section.

Upon receipt of such bill, each entity, occupant, or user shall cause a warrant or check in the amount thereof to be drawn in favor of the department of (~~(general administration)~~) enterprise services which shall be deposited in the state treasury to the credit of the (~~(general administration)~~) enterprise services account unless the director of financial management has authorized another method for payment of costs.

Beginning July 1, 1995, the director of (~~(general administration)~~) enterprise services shall assess a capital projects surcharge upon each agency or other user occupying a facility owned and managed by the department of (~~(general administration)~~) enterprise services in Thurston county, excluding state capitol public and historic facilities, as defined in RCW 79.24.710. The capital projects surcharge does not apply to agencies or users that agree to pay all future repairs, improvements, and renovations to the buildings they occupy and a proportional share, as determined by the office of financial management, of all other campus repairs, installations, improvements, and renovations that provide a benefit to the buildings they occupy or that have an agreement with the department of (~~(general administration)~~) enterprise services that contains a charge for a similar purpose, including but not limited to RCW 43.01.091, in an amount greater than the capital projects surcharge. Beginning July 1, 2002, the capital projects surcharge does not apply to department of services for the blind vendors who operate cafeteria services in facilities owned and managed by the department of (~~(general administration)~~) enterprise services; the department shall consider this space to be a common area for purposes of allocating the capital projects surcharge to other building tenants beginning July 1, 2003. The director, after consultation with the director of financial management, shall adopt differential capital project surcharge rates to reflect the differences in facility type and quality. The initial payment structure for this surcharge shall be one dollar per square foot per year. The surcharge shall increase over time to an amount that when combined with the facilities and service charge equals the market rate for similar types of lease space in the area or equals five dollars per square foot per year, whichever is less. The capital projects surcharge shall be in addition to other charges assessed under this section. Proceeds from the capital projects surcharge shall be deposited into the Thurston county capital facilities account created in RCW 43.19.501.

Sec. 57. RCW 43.01.091 and 1994 c 219 s 19 are each amended to read as follows:

It is hereby declared to be the policy of the state of Washington that each agency or other occupant of newly constructed or substantially renovated facilities owned and operated by the department of (~~general administration~~) enterprise services in Thurston county shall proportionally share the debt service costs associated with the original construction or substantial renovation of the facility. Beginning July 1, 1995, each state agency or other occupant of a facility constructed or substantially renovated after July 1, 1992, and owned and operated by the department of (~~general administration~~) enterprise services in Thurston county, shall be assessed a charge to pay the principal and interest payments on any bonds or other financial contract issued to finance the construction or renovation or an equivalent charge for similar projects financed by cash sources. In recognition that full payment of debt service costs may be higher than market rates for similar types of facilities or higher than existing agreements for similar charges entered into prior to June 9, 1994, the initial charge may be less than the full cost of principal and interest payments. The charge shall be assessed to all occupants of the facility on a proportional basis based on the amount of occupied space or any unique construction requirements. The office of financial management, in consultation with the department of (~~general administration~~) enterprise services, shall develop procedures to implement this section and report to the legislative fiscal committees, by October 1994, their recommendations for implementing this section. The office of financial management shall separately identify in the budget document all payments and the documentation for determining the payments required by this section for each agency and fund source during the current and the two past and future fiscal biennia. The charge authorized in this section is subject to annual audit by the state auditor.

Sec. 58. RCW 43.01.240 and 1998 c 245 s 46 are each amended to read as follows:

(1) There is hereby established an account in the state treasury to be known as the state agency parking account. All parking income collected from the fees imposed by state agencies on parking spaces at state-owned or leased facilities, including the capitol campus, shall be deposited in the state agency parking account. Only the office of financial management may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. No agency may receive an allotment greater than the amount of revenue deposited into the state agency parking account.

(2) An agency may, as an element of the agency's commute trip reduction program to achieve the goals set forth in RCW 70.94.527, impose parking rental fees at state-owned and leased properties. These fees will be deposited in the state agency parking account. Each agency shall establish a committee to advise the agency director on parking rental fees, taking into account the market rate of comparable, privately owned rental parking in each region. The agency shall solicit representation of the employee population including, but not limited to, management, administrative staff, production workers, and state employee bargaining units. Funds shall be used by agencies to: (a) Support the agencies' commute trip reduction program under RCW 70.94.521 through 70.94.551; (b) support the agencies' parking program; or (c) support the lease or ownership costs for the agencies' parking facilities.

(3) In order to reduce the state's subsidization of employee parking, after July 1997 agencies shall not enter into leases for employee parking in excess of building code requirements, except as authorized by the director of (~~general administration~~) enterprise services. In situations where there are fewer parking spaces than employees at a worksite, parking must be allocated equitably, with no special preference given to managers.

Sec. 59. RCW 43.01.250 and 2007 c 348 s 206 are each amended to read as follows:

(1) It is in the state's interest and to the benefit of the people of the state to encourage the use of electrical vehicles in order to reduce emissions and provide the public with cleaner air. This section expressly authorizes the purchase of power at state expense to recharge privately and publicly owned plug-in electrical vehicles at state office locations where the vehicles are used for state business, are commute vehicles, or where the vehicles are at the state location for the purpose of conducting business with the state.

(2) The director of the department of (~~general administration~~) enterprise services may report to the governor and the appropriate committees of the legislature, as deemed necessary by the director, on the estimated amount of state-purchased electricity consumed by plug-in electrical vehicles if the director of (~~general administration~~) enterprise services determines that the use has a significant cost to the state, and on the number of plug-in electric vehicles using state office locations. The report may be combined with the report under section 401, chapter 348, Laws of 2007.

Sec. 60. RCW 43.01.900 and 2010 1st sp.s. c 7 s 140 are each amended to read as follows:

(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~~) enterprise services.

(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. 61. RCW 43.15.020 and 2011 c 158 s 12 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) Financial education public-private partnership, RCW 28A.300.450;

(g) Joint administrative rules review committee, RCW 34.05.610;

(h) Capital projects advisory review board, RCW 39.10.220;

(i) Select committee on pension policy, RCW 41.04.276;

(j) Legislative ethics board, RCW 42.52.310;

(k) Washington citizens' commission on salaries, RCW 43.03.305;

(l) Legislative oral history committee, RCW 44.04.325;

(m) State council on aging, RCW 43.20A.685;

(n) State investment board, RCW 43.33A.020;

(o) Capitol campus design advisory committee, RCW 43.34.080;

(p) Washington state arts commission, RCW 43.46.015;

~~(q) ((Information services board, RCW 43.105.032;~~

~~(r) Council for children and families, RCW 43.121.020;~~

~~(s)) PNWER-Net working subgroup under chapter 43.147 RCW;~~

~~((t)) (r) Community economic revitalization board, RCW 43.160.030;~~

~~((u)) (s) Washington economic development finance authority, RCW 43.163.020;~~

~~((v)) (t) Life sciences discovery fund authority, RCW 43.350.020;~~

~~((w)) (u) Legislative children's oversight committee, RCW 44.04.220;~~

~~((x)) (v) Joint legislative audit and review committee, RCW 44.28.010;~~

~~((y)) (w) Joint committee on energy supply and energy conservation, RCW 44.39.015;~~

~~((z)) (x) Legislative evaluation and accountability program committee, RCW 44.48.010;~~

~~((aa)) (y) Agency council on coordinated transportation, RCW 47.06B.020;~~

~~((bb)) (z) Washington horse racing commission, RCW 67.16.014;~~

~~((cc)) (aa) Correctional industries board of directors, RCW 72.09.080;~~

~~((dd)) (bb) Joint committee on veterans' and military affairs, RCW 73.04.150;~~

~~((ee)) (cc) Joint legislative committee on water supply during drought, RCW 90.86.020;~~

~~((ff)) (dd) Statute law committee, RCW 1.08.001; and~~

~~((ggg))~~ (ee) Joint legislative oversight committee on trade policy, RCW 44.55.020.

Sec. 62. RCW 43.17.050 and 2009 c 549 s 5060 are each amended to read as follows:

Each department shall maintain its principal office at the state capital. The director of each department may, with the approval of the governor, establish and maintain branch offices at other places than the state capital for the conduct of one or more of the functions of his or her department.

The governor, in his or her discretion, may require all administrative departments of the state and the appointive officers thereof, other than those created by this chapter, to maintain their principal offices at the state capital in rooms to be furnished by the director of ~~((general administration))~~ enterprise services.

Sec. 63. RCW 43.17.100 and 2009 c 549 s 5062 are each amended to read as follows:

Every appointive state officer and employee of the state shall give a surety bond, payable to the state in such sum as shall be deemed necessary by the director of the department of ~~((general administration))~~ enterprise services, conditioned for the honesty of the officer or employee and for the accounting of all property of the state that shall come into his or her possession by virtue of his or her office or employment, which bond shall be approved as to form by the attorney general and shall be filed in the office of the secretary of state.

The director of ~~((general administration))~~ enterprise services may purchase one or more blanket surety bonds for the coverage required in this section.

Any bond required by this section shall not be considered an official bond and shall not be subject to chapter 42.08 RCW.

Sec. 64. RCW 43.17.400 and 2007 c 62 s 2 are each amended to read as follows:

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

(a) "Disposition" means sales, exchanges, or other actions resulting in a transfer of land ownership.

(b) "State agencies" includes:

(i) The department of natural resources established in chapter 43.30 RCW;

(ii) The department of fish and wildlife established in chapter 43.300 RCW;

(iii) The department of transportation established in chapter 47.01 RCW;

(iv) The parks and recreation commission established in chapter 79A.05 RCW; and

(v) The department of ~~((general administration))~~ enterprise services established in this chapter.

(2) State agencies proposing disposition of state-owned land must provide written notice of the proposed disposition to the legislative authorities of the counties, cities, and towns in which the land is located at least sixty days before entering into the disposition agreement.

(3) The requirements of this section are in addition and supplemental to other requirements of the laws of this state.

Sec. 65. RCW 43.19.647 and 2007 c 348 s 203 are each amended to read as follows:

(1) In order to allow the motor vehicle fuel needs of state and local government to be satisfied by Washington-produced biofuels as provided in this chapter, the department of (~~general administration~~) enterprise services as well as local governments may contract in advance and execute contracts with public or private producers, suppliers, or other parties, for the purchase of appropriate biofuels, as that term is defined in RCW 43.325.010, and biofuel blends. Contract provisions may address items including, but not limited to, fuel standards, price, and delivery date.

(2) The department of (~~general administration~~) enterprise services may combine the needs of local government agencies, including ports, special districts, school districts, and municipal corporations, for the purposes of executing contracts for biofuels and to secure a sufficient and stable supply of alternative fuels.

Sec. 66. RCW 43.19.651 and 2003 c 340 s 1 are each amended to read as follows:

(1) When planning for the capital construction or renovation of a state facility, state agencies shall consider the utilization of fuel cells and renewable or alternative energy sources as a primary source of power for applications that require an uninterrupted power source.

(2) When planning the purchase of back-up or emergency power systems and remote power systems, state agencies shall consider the utilization of fuel cells and renewable or alternative energy sources instead of batteries or internal combustion engines.

(3) The director of (~~general administration~~) enterprise services shall develop criteria by which state agencies can identify, evaluate, and develop potential fuel cell applications at state facilities.

(4) For the purposes of this section, "fuel cell" means an electrochemical reaction that generates electric energy by combining atoms of hydrogen and oxygen in the presence of a catalyst.

Sec. 67. RCW 43.19.670 and 2001 c 214 s 25 are each amended to read as follows:

As used in RCW 43.19.670 through 43.19.685, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Energy audit" means a determination of the energy consumption characteristics of a facility which consists of the following elements:

(a) An energy consumption survey which identifies the type, amount, and rate of energy consumption of the facility and its major energy systems. This survey shall be made by the agency responsible for the facility.

(b) A walk-through survey which determines appropriate energy conservation maintenance and operating procedures and indicates the need, if any, for the acquisition and installation of energy conservation measures and energy management systems. This survey shall be made by the agency responsible for the facility if it has technically qualified personnel available. The director of (~~general administration~~) enterprise services shall provide technically qualified personnel to the responsible agency if necessary.

(c) An investment grade audit, which is an intensive engineering analysis of energy conservation and management measures for the facility, net energy savings, and a cost-effectiveness determination. (~~This element is required only~~

~~for those facilities designated in the schedule adopted under RCW 43.19.680(2)-))~~

(2) "Cost-effective energy conservation measures" means energy conservation measures that the investment grade audit concludes will generate savings sufficient to finance project loans of not more than ten years.

(3) "Energy conservation measure" means an installation or modification of an installation in a facility which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including:

(a) Insulation of the facility structure and systems within the facility;

(b) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(c) Automatic energy control systems;

(d) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(e) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(f) Solar water heating systems;

(g) Furnace or utility plant and distribution system modifications including replacement burners, furnaces, and boilers which substantially increase the energy efficiency of the heating system; devices for modifying flue openings which will increase the energy efficiency of the heating system; electrical or mechanical furnace ignitions systems which replace standing gas pilot lights; and utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources;

(h) Caulking and weatherstripping;

(i) Replacement or modification of lighting fixtures which increase the energy efficiency of the lighting system;

(j) Energy recovery systems;

(k) Energy management systems; and

(l) Such other measures as the director finds will save a substantial amount of energy.

(4) "Energy conservation maintenance and operating procedure" means modification or modifications in the maintenance and operations of a facility, and any installations within the facility, which are designed to reduce energy consumption in the facility and which require no significant expenditure of funds.

(5) "Energy management system" has the definition contained in RCW 39.35.030.

(6) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a state agency to conduct no-cost energy audits, guarantee savings from energy efficiency, provide financing for energy efficiency improvements, install or implement energy efficiency improvements, and agree to be paid for its investment solely from savings resulting from the energy efficiency improvements installed or implemented.

(7) "Energy service company" means a company or contractor providing energy savings performance contracting services.

(8) "Facility" means a building, a group of buildings served by a central energy distribution system, or components of a central energy distribution system.

(9) "Implementation plan" means the annual tasks and budget required to complete all acquisitions and installations necessary to satisfy the recommendations of the energy audit.

Sec. 68. RCW 43.19.682 and 1993 c 204 s 9 are each amended to read as follows:

The director of the department of (~~general administration~~) enterprise services shall seek to further energy conservation objectives among other landscape objectives in planting and maintaining trees upon grounds administered by the department.

Sec. 69. RCW 43.19.691 and 2005 c 299 s 5 are each amended to read as follows:

(1) Municipalities may conduct energy audits and implement cost-effective energy conservation measures among multiple government entities.

(2) All municipalities shall report to the department if they implemented or did not implement, during the previous biennium, cost-effective energy conservation measures aggregated among multiple government entities. The reports must be submitted to the department by September 1, 2007, and by September 1, 2009. In collecting the reports, the department shall cooperate with the appropriate associations that represent municipalities.

(3) The department shall prepare a report summarizing the reports submitted by municipalities under subsection (2) of this section and shall report to the committee by December 31, 2007, and by December 31, 2009.

(4) For the purposes of this section, the following definitions apply:

(a) "Committee" means the joint committee on energy supply and energy conservation in chapter 44.39 RCW.

(b) "Cost-effective energy conservation measures" has the meaning provided in RCW 43.19.670.

(c) "Department" means the department of (~~general administration~~) enterprise services.

(d) "Energy audit" has the meaning provided in RCW 43.19.670.

(e) "Municipality" has the meaning provided in RCW 39.04.010.

Sec. 70. RCW 43.19.757 and 1965 c 8 s 43.78.160 are each amended to read as follows:

Nothing in RCW (~~43.78.130, 43.78.140 and 43.78.150~~) 43.19.748, 43.19.751, and 43.19.754 shall be construed as requiring any public official to accept any such work of inferior quality or workmanship.

Sec. 71. RCW 43.19A.022 and 2011 1st sp.s. c 43 s 251 are each amended to read as follows:

(1) All state agencies shall purchase one hundred percent recycled content white cut sheet bond paper used in office printers and copiers. State agencies are encouraged to give priority to purchasing from companies that produce paper in facilities that generate energy from a renewable energy source.

(2) State agencies that utilize office printers and copiers that, after reasonable attempts, cannot be calibrated to utilize such paper referenced in subsection (1) of this section, must for those models of equipment:

(a) Purchase paper at the highest recycled content that can be utilized efficiently by the copier or printer;

(b) At the time of lease renewal or at the end of the life-cycle, either lease or purchase a model that will efficiently utilize one hundred percent recycled content white cut sheet bond paper;

(3) Printed projects that require the use of high volume production inserters or high-speed digital devices, such as those used by the department of enterprise services, are not required to meet the one hundred percent recycled content white cut sheet bond paper standard, but must utilize the highest recycled content that can be utilized efficiently by such equipment and not impede the business of agencies.

(4) The department of enterprise services (~~(and the department of information services)~~) shall (~~(work together to)~~) identify for use by agencies one hundred percent recycled paper products that process efficiently through high-speed production equipment and do not impede the business of agencies.

Sec. 72. RCW 43.19A.040 and 1991 c 297 s 6 are each amended to read as follows:

(1) Each local government shall consider the adoption of policies, rules, or ordinances to provide for the preferential purchase of recycled content products. Any local government may adopt the preferential purchasing policy of the department of (~~(general administration)~~) enterprise services, or portions of such policy, or another policy that provides a preference for recycled content products.

(2) The department of (~~(general administration)~~) enterprise services shall prepare one or more model recycled content preferential purchase policies suitable for adoption by local governments. The model policy shall be widely distributed and provided through the technical assistance and workshops under RCW 43.19A.070.

(3) A local government that is not subject to the purchasing authority of the department of (~~(general administration)~~) enterprise services, and that adopts the preferential purchase policy or rules of the department, shall not be limited by the percentage price preference included in such policy or rules.

Sec. 73. RCW 43.21F.045 and 1996 c 186 s 103 are each amended to read as follows:

(1) The department shall supervise and administer energy-related activities as specified in RCW 43.330.904 and shall advise the governor and the legislature with respect to energy matters affecting the state.

(2) In addition to other powers and duties granted to the department, the department shall have the following powers and duties:

(a) Prepare and update contingency plans for implementation in the event of energy shortages or emergencies. The plans shall conform to chapter 43.21G RCW and shall include procedures for determining when these shortages or emergencies exist, the state officers and agencies to participate in the determination, and actions to be taken by various agencies and officers of state government in order to reduce hardship and maintain the general welfare during these emergencies. The department shall coordinate the activities undertaken pursuant to this subsection with other persons. The components of plans that require legislation for their implementation shall be presented to the legislature

in the form of proposed legislation at the earliest practicable date. The department shall report to the governor and the legislature on probable, imminent, and existing energy shortages, and shall administer energy allocation and curtailment programs in accordance with chapter 43.21G RCW.

(b) Establish and maintain a central repository in state government for collection of existing data on energy resources, including:

(i) Supply, demand, costs, utilization technology, projections, and forecasts;

(ii) Comparative costs of alternative energy sources, uses, and applications; and

(iii) Inventory data on energy research projects in the state conducted under public and/or private auspices, and the results thereof.

(c) Coordinate federal energy programs appropriate for state-level implementation, carry out such energy programs as are assigned to it by the governor or the legislature, and monitor federally funded local energy programs as required by federal or state regulations.

(d) Develop energy policy recommendations for consideration by the governor and the legislature.

(e) Provide assistance, space, and other support as may be necessary for the activities of the state's two representatives to the Pacific northwest electric power and conservation planning council. To the extent consistent with federal law, the director shall request that Washington's councilmembers request the administrator of the Bonneville power administration to reimburse the state for the expenses associated with the support as provided in the Pacific Northwest Electric Power Planning and Conservation Act (P.L. 96-501).

(f) Cooperate with state agencies, other governmental units, and private interests in the prioritization and implementation of the state energy strategy elements and on other energy matters.

(g) Serve as the official state agency responsible for coordinating implementation of the state energy strategy.

(h) No later than December 1, 1982, and by December 1st of each even-numbered year thereafter, prepare and transmit to the governor and the appropriate committees of the legislature a report on the implementation of the state energy strategy and other important energy issues, as appropriate.

(i) Provide support for increasing cost-effective energy conservation, including assisting in the removal of impediments to timely implementation.

(j) Provide support for the development of cost-effective energy resources including assisting in the removal of impediments to timely construction.

(k) Adopt rules, under chapter 34.05 RCW, necessary to carry out the powers and duties enumerated in this chapter.

(l) Provide administrative assistance, space, and other support as may be necessary for the activities of the energy facility site evaluation council, as provided for in RCW 80.50.030.

(m) Appoint staff as may be needed to administer energy policy functions and manage energy facility site evaluation council activities. These employees are exempt from the provisions of chapter 41.06 RCW.

(3) To the extent the powers and duties set out under this section relate to energy education, applied research, and technology transfer programs they are transferred to Washington State University.

(4) To the extent the powers and duties set out under this section relate to energy efficiency in public buildings they are transferred to the department of (~~general administration~~) enterprise services.

Sec. 74. RCW 43.34.090 and 2002 c 164 s 1 are each amended to read as follows:

(1) The legislature shall approve names for new or existing buildings on the state capitol grounds based upon recommendations from the state capitol committee and the director of the department of (~~general administration~~) enterprise services, with the advice of the capitol campus design advisory committee, subject to the following limitations:

(a) An existing building may be renamed only after a substantial renovation or a change in the predominant tenant agency headquartered in the building.

(b) A new or existing building may be named or renamed after:

(i) An individual who has played a significant role in Washington history;

(ii) The purpose of the building;

(iii) The single or predominant tenant agency headquartered in the building;

(iv) A significant place name or natural place in Washington;

(v) A Native American tribe located in Washington;

(vi) A group of people or type of person;

(vii) Any other appropriate person consistent with this section as recommended by the director of the department of (~~general administration~~) enterprise services.

(c) The names on the facades of the state capitol group shall not be removed.

(2) The legislature shall approve names for new or existing public rooms or spaces on the west capitol campus based upon recommendations from the state capitol committee and the director of the department of (~~general administration~~) enterprise services, with the advice of the capitol campus design advisory committee, subject to the following limitations:

(a) An existing room or space may be renamed only after a substantial renovation;

(b) A new or existing room or space may be named or renamed only after:

(i) An individual who has played a significant role in Washington history;

(ii) The purpose of the room or space;

(iii) A significant place name or natural place in Washington;

(iv) A Native American tribe located in Washington;

(v) A group of people or type of person;

(vi) Any other appropriate person consistent with this section as recommended by the director of the department of (~~general administration~~) enterprise services.

(3) When naming or renaming buildings, rooms, and spaces under this section, consideration must be given to: (a) Any disparity that exists with respect to the gender of persons after whom buildings, rooms, and spaces are named on the state capitol grounds; (b) the diversity of human achievement; and (c) the diversity of the state's citizenry and history.

(4) For purposes of this section, "state capitol grounds" means buildings and land owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, the north capitol

campus, the Tumwater campus, the Lacey campus, Sylvester Park, Centennial Park, the Old Capitol Building, and Capitol Lake.

Sec. 75. RCW 43.82.035 and 2007 c 506 s 4 are each amended to read as follows:

(1) The office of financial management shall design and implement a modified predesign process for any space request to lease, purchase, or build facilities that involve (a) the housing of new state programs, (b) a major expansion of existing state programs, or (c) the relocation of state agency programs. This includes the consolidation of multiple state agency tenants into one facility. The office of financial management shall define facilities that meet the criteria described in (a) and (b) of this subsection.

(2) State agencies shall submit modified predesigns to the office of financial management and the legislature. Modified predesigns must include a problem statement, an analysis of alternatives to address programmatic and space requirements, proposed locations, and a financial assessment. For proposed projects of twenty thousand gross square feet or less, the agency may provide a cost-benefit analysis, rather than a life-cycle cost analysis, as determined by the office of financial management.

(3) Projects that meet the capital requirements for predesign on major facility projects with an estimated project cost of five million dollars or more pursuant to chapter 43.88 RCW shall not be required to prepare a modified predesign.

(4) The office of financial management shall require state agencies to identify plans for major leased facilities as part of the ten-year capital budget plan. State agencies shall not enter into new or renewed leases of more than one million dollars per year unless such leases have been approved by the office of financial management except when the need for the lease is due to an unanticipated emergency. The regular termination date on an existing lease does not constitute an emergency. The department of ~~((general administration))~~ enterprise services shall notify the office of financial management and the appropriate legislative fiscal committees if an emergency situation arises.

(5) For project proposals in which there are estimates of operational savings, the office of financial management shall require the agency or agencies involved to provide details including but not limited to fund sources and timelines.

Sec. 76. RCW 43.82.055 and 2007 c 506 s 6 are each amended to read as follows:

The office of financial management shall:

(1) Work with the department of ~~((general administration))~~ enterprise services and all other state agencies to determine the long-term facility needs of state government; and

(2) Develop and submit a six-year facility plan to the legislature by January 1st of every odd-numbered year, beginning January 1, 2009, that includes state agency space requirements and other pertinent data necessary for cost-effective facility planning. The department of ~~((general administration))~~ enterprise services shall assist with this effort as required by the office of financial management.

Sec. 77. RCW 43.82.130 and 1965 c 8 s 43.82.130 are each amended to read as follows:

The director of the department of (~~general administration~~) enterprise services is authorized to do all acts and things necessary or convenient to carry out the powers and duties expressly provided in this chapter.

Sec. 78. RCW 43.83.116 and 1973 1st ex.s. c 217 s 4 are each amended to read as follows:

The principal proceeds from the sale of the bonds or notes deposited in the state building construction account of the general fund shall be administered by the (~~state department of general administration~~) office of financial management.

Sec. 79. RCW 43.83.120 and 1973 1st ex.s. c 217 s 6 are each amended to read as follows:

In addition to any other charges authorized by law and to assist in reimbursing the state general fund for expenditures from the general state revenues in paying the principal and interest on the bonds and notes herein authorized, the director of (~~general administration~~) financial management shall assess a charge against each state board, commission, agency, office, department, activity, or other occupant or user for payment of a proportion of costs for each square foot of floor space assigned to or occupied by it. Payment of the amount so billed to the entity for such occupancy shall be made annually and in advance at the beginning of each fiscal year. The director of (~~general administration~~) financial management shall cause the same to be deposited in the state treasury to the credit of the general fund.

Sec. 80. RCW 43.83.136 and 1975 1st ex.s. c 249 s 4 are each amended to read as follows:

The principal proceeds from the sale of the bonds or notes authorized in RCW 43.83.130 through 43.83.148 and deposited in the state building construction account of the general fund shall be administered by the (~~state department of general administration~~) office of financial management, subject to legislative appropriation.

Sec. 81. RCW 43.83.142 and 1975 1st ex.s. c 249 s 7 are each amended to read as follows:

In addition to any other charges authorized by law and to assist in reimbursing the state general fund for expenditures from the general state revenues in paying the principal and interest on the bonds and notes authorized in RCW 43.83.130 through 43.83.148, the director of (~~general administration~~) financial management may assess a charge against each state board, commission, agency, office, department, activity, or other occupant or user of any facility or other building as authorized in RCW 43.83.130 for payment of a proportion of costs for each square foot of floor space assigned to or occupied by it. Payment of the amount so billed to the entity for such occupancy shall be made annually and in advance at the beginning of each fiscal year. The director of (~~general administration~~) financial management shall cause the same to be deposited in the state treasury to the credit of the general fund.

Sec. 82. RCW 43.83.156 and 1979 ex.s. c 230 s 4 are each amended to read as follows:

The principal proceeds from the sale of the bonds or notes deposited in the state building construction account of the general fund shall be administered by

the (~~state department of general administration~~) office of financial management, subject to legislative appropriation.

Sec. 83. RCW 43.83.176 and 1981 c 235 s 3 are each amended to read as follows:

The principal proceeds from the sale of the bonds deposited in the state building construction account of the general fund shall be administered by the (~~state department of general administration~~) office of financial management, subject to legislative appropriation.

Sec. 84. RCW 43.83.188 and 1983 1st ex.s. c 54 s 3 are each amended to read as follows:

The proceeds from the sale of the bonds deposited under RCW 43.83.186 in the state building construction account of the general fund shall be administered by the (~~department of general administration~~) office of financial management, subject to legislative appropriation.

Sec. 85. RCW 43.83.202 and 1984 c 271 s 3 are each amended to read as follows:

The proceeds from the sale of the bonds deposited under RCW 43.83.200 in the state building construction account of the general fund shall be administered by the (~~department of general administration~~) office of financial management, subject to legislative appropriation.

Sec. 86. RCW 43.88.090 and 2012 c 229 s 587 are each amended to read as follows:

(1) For purposes of developing budget proposals to the legislature, the governor shall have the power, and it shall be the governor's duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as the governor shall direct. The governor shall communicate statewide priorities to agencies for use in developing biennial budget recommendations for their agency and shall seek public involvement and input on these priorities. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.

The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110. The estimates must reflect that the agency considered any alternatives to reduce costs or improve service delivery identified in the findings of a performance audit of the agency by the joint legislative audit and review committee. Nothing in this subsection requires performance audit findings to be published as part of the budget.

(2) Each state agency shall define its mission and establish measurable goals for achieving desirable results for those who receive its services and the taxpayers who pay for those services. Each agency shall also develop clear strategies and timelines to achieve its goals. This section does not require an

agency to develop a new mission or goals in place of identifiable missions or goals that meet the intent of this section. The mission and goals of each agency must conform to statutory direction and limitations.

(3) For the purpose of assessing activity performance, each state agency shall establish quality and productivity objectives for each major activity in its budget. The objectives must be consistent with the missions and goals developed under this section. The objectives must be expressed to the extent practicable in outcome-based, objective, and measurable form unless an exception to adopt a different standard is granted by the office of financial management and approved by the legislative committee on performance review. Objectives must specifically address the statutory purpose or intent of the program or activity and focus on data that measure whether the agency is achieving or making progress toward the purpose of the activity and toward statewide priorities. The office of financial management shall provide necessary professional and technical assistance to assist state agencies in the development of strategic plans that include the mission of the agency and its programs, measurable goals, strategies, and performance measurement systems.

(4) Each state agency shall adopt procedures for and perform continuous self-assessment of each activity, using the mission, goals, objectives, and measurements required under subsections (2) and (3) of this section. The assessment of the activity must also include an evaluation of major information technology systems or projects that may assist the agency in achieving or making progress toward the activity purpose and statewide priorities. The evaluation of proposed major information technology systems or projects shall be in accordance with the standards and policies established by the ~~((information services board))~~ office of the chief information officer. Agencies' progress toward the mission, goals, objectives, and measurements required by subsections (2) and (3) of this section is subject to review as set forth in this subsection.

(a) The office of financial management shall regularly conduct reviews of selected activities to analyze whether the objectives and measurements submitted by agencies demonstrate progress toward statewide results.

(b) The office of financial management shall consult with: (i) The four-year institutions of higher education in those reviews that involve four-year institutions of higher education; and (ii) the state board for community and technical colleges in those reviews that involve two-year institutions of higher education.

(c) The goal is for all major activities to receive at least one review each year.

(d) The office of ~~((financial management shall consult with the information services board when conducting reviews of))~~ the chief information officer shall review major information technology systems in use by state agencies~~((The goal is that reviews of these information technology systems occur))~~ periodically.

(5) It is the policy of the legislature that each agency's budget recommendations must be directly linked to the agency's stated mission and program, quality, and productivity goals and objectives. Consistent with this policy, agency budget proposals must include integration of performance measures that allow objective determination of an activity's success in achieving its goals. When a review under subsection (4) of this section or other analysis

determines that the agency's objectives demonstrate that the agency is making insufficient progress toward the goals of any particular program or is otherwise underachieving or inefficient, the agency's budget request shall contain proposals to remedy or improve the selected programs. The office of financial management shall develop a plan to merge the budget development process with agency performance assessment procedures. The plan must include a schedule to integrate agency strategic plans and performance measures into agency budget requests and the governor's budget proposal over three fiscal biennia. The plan must identify those agencies that will implement the revised budget process in the 1997-1999 biennium, the 1999-2001 biennium, and the 2001-2003 biennium. In consultation with the legislative fiscal committees, the office of financial management shall recommend statutory and procedural modifications to the state's budget, accounting, and reporting systems to facilitate the performance assessment procedures and the merger of those procedures with the state budget process. The plan and recommended statutory and procedural modifications must be submitted to the legislative fiscal committees by September 30, 1996.

(6) In reviewing agency budget requests in order to prepare the governor's biennial budget request, the office of financial management shall consider the extent to which the agency's activities demonstrate progress toward the statewide budgeting priorities, along with any specific review conducted under subsection (4) of this section.

(7) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate.

Sec. 87. RCW 43.88.350 and 1998 c 105 s 16 are each amended to read as follows:

Any rate increases proposed for or any change in the method of calculating charges from the legal services revolving fund or services provided in accordance with RCW 43.01.090 or 43.19.500 in the ~~((general administration))~~ enterprise services account is subject to approval by the director of financial management prior to implementation.

Sec. 88. RCW 43.88.560 and 2010 c 282 s 4 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 RCW 43.88.092.

Sec. 89. RCW 43.96B.215 and 1973 1st ex.s. c 116 s 4 are each amended to read as follows:

At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds authorized by RCW 43.96B.200 through 43.96B.245 and any interest earned on the interim investment of such proceeds, shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.96B.200 through 43.96B.245 and for the payment of expenses incurred in the issuance and sale of the bonds. The Expo '74 commission is hereby authorized to acquire property, real and personal, by lease, purchase~~((+))~~, condemnation or gift to achieve the objectives of chapters 1, 2, and 3, Laws of 1971 ex. sess., and RCW 43.96B.200 through 43.96B.245. The commission is further directed pursuant to RCW 43.19.450 to utilize the department of ~~((general administration))~~ enterprise services to accomplish the purposes set forth herein.

Sec. 90. RCW 43.101.080 and 2011 c 234 s 1 are each amended to read as follows:

The commission shall have all of the following powers:

- (1) To meet at such times and places as it may deem proper;
- (2) To adopt any rules and regulations as it may deem necessary;
- (3) To contract for services as it deems necessary in order to carry out its duties and responsibilities;
- (4) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;
- (5) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it;
- (6) To select and employ an executive director, and to empower him or her to perform such duties and responsibilities as it may deem necessary;
- (7) To assume legal, fiscal, and program responsibility for all training conducted by the commission;
- (8) To establish, by rule and regulation, standards for the training of criminal justice personnel where such standards are not prescribed by statute;
- (9) To own, establish, and operate, or to contract with other qualified institutions or organizations for the operation of, training and education programs for criminal justice personnel and to purchase, lease, or otherwise acquire, subject to the approval of the department of ~~((general administration))~~ enterprise services, a training facility or facilities necessary to the conducting of such programs;
- (10) To establish, by rule and regulation, minimum curriculum standards for all training programs conducted for employed criminal justice personnel;

(11) To review and approve or reject standards for instructors of training programs for criminal justice personnel, and to employ personnel on a temporary basis as instructors without any loss of employee benefits to those instructors;

(12) To direct the development of alternative, innovate, and interdisciplinary training techniques;

(13) To review and approve or reject training programs conducted for criminal justice personnel and rules establishing and prescribing minimum training and education standards recommended by the training standards and education boards;

(14) To allocate financial resources among training and education programs conducted by the commission;

(15) To allocate training facility space among training and education programs conducted by the commission;

(16) To issue diplomas certifying satisfactory completion of any training or education program conducted or approved by the commission to any person so completing such a program;

(17) To provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission;

(18) To establish rules and regulations recommended by the training standards and education boards prescribing minimum standards relating to physical, mental and moral fitness which shall govern the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provision;

(19) To require county, city, or state law enforcement agencies that make a conditional offer of employment to an applicant as a fully commissioned peace officer or a reserve officer to administer a background investigation including a check of criminal history, a psychological examination, and a polygraph test or similar assessment to each applicant, the results of which shall be used by the employer to determine the applicant's suitability for employment as a fully commissioned peace officer or a reserve officer. The background investigation, psychological examination, and the polygraph examination shall be administered in accordance with the requirements of RCW 43.101.095(2). The employing county, city, or state law enforcement agency may require that each peace officer or reserve officer who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or four hundred dollars, whichever is less. County, city, and state law enforcement agencies may establish a payment plan if they determine that the peace officer or reserve officer does not readily have the means to pay for his or her portion of the testing fee;

(20) To promote positive relationships between law enforcement and the citizens of the state of Washington by allowing commissioners and staff to participate in the "chief for a day program." The executive director shall designate staff who may participate. In furtherance of this purpose, the commission may accept grants of funds and gifts and may use its public facilities for such purpose. At all times, the participation of commissioners and staff shall comply with chapter 42.52 RCW and chapter 292-110 WAC.

All rules and regulations adopted by the commission shall be adopted and administered pursuant to the administrative procedure act, chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW.

Sec. 91. RCW 43.325.020 and 2009 c 451 s 3 are each amended to read as follows:

(1) The energy freedom program is established within the department. The director may establish policies and procedures necessary for processing, reviewing, and approving applications made under this chapter.

(2) When reviewing applications submitted under this program, the director shall consult with those agencies and other public entities having expertise and knowledge to assess the technical and business feasibility of the project and probability of success. These agencies may include, but are not limited to, Washington State University, the University of Washington, the department of ecology, the department of natural resources, the department of agriculture, the department of ~~((general administration))~~ enterprise services, local clean air authorities, the Washington state conservation commission, and the clean energy leadership council created in section 2, chapter 318, Laws of 2009.

(3) Except as provided in subsections (4) and (5) of this section, the director, in cooperation with the department of agriculture, may approve an application only if the director finds:

(a) The project will convert farm products, wastes, cellulose, or biogas directly into electricity or biofuel or other coproducts associated with such conversion;

(b) The project demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace for use by Washington state citizens;

(c) The facility will produce long-term economic benefits to the state, a region of the state, or a particular community in the state;

(d) The project does not require continuing state support;

(e) The assistance will result in new jobs, job retention, or higher incomes for citizens of the state;

(f) The state is provided an option under the assistance agreement to purchase a portion of the fuel or feedstock to be produced by the project, exercisable by the department of ~~((general administration))~~ enterprise services;

(g) The project will increase energy independence or diversity for the state;

(h) The project will use feedstocks produced in the state, if feasible, except this criterion does not apply to the construction of facilities used to distribute and store fuels that are produced from farm products or wastes;

(i) Any product produced by the project will be suitable for its intended use, will meet accepted national or state standards, and will be stored and distributed in a safe and environmentally sound manner;

(j) The application provides for adequate reporting or disclosure of financial and employment data to the director, and permits the director to require an annual or other periodic audit of the project books; and

(k) For research and development projects, the application has been independently reviewed by a peer review committee as defined in RCW 43.325.010 and the findings delivered to the director.

(4) When reviewing an application for a refueling project, the coordinator may award a grant or a loan to an applicant if the director finds:

- (a) The project will offer alternative fuels to the motoring public;
- (b) The project does not require continued state support;
- (c) The project is located within a green highway zone as defined in RCW 43.325.010;

(d) The project will contribute towards an efficient and adequately spaced alternative fuel refueling network along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

(e) The project will result in increased access to alternative fueling infrastructure for the motoring public along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140.

(5) When reviewing an application for energy efficiency improvements, renewable energy improvements, or innovative energy technology, the director may award a grant or a loan to an applicant if the director finds:

(a) The project or program will result in increased access for the public, state and local governments, and businesses to energy efficiency improvements, renewable energy improvements, or innovative energy technologies;

(b) The project or program demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace for use by Washington state citizens;

(c) The project or program does not require continued state support; or

(d) The federal government has provided funds with a limited time frame for use for energy independence and security, energy efficiency, renewable energy, innovative energy technologies, or conservation.

(6)(a) The director may approve a project application for assistance under subsection (3) of this section up to five million dollars. In no circumstances shall this assistance constitute more than fifty percent of the total project cost.

(b) The director may approve a refueling project application for a grant or a loan under subsection (4) of this section up to fifty thousand dollars. In no circumstances shall a grant or a loan award constitute more than fifty percent of the total project cost.

(7) The director shall enter into agreements with approved applicants to fix the terms and rates of the assistance to minimize the costs to the applicants, and to encourage establishment of a viable bioenergy or biofuel industry, or a viable energy efficiency, renewable energy, or innovative energy technology industry. The agreement shall include provisions to protect the state's investment, including a requirement that a successful applicant enter into contracts with any partners that may be involved in the use of any assistance provided under this program, including services, facilities, infrastructure, or equipment. Contracts with any partners shall become part of the application record.

(8) The director may defer any payments for up to twenty-four months or until the project starts to receive revenue from operations, whichever is sooner.

Sec. 92. RCW 43.325.030 and 2009 c 451 s 4 are each amended to read as follows:

The director of the department shall appoint a coordinator that is responsible for:

(1) Managing, directing, inventorying, and coordinating state efforts to promote, develop, and encourage biofuel and energy efficiency, renewable energy, and innovative energy technology markets in Washington;

(2) Developing, coordinating, and overseeing the implementation of a plan, or series of plans, for the production, transport, distribution, and delivery of biofuels produced predominantly from recycled products or Washington feedstocks;

(3) Working with the departments of transportation and (~~general administration~~) enterprise services, and other applicable state and local governmental entities and the private sector, to ensure the development of biofuel fueling stations for use by state and local governmental motor vehicle fleets, and to provide greater availability of public biofuel fueling stations for use by state and local governmental motor vehicle fleets;

(4) Coordinating with the Western Washington University alternative automobile program for opportunities to support new Washington state technology for conversion of fossil fuel fleets to biofuel, hybrid, or alternative fuel propulsion;

(5) Coordinating with the University of Washington's college of forest management and the Olympic natural resources center for the identification of barriers to using the state's forest resources for fuel production, including the economic and transportation barriers of physically bringing forest biomass to the market;

(6) Coordinating with the department of agriculture and Washington State University for the identification of other barriers for future biofuels development and development of strategies for furthering the penetration of the Washington state fossil fuel market with Washington produced biofuels, particularly among public entities.

Sec. 93. RCW 43.330.907 and 2010 c 271 s 308 are each amended to read as follows:

(1) All powers, duties, and functions of the department of commerce pertaining to administrative and support services for the state building code council are transferred to the department of (~~general administration~~) enterprise services. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the department of (~~general administration~~) enterprise services when referring to the functions transferred in this section. Policy and planning assistance functions performed by the department of commerce remain with the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of (~~general administration~~) enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of (~~general administration~~) enterprise services. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of (~~general administration~~) enterprise services.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on July 1, 2010, be transferred and credited to the department of (~~general administration~~) enterprise services.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of (~~general administration~~) enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of (~~general administration~~) enterprise services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of (~~general administration~~) enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of (~~general administration~~) enterprise services.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before July 1, 2010.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of (~~general administration~~) enterprise services under this section whose positions are within an existing bargaining unit description at the department of (~~general administration~~) enterprise services shall become a part of the existing bargaining unit at the department of (~~general administration~~) enterprise services and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

Sec. 94. RCW 43.331.040 and 2010 1st sp.s. c 35 s 301 are each amended to read as follows:

(1) The department of commerce, in consultation with the department of (~~general administration~~) enterprise services and the Washington State University energy program, shall administer the jobs act.

(2) The department of (~~general administration~~) enterprise services 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 RCW 43.331.050~~) 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.

Sec. 95. RCW 43.331.050 and 2010 1st sp. s. c 35 s 302 are each amended to read as follows:

(1) Within appropriations specifically provided for the purposes of this chapter, the department of commerce, in consultation with the department of ~~((general administration))~~ enterprise services, 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 RCW 43.331.040, 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~~) enterprise services' energy savings performance contracting project guidelines developed pursuant to RCW 43.331.040; 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~~) enterprise services 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~~) enterprise services 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~~) enterprise services 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~~) enterprise services 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.

Sec. 96. RCW 44.68.065 and 2010 c 282 s 8 are each amended to read as follows:

The legislative service center, under the direction of the joint legislative systems committee and the joint legislative systems administrative committee, shall:

(1) Develop a legislative information technology portfolio consistent with the provisions of RCW (~~43.105.172~~) 43.41A.110;

(2) Participate in the development of an enterprise-based statewide information technology strategy (~~as defined in RCW 43.105.019~~);

(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~~) office of the chief information officer.

Sec. 97. RCW 44.73.010 and 2007 c 453 s 2 are each amended to read as follows:

(1) There is created in the legislature a legislative gift center for the retail sale of products bearing the state seal, Washington state souvenirs, other Washington products, and other products as approved. Wholesale purchase of products for sale at the legislative gift center is not subject to competitive bidding.

(2) Governance for the legislative gift center shall be under the chief clerk of the house of representatives and the secretary of the senate. They may

designate a legislative staff member as the lead staff person to oversee management and operation of the gift shop.

(3) The chief clerk of the house of representatives and secretary of the senate shall consult with the department of (~~general administration~~) enterprise services in planning, siting, and maintaining legislative building space for the gift center.

(4) Products bearing the "Seal of the State of Washington" as described in Article XVIII, section 1 of the Washington state Constitution and RCW 1.20.080, must be purchased from the secretary of state pursuant to an agreement between the chief clerk of the house of representatives, the secretary of the senate, and the secretary of state.

Sec. 98. RCW 46.08.065 and 1998 c 111 s 4 are each amended to read as follows:

(1) It is unlawful for any public officer having charge of any vehicle owned or controlled by any county, city, town, or public body in this state other than the state of Washington and used in public business to operate the same upon the public highways of this state unless and until there shall be displayed upon such automobile or other motor vehicle in letters of contrasting color not less than one and one-quarter inches in height in a conspicuous place on the right and left sides thereof, the name of such county, city, town, or other public body, together with the name of the department or office upon the business of which the said vehicle is used. This section shall not apply to vehicles of a sheriff's office, local police department, or any vehicles used by local peace officers under public authority for special undercover or confidential investigative purposes. This subsection shall not apply to: (a) Any municipal transit vehicle operated for purposes of providing public mass transportation; (b) any vehicle governed by the requirements of subsection (4) of this section; nor to (c) any motor vehicle on loan to a school district for driver training purposes. It shall be lawful and constitute compliance with the provisions of this section, however, for the governing body of the appropriate county, city, town, or public body other than the state of Washington or its agencies to adopt and use a distinctive insignia which shall be not less than six inches in diameter across its smallest dimension and which shall be displayed conspicuously on the right and left sides of the vehicle. Such insignia shall be in a color or colors contrasting with the vehicle to which applied for maximum visibility. The name of the public body owning or operating the vehicle shall also be included as part of or displayed above such approved insignia in colors contrasting with the vehicle in letters not less than one and one-quarter inches in height. Immediately below the lettering identifying the public entity and agency operating the vehicle or below an approved insignia shall appear the words "for official use only" in letters at least one inch high in a color contrasting with the color of the vehicle. The appropriate governing body may provide by rule or ordinance for marking of passenger motor vehicles as prescribed in subsection (2) of this section or for exceptions to the marking requirements for local governmental agencies for the same purposes and under the same circumstances as permitted for state agencies under subsection (3) of this section.

(2) Except as provided by subsections (3) and (4) of this section, passenger motor vehicles owned or controlled by the state of Washington, and purchased after July 1, 1989, must be plainly and conspicuously marked on the lower left-

hand corner of the rear window with the name of the operating agency or institution or the words "state motor pool," as appropriate, the words "state of Washington — for official use only," and the seal of the state of Washington or the appropriate agency or institution insignia, approved by the department of ~~((general administration))~~ enterprise services. Markings must be on a transparent adhesive material and conform to the standards established by the department of ~~((general administration))~~ enterprise services. For the purposes of this section, "passenger motor vehicles" means sedans, station wagons, vans, light trucks, or other motor vehicles under ten thousand pounds gross vehicle weight.

(3) Subsection (2) of this section shall not apply to vehicles used by the Washington state patrol for general undercover or confidential investigative purposes. Traffic control vehicles of the Washington state patrol may be exempted from the requirements of subsection (2) of this section at the discretion of the chief of the Washington state patrol. The department of ~~((general administration))~~ enterprise services shall adopt general rules permitting other exceptions to the requirements of subsection (2) of this section for other vehicles used for law enforcement, confidential public health work, and public assistance fraud or support investigative purposes, for vehicles leased or rented by the state on a casual basis for a period of less than ninety days, and those provided for in RCW 46.08.066(~~((3))~~). The exceptions in this subsection, subsection (4) of this section, and those provided for in RCW 46.08.066(~~((3))~~) shall be the only exceptions permitted to the requirements of subsection (2) of this section.

(4) Any motorcycle, vehicle over 10,000 pounds gross vehicle weight, or other vehicle that for structural reasons cannot be marked as required by subsection (1) or (2) of this section that is owned or controlled by the state of Washington or by any county, city, town, or other public body in this state and used for public purposes on the public highways of this state shall be conspicuously marked in letters of a contrasting color with the words "State of Washington" or the name of such county, city, town, or other public body, together with the name of the department or office that owns or controls the vehicle.

(5) All motor vehicle markings required under the terms of this chapter shall be maintained in a legible condition at all times.

Sec. 99. RCW 46.08.150 and 2010 c 161 s 1112 are each amended to read as follows:

The director of ~~((general administration))~~ enterprise services shall have power to devise and promulgate rules and regulations for the control of vehicular and pedestrian traffic and the parking of motor vehicles on the state capitol grounds. However, the monetary penalty for parking a motor vehicle without a valid special license plate or placard in a parking place reserved for persons with physical disabilities shall be the same as provided in RCW 46.19.050. Such rules and regulations shall be promulgated by publication in one issue of a newspaper published at the state capitol and shall be given such further publicity as the director may deem proper.

Sec. 100. RCW 46.08.172 and 1995 c 215 s 4 are each amended to read as follows:

The director of the department of (~~general administration~~) enterprise services shall establish equitable and consistent parking rental fees for the capitol campus and may, if requested by agencies, establish equitable and consistent parking rental fees for agencies off the capitol campus, to be charged to employees, visitors, clients, service providers, and others, that reflect the legislature's intent to reduce state subsidization of parking or to meet the commute trip reduction goals established in RCW 70.94.527. All fees shall take into account the market rate of comparable privately owned rental parking, as determined by the director. However, parking rental fees are not to exceed the local market rate of comparable privately owned rental parking.

The director may delegate the responsibility for the collection of parking fees to other agencies of state government when cost-effective.

Sec. 101. RCW 47.60.830 and 2008 c 126 s 4 are each amended to read as follows:

In performing the function of operating its ferry system, the department may, subject to the availability of amounts appropriated for this specific purpose and after consultation with the department of (~~general administration's office of state procurement~~) enterprise services, explore and implement strategies designed to reduce the overall cost of fuel and mitigate the impact of market fluctuations and pressure on both short-term and long-term fuel costs. These strategies may include, but are not limited to, futures contracts, hedging, swap transactions, option contracts, costless collars, and long-term storage. The department shall periodically submit a report to the transportation committees of the legislature and the (~~office of state procurement~~) department of enterprise services on the status of any such implemented strategies, including cost mitigation results, a description of each contract established to mitigate fuel costs, the amounts of fuel covered by the contracts, the cost mitigation results, and any related recommendations. The first report must be submitted within one year of implementation.

NEW SECTION. Sec. 102. A new section is added to chapter 49.74 RCW to read as follows:

If no agreement can be reached under RCW 49.74.030, the commission may refer the matter to the administrative law judge for hearing pursuant to RCW 49.60.250. If the administrative law judge finds that the state agency, institution of higher education, or state patrol has not made a good faith effort to correct the noncompliance, the administrative law judge shall order the state agency, institution of higher education, or state patrol to comply with this chapter. The administrative law judge may order any action that may be necessary to achieve compliance, provided such action is not inconsistent with the rules adopted under RCW 41.06.150(6) and 43.43.340(5), whichever is appropriate.

An order by the administrative law judge may be appealed to superior court.

Sec. 103. RCW 70.58.005 and 2009 c 231 s 1 are each amended to read as follows:

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

(1) "Business days" means Monday through Friday except official state holidays.

(2) "Department" means the department of health.

(3) "Electronic approval" or "electronically approve" means approving the content of an electronically filed vital record through the processes provided by the department. Electronic approval processes shall be consistent with policies, standards, and procedures developed by the ~~((information services board under RCW 43.105.041))~~ office of the chief information officer.

(4) "Embalmer" means a person licensed as required in chapter 18.39 RCW and defined in RCW 18.39.010.

(5) "Funeral director" means a person licensed as required in chapter 18.39 RCW and defined in RCW 18.39.010.

(6) "Vital records" means records of birth, death, fetal death, marriage, dissolution, annulment, and legal separation, as maintained under the supervision of the state registrar of vital statistics.

Sec. 104. RCW 70.94.537 and 2011 1st sp.s. c 21 s 26 are each amended to read as follows:

(1) A sixteen member state commute trip reduction board is established as follows:

(a) The secretary of transportation or the secretary's designee who shall serve as chair;

(b) One representative from the office of financial management;

(c) The director or the director's designee of one of the following agencies, to be determined by the secretary of transportation:

(i) Department of ~~((general administration))~~ enterprise services;

(ii) Department of ecology;

(iii) Department of commerce;

(d) Three representatives from cities and towns or counties appointed by the secretary of transportation for staggered four-year terms from a list recommended by the association of Washington cities or the Washington state association of counties;

(e) Two representatives from transit agencies appointed by the secretary of transportation for staggered four-year terms from a list recommended by the Washington state transit association;

(f) Two representatives from participating regional transportation planning organizations appointed by the secretary of transportation for staggered four-year terms;

(g) Four representatives of employers at or owners of major worksites in Washington, or transportation management associations, business improvement areas, or other transportation organizations representing employers, appointed by the secretary of transportation for staggered four-year terms; and

(h) Two citizens appointed by the secretary of transportation for staggered four-year terms.

Members of the commute trip reduction board shall serve without compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members appointed by the secretary of transportation shall be compensated in accordance with RCW 43.03.220. The board has all powers necessary to carry out its duties as prescribed by this chapter.

(2) By March 1, 2007, the department of transportation shall establish rules for commute trip reduction plans and implementation procedures. The commute trip reduction board shall advise the department on the content of the rules. The rules are intended to ensure consistency in commute trip reduction plans and

goals among jurisdictions while fairly taking into account differences in employment and housing density, employer size, existing and anticipated levels of transit service, special employer circumstances, and other factors the board determines to be relevant. The rules shall include:

(a) Guidance criteria for growth and transportation efficiency centers;

(b) Data measurement methods and procedures for determining the efficacy of commute trip reduction activities and progress toward meeting commute trip reduction plan goals;

(c) Model commute trip reduction ordinances;

(d) Methods for assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction;

(e) An appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of a commute trip reduction plan, may obtain a waiver or modification of those requirements and criteria for determining eligibility for waiver or modification;

(f) Establishment of a process for determining the state's affected areas, including criteria and procedures for regional transportation planning organizations in consultation with local jurisdictions to propose to add or exempt urban growth areas;

(g) Listing of the affected areas of the program to be done every four years as identified in subsection (5) of this section;

(h) Establishment of a criteria and application process to determine whether jurisdictions that voluntarily implement commute trip reduction are eligible for state funding;

(i) Guidelines and deadlines for creating and updating local commute trip reduction plans, including guidance to ensure consistency between the local commute trip reduction plan and the transportation demand management strategies identified in the transportation element in the local comprehensive plan, as required by RCW 36.70A.070;

(j) Guidelines for creating and updating regional commute trip reduction plans, including guidance to ensure the regional commute trip reduction plan is consistent with and incorporated into transportation demand management components in the regional transportation plan;

(k) Methods for regional transportation planning organizations to evaluate and certify that designated growth and transportation efficiency center programs meet the minimum requirements and are eligible for funding;

(l) Guidelines for creating and updating growth and transportation efficiency center programs; and

(m) Establishment of statewide program goals. The goals shall be designed to achieve substantial reductions in the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee, at a level that is projected to improve the mobility of people and goods by increasing the efficiency of the state highway system.

(3) The board shall create a state commute trip reduction plan that shall be updated every four years as discussed in subsection (5) of this section. The state commute trip reduction plan shall include, but is not limited to: (a) Statewide commute trip reduction program goals that are designed to substantially improve

the mobility of people and goods; (b) identification of strategies at the state and regional levels to achieve the goals and recommendations for how transportation demand management strategies can be targeted most effectively to support commute trip reduction program goals; (c) performance measures for assessing the cost-effectiveness of commute trip reduction strategies and the benefits for the state transportation system; and (d) a sustainable financial plan. The board shall review and approve regional commute trip reduction plans, and work collaboratively with regional transportation planning organizations in the establishment of the state commute trip reduction plan.

(4) The board shall work with affected jurisdictions, major employers, and other parties to develop and implement a public awareness campaign designed to increase the effectiveness of local commute trip reduction programs and support achievement of the objectives identified in this chapter.

(5) The board shall evaluate and update the commute trip reduction program plan and recommend changes to the rules every four years, with the first assessment report due July 1, 2011, to ensure that the latest data methodology used by the department of transportation is incorporated into the program and to determine which areas of the state should be affected by the program. The board shall review the definition of a major employer no later than December 1, 2009. The board shall regularly identify urban growth areas that are projected to be affected by chapter 329, Laws of 2006 in the next four-year period and may provide advance planning support to the potentially affected jurisdictions.

(6) The board shall review progress toward implementing commute trip reduction plans and programs and the costs and benefits of commute trip reduction plans and programs and shall make recommendations to the legislature and the governor by December 1, 2009, and every two years thereafter. In assessing the costs and benefits, the board shall consider the costs of not having implemented commute trip reduction plans and programs (~~(with the assistance of the transportation performance audit board authorized under chapter 44.75 RCW)~~). The board shall examine other transportation demand management programs nationally and incorporate its findings into its recommendations to the legislature. The recommendations shall address the need for continuation, modification, or termination or any or all requirements of this chapter.

(7) The board shall invite personnel with appropriate expertise from state, regional, and local government, private, public, and nonprofit providers of transportation services, and employers or owners of major worksites in Washington to act as a technical advisory group. The technical advisory group shall advise the board on the implementation of local and regional commute trip reduction plans and programs, program evaluation, program funding allocations, and state rules and guidelines.

Sec. 105. RCW 70.94.551 and 2009 c 427 s 3 are each amended to read as follows:

(1) The secretary of the department of transportation may coordinate an interagency board or other interested parties for the purpose of developing policies or guidelines that promote consistency among state agency commute trip reduction programs required by RCW 70.94.527 and 70.94.531 or developed under the joint comprehensive commute trip reduction plan described in this section. The board shall include representatives of the departments of transportation, (~~general administration~~) enterprise services, ecology, and

~~((community, trade, and economic development))~~ commerce and such other departments and interested groups as the secretary of the department of transportation determines to be necessary. Policies and guidelines shall be applicable to all state agencies including but not limited to policies and guidelines regarding parking and parking charges, employee incentives for commuting by other than single-occupant automobiles, flexible and alternative work schedules, alternative worksites, and the use of state-owned vehicles for car and van pools and guaranteed rides home. The policies and guidelines shall also consider the costs and benefits to state agencies of achieving commute trip reductions and consider mechanisms for funding state agency commute trip reduction programs.

(2) State agencies sharing a common location in affected urban growth areas where the total number of state employees is one hundred or more shall, with assistance from the department of transportation, develop and implement a joint commute trip reduction program. The worksite must be treated as specified in RCW 70.94.531 and 70.94.534.

(3) The department of transportation shall develop a joint comprehensive commute trip reduction plan for all state agencies, including institutions of higher education, located in the Olympia, Lacey, and Tumwater urban growth areas.

(a) In developing the joint comprehensive commute trip reduction plan, the department of transportation shall work with applicable state agencies, including institutions of higher education, and shall collaborate with the following entities: Local jurisdictions; regional transportation planning organizations as described in chapter 47.80 RCW; transit agencies, including regional transit authorities as described in chapter 81.112 RCW and transit agencies that serve areas within twenty-five miles of the Olympia, Lacey, or Tumwater urban growth areas; and the capitol campus design advisory committee established in RCW 43.34.080.

(b) The joint comprehensive commute trip reduction plan must build on existing commute trip reduction programs and policies. At a minimum, the joint comprehensive commute trip reduction plan must include strategies for telework and flexible work schedules, parking management, and consideration of the impacts of worksite location and design on multimodal transportation options.

(c) The joint comprehensive commute trip reduction plan must include performance measures and reporting methods and requirements.

(d) The joint comprehensive commute trip reduction plan may include strategies to accommodate differences in worksite size and location.

(e) The joint comprehensive commute trip reduction plan must be consistent with jurisdictional and regional transportation, land use, and commute trip reduction plans, the state six-year facilities plan, and the master plan for the capitol of the state of Washington.

(f) Not more than ninety days after the adoption of the joint comprehensive commute trip reduction plan, state agencies within the three urban growth areas must implement a commute trip reduction program consistent with the objectives and strategies of the joint comprehensive commute trip reduction plan.

(4) The department of transportation shall review the initial commute trip reduction program of each state agency subject to the commute trip reduction plan for state agencies to determine if the program is likely to meet the

applicable commute trip reduction goals and notify the agency of any deficiencies. If it is found that the program is not likely to meet the applicable commute trip reduction goals, the department of transportation will work with the agency to modify the program as necessary.

(5) Each state agency implementing a commute trip reduction plan shall report at least once per year to its agency director on the performance of the agency's commute trip reduction program as part of the agency's quality management, accountability, and performance system as defined by RCW 43.17.385. The reports shall assess the performance of the program, progress toward state goals established under RCW 70.94.537, and recommendations for improving the program.

(6) The department of transportation shall review the agency performance reports defined in subsection (5) of this section and submit a biennial report for state agencies subject to this chapter to the governor and incorporate the report in the commute trip reduction board report to the legislature as directed in RCW 70.94.537(6). The report shall include, but is not limited to, an evaluation of the most recent measurement results, progress toward state goals established under RCW 70.94.537, and recommendations for improving the performance of state agency commute trip reduction programs. The information shall be reported in a form established by the commute trip reduction board.

Sec. 106. RCW 70.95.265 and 1995 c 399 s 190 are each amended to read as follows:

The department shall work closely with the department of (~~community, trade, and economic development~~) commerce, the department of (~~general administration~~) enterprise services, and with other state departments and agencies, the Washington state association of counties, the association of Washington cities, and business associations, to carry out the objectives and purposes of chapter 41, Laws of 1975-'76 2nd ex. sess.

Sec. 107. RCW 70.95C.110 and 1989 c 431 s 53 are each amended to read as follows:

The legislature finds and declares that the buildings and facilities owned and leased by state government produce significant amounts of solid and hazardous wastes, and actions must be taken to reduce and recycle these wastes and thus reduce the costs associated with their disposal. In order for the operations of state government to provide the citizens of the state an example of positive waste management, the legislature further finds and declares that state government should undertake an aggressive program designed to reduce and recycle solid and hazardous wastes produced in the operations of state buildings and facilities to the maximum extent possible.

The office of waste reduction, in cooperation with the department of (~~general administration~~) enterprise services, shall establish an intensive waste reduction and recycling program to promote the reduction of waste produced by state agencies and to promote the source separation and recovery of recyclable and reusable materials.

All state agencies, including but not limited to, colleges, community colleges, universities, offices of elected and appointed officers, the supreme court, court of appeals, and administrative departments of state government shall fully cooperate with the office of waste reduction and recycling in all phases of

implementing the provisions of this section. The office shall establish a coordinated state plan identifying each agency's participation in waste reduction and recycling. The office shall develop the plan in cooperation with a multiagency committee on waste reduction and recycling. Appointments to the committee shall be made by the director of the department of (~~general administration~~) enterprise services. The director shall notify each agency of the committee, which shall implement the applicable waste reduction and recycling plan elements. All state agencies are to use maximum efforts to achieve a goal of increasing the use of recycled paper by fifty percent by July 1, 1993.

Sec. 108. RCW 70.95H.030 and 1992 c 131 s 2 are each amended to read as follows:

The center shall:

- (1) Provide targeted business assistance to recycling businesses, including:
 - (a) Development of business plans;
 - (b) Market research and planning information;
 - (c) Access to financing programs;
 - (d) Referral and information on market conditions; and
 - (e) Information on new technology and product development;
- (2) Negotiate voluntary agreements with manufacturers to increase the use of recycled materials in product development;
- (3) Support and provide research and development to stimulate and commercialize new and existing technologies and products using recycled materials;
- (4) Undertake an integrated, comprehensive education effort directed to recycling businesses to promote processing, manufacturing, and purchase of recycled products, including:
 - (a) Provide information to recycling businesses on the availability and benefits of using recycled materials;
 - (b) Provide information and referral services on recycled material markets;
 - (c) Provide information on new research and technologies that may be used by local businesses and governments; and
 - (d) Participate in projects to demonstrate new market uses or applications for recycled products;
- (5) Assist the departments of ecology and (~~general administration~~) enterprise services in the development of consistent definitions and standards on recycled content, product performance, and availability;
- (6) Undertake studies on the unmet capital needs of reprocessing and manufacturing firms using recycled materials;
- (7) Undertake and participate in marketing promotions for the purposes of achieving expanded market penetration for recycled content products;
- (8) Coordinate with the department of ecology to ensure that the education programs of both are mutually reinforcing, with the center acting as the lead entity with respect to recycling businesses, and the department as the lead entity with respect to the general public and retailers;
- (9) Develop an annual work plan. The plan shall describe actions and recommendations for developing markets for commodities comprising a significant percentage of the waste stream and having potential for use as an industrial or commercial feedstock. The initial plan shall address, but not be limited to, mixed waste paper, waste tires, yard and food waste, and plastics; and

(10) Represent the state in regional and national market development issues.

Sec. 109. RCW 70.95M.060 and 2003 c 260 s 7 are each amended to read as follows:

(1) The department of general administration must, by January 1, 2005, revise its rules, policies, and guidelines to implement the purpose of this chapter.

(2) The department of (~~general administration~~) enterprise services must give priority and preference to the purchase of equipment, supplies, and other products that contain no mercury-added compounds or components, unless: (a) There is no economically feasible nonmercury-added alternative that performs a similar function; or (b) the product containing mercury is designed to reduce electricity consumption by at least forty percent and there is no nonmercury or lower mercury alternative available that saves the same or a greater amount of electricity as the exempted product. In circumstances where a nonmercury-added product is not available, preference must be given to the purchase of products that contain the least amount of mercury added to the product necessary for the required performance.

Sec. 110. RCW 70.235.050 and 2009 c 519 s 2 are each amended to read as follows:

(1) All state agencies shall meet the statewide greenhouse gas emission limits established in RCW 70.235.020 to achieve the following, using the estimates and strategy established in subsections (2) and (3) of this section:

(a) By July 1, 2020, reduce emissions by fifteen percent from 2005 emission levels;

(b) By 2035, reduce emissions to thirty-six percent below 2005 levels; and

(c) By 2050, reduce emissions to the greater reduction of fifty-seven and one-half percent below 2005 levels, or seventy percent below the expected state government emissions that year.

(2)(a) By June 30, 2010, all state agencies shall report estimates of emissions for 2005 to the department, including 2009 levels of emissions, and projected emissions through 2035.

(b) State agencies required to report under RCW 70.94.151 must estimate emissions from methodologies recommended by the department and must be based on actual operation of those agencies. Agencies not required to report under RCW 70.94.151 shall derive emissions estimates using an emissions calculator provided by the department.

(3) By June 30, 2011, each state agency shall submit to the department a strategy to meet the requirements in subsection (1) of this section. The strategy must address employee travel activities, teleconferencing alternatives, and include existing and proposed actions, a timeline for reductions, and recommendations for budgetary and other incentives to reduce emissions, especially from employee business travel.

(4) By October 1st of each even-numbered year beginning in 2012, each state agency shall report to the department the actions taken to meet the emission reduction targets under the strategy for the preceding fiscal biennium. The department may authorize the department of (~~general administration~~) enterprise services to report on behalf of any state agency having fewer than five hundred full-time equivalent employees at any time during the reporting period. The department shall cooperate with the department of (~~general~~

~~administration~~) enterprise services and the department of (~~community, trade, and economic development~~) commerce to develop consolidated reporting methodologies that incorporate emission reduction actions taken across all or substantially all state agencies.

(5) All state agencies shall cooperate in providing information to the department, the department of (~~general administration~~) enterprise services, and the department of (~~community, trade, and economic development~~) commerce for the purposes of this section.

(6) The governor shall designate a person as the single point of accountability for all energy and climate change initiatives within state agencies. This position must be funded from current full-time equivalent allocations without increasing budgets or staffing levels. If duties must be shifted within an agency, they must be shifted among current full-time equivalent allocations. All agencies, councils, or work groups with energy or climate change initiatives shall coordinate with this designee.

Sec. 111. RCW 71A.20.190 and 2011 1st sp.s. c 30 s 8 are each amended to read as follows:

(1) A developmental disability service system task force is established.

(2) The task force shall be convened by September 1, 2011, and consist of the following members:

(a) Two members of the house of representatives appointed by the speaker of the house of representatives, from different political caucuses;

(b) Two members of the senate appointed by the president of the senate, from different political caucuses;

(c) The following members appointed by the governor:

(i) Two advocates for people with developmental disabilities;

(ii) A representative from the developmental disabilities council;

(iii) A representative of families of residents in residential habilitation centers;

(iv) Two representatives of labor unions representing workers who serve residents in residential habilitation centers;

(d) The secretary of the department of social and health services or their designee; and

(e) The (~~secretary~~) director of the department of (~~general administration~~) enterprise services or their designee.

(3) The members of the task force shall select the chair or cochairs of the task force.

(4) Staff assistance for the task force will be provided by legislative staff and staff from the agencies listed in subsection (2) of this section.

(5) The task force shall make recommendations on:

(a) The development of a system of services for persons with developmental disabilities that is consistent with the goals articulated in section 1, chapter 30, Laws of 2011 1st sp. sess.;

(b) The state's long-term needs for residential habilitation center capacity, including the benefits and disadvantages of maintaining one center in eastern Washington and one center in western Washington;

(c) A plan for efficient consolidation of institutional capacity, including whether one or more centers should be downsized or closed and, if so, a time frame for closure;

(d) Mechanisms through which any savings that result from the downsizing, consolidation, or closure of residential habilitation center capacity can be used to create additional community-based capacity;

(e) Strategies for the use of surplus property that results from the closure of one or more centers;

(f) Strategies for reframing the mission of Yakima Valley School consistent with chapter 30, Laws of 2011 1st sp. sess. that consider:

(i) The opportunity, where cost-effective, to provide medical services, including centers of excellence, to other clients served by the department; and

(ii) The creation of a treatment team consisting of crisis stabilization and short-term respite services personnel, with the long-term goal of expanding to include the provisions of specialty services such as dental care, physical therapy, occupational therapy, and specialized nursing care to individuals with developmental disabilities residing in the surrounding community.

(6) The task force shall report their recommendations to the appropriate committees of the legislature by December 1, 2012.

Sec. 112. RCW 72.01.430 and 1981 c 136 s 75 are each amended to read as follows:

The secretary, notwithstanding any provision of law to the contrary, is hereby authorized to transfer equipment, livestock and supplies between the several institutions within the department without reimbursement to the transferring institution excepting, however, any such equipment donated by organizations for the sole use of such transferring institutions. Whenever transfers of capital items are made between institutions of the department, notice thereof shall be given to the director of the department of (~~general administration~~) enterprise services accompanied by a full description of such items with inventory numbers, if any.

Sec. 113. RCW 72.09.450 and 1996 c 277 s 1 are each amended to read as follows:

(1) An inmate shall not be denied access to services or supplies required by state or federal law solely on the basis of his or her inability to pay for them.

(2) The department shall record all lawfully authorized assessments for services or supplies as a debt to the department. The department shall recoup the assessments when the inmate's institutional account exceeds the indigency standard, and may pursue other remedies to recoup the assessments after the period of incarceration.

(3) The department shall record as a debt any costs assessed by a court against an inmate plaintiff where the state is providing defense pursuant to chapter 4.92 RCW. The department shall recoup the debt when the inmate's institutional account exceeds the indigency standard and may pursue other remedies to recoup the debt after the period of incarceration.

(4) In order to maximize the cost-efficient collection of unpaid offender debt existing after the period of an offender's incarceration, the department is authorized to use the following nonexclusive options: (a) Use the collection services available through the department of (~~general administration~~) enterprise services, or (b) notwithstanding any provision of chapter 41.06 RCW, contract with collection agencies for collection of the debts. The costs for (~~general administration~~) enterprise services or collection agency services shall

be paid by the debtor. Any contract with a collection agency shall only be awarded after competitive bidding. Factors the department shall consider in awarding a collection contract include but are not limited to a collection agency's history and reputation in the community; and the agency's access to a local database that may increase the efficiency of its collections. The servicing of an unpaid obligation to the department does not constitute assignment of a debt, and no contract with a collection agency may remove the department's control over unpaid obligations owed to the department.

Sec. 114. RCW 77.12.177 and 2011 c 339 s 4 are each amended to read as follows:

(1) Except as provided in this title, state and county officers receiving the following moneys shall deposit them in the state general fund:

(a) The sale of commercial licenses required under this title, except for licenses issued under RCW 77.65.490; and

(b) Moneys received for damages to food fish or shellfish.

(2) The director shall make weekly remittances to the state treasurer of moneys collected by the department.

(3) All fines and forfeitures collected or assessed by a district court for a violation of this title or rule of the department shall be remitted as provided in chapter 3.62 RCW.

(4) Proceeds from the sale of food fish or shellfish taken in test fishing conducted by the department, to the extent that these proceeds exceed the estimates in the budget approved by the legislature, may be allocated as unanticipated receipts under RCW 43.79.270 to reimburse the department for unanticipated costs for test fishing operations in excess of the allowance in the budget approved by the legislature.

(5) Proceeds from the sale of salmon carcasses and salmon eggs from state general funded hatcheries by the department (~~(of general administration)~~) shall be deposited in the regional fisheries enhancement group account established in RCW 77.95.090.

(6) Proceeds from the sale of herring spawn on kelp fishery licenses by the department, to the extent those proceeds exceed estimates in the budget approved by the legislature, may be allocated as unanticipated receipts under RCW 43.79.270. Allocations under this subsection shall be made only for herring management, enhancement, and enforcement.

Sec. 115. RCW 77.12.451 and 1990 c 36 s 1 are each amended to read as follows:

(1) The director may take or remove any species of fish or shellfish from the waters or beaches of the state.

(2) The director may sell food fish or shellfish caught or taken during department test fishing operations.

(3) The director shall not sell inedible salmon for human consumption. Salmon and carcasses may be given to state institutions or schools or to economically depressed people, unless the salmon are unfit for human consumption. Salmon not fit for human consumption may be sold by the director for animal food, fish food, or for industrial purposes.

(4) In the sale of surplus salmon from state hatcheries, the (~~(division of purchasing)~~) director shall require that a portion of the surplus salmon be

processed and returned to the state by the purchaser. The processed salmon shall be fit for human consumption and in a form suitable for distribution to individuals. The (~~(division of purchasing)~~) department shall establish the required percentage at a level that does not discourage competitive bidding for the surplus salmon. The measure of the percentage is the combined value of all of the surplus salmon sold. The department of social and health services shall distribute the processed salmon to economically depressed individuals and state institutions pursuant to rules adopted by the department of social and health services.

Sec. 116. RCW 79.19.080 and 2003 c 334 s 531 are each amended to read as follows:

Periodically, at intervals to be determined by the board, the department shall identify trust lands which are expected to convert to commercial, residential, or industrial uses within ten years. The department shall adhere to existing local comprehensive plans, zoning classifications, and duly adopted local policies when making this identification and determining the fair market value of the property.

The department shall hold a public hearing on the proposal in the county where the state land is located. At least fifteen days but not more than thirty days before the hearing, the department shall publish a public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing, at least once in one or more daily newspapers of general circulation in the county and at least once in one or more weekly newspapers circulated in the area where the trust land is located. At the same time that the published notice is given, the department shall give written notice of the hearings to the departments of fish and wildlife and (~~(general administration)~~) enterprise services, to the parks and recreation commission, and to the county, city, or town in which the property is situated. The department shall disseminate a news release pertaining to the hearing among printed and electronic media in the area where the trust land is located. The public notice and news release also shall identify trust lands in the area which are expected to convert to commercial, residential, or industrial uses within ten years.

A summary of the testimony presented at the hearings shall be prepared for the board's consideration. The board shall designate trust lands which are expected to convert to commercial, residential, or industrial uses as urban land. Descriptions of lands designated by the board shall be made available to the county and city or town in which the land is situated and for public inspection and copying at the department's administrative office in Olympia, Washington and at each area office.

The hearing and notice requirements of this section apply to those trust lands which have been identified by the department prior to July 1, 1984, as being expected to convert to commercial, residential, or industrial uses within the next ten years, and which have not been sold or exchanged prior to July 1, 1984.

Sec. 117. RCW 79.24.300 and 1977 c 75 s 90 are each amended to read as follows:

The state capitol committee may construct parking facilities for the state capitol adequate to provide parking space for automobiles, said parking facilities

to be either of a single level, multiple level, or both, and to be either on one site or more than one site and located either on or in close proximity to the capitol grounds, though not necessarily contiguous thereto. The state capitol committee may select such lands as are necessary therefor and acquire them by purchase or condemnation. As an aid to such selection the committee may cause location, topographical, economic, traffic, and other surveys to be conducted, and for this purpose may utilize the services of existing state agencies, may employ personnel, or may contract for the services of any person, firm or corporation. In selecting the location and plans for the construction of the parking facilities the committee shall consider recommendations of the director of (~~general administration~~) enterprise services.

Space in parking facilities may be rented to the officers and employees of the state on a monthly basis at a rental to be determined by the director of (~~general administration~~) enterprise services. The state shall not sell gasoline, oil, or any other commodities or perform any services for any vehicles or equipment other than state equipment.

Sec. 118. RCW 79.24.530 and 1961 c 167 s 4 are each amended to read as follows:

The department of (~~general administration~~) enterprise services shall develop, amend and modify an overall plan for the design and establishment of state capitol buildings and grounds on the east capitol site in accordance with current and prospective requisites of a state capitol befitting the state of Washington. The overall plan, amendments and modifications thereto shall be subject to the approval of the state capitol committee.

Sec. 119. RCW 79.24.540 and 1961 c 167 s 5 are each amended to read as follows:

State agencies which are authorized by law to acquire land and construct buildings, whether from appropriated funds or from funds not subject to appropriation by the legislature, may buy land in the east capitol site and construct buildings thereon so long as the location, design and construction meet the requirements established by the department of (~~general administration~~) enterprise services and approved by the state capitol committee.

Sec. 120. RCW 79.24.560 and 1961 c 167 s 7 are each amended to read as follows:

The department of (~~general administration~~) enterprise services shall have the power to rent, lease, or otherwise use any of the properties acquired in the east capitol site.

Sec. 121. RCW 79.24.570 and 2000 c 11 s 24 are each amended to read as follows:

All moneys received by the department of (~~general administration~~) enterprise services from the management of the east capitol site, excepting (1) funds otherwise dedicated prior to April 28, 1967, (2) parking and rental charges and fines which are required to be deposited in other accounts, and (3) reimbursements of service and other utility charges made to the department of (~~general administration~~) enterprise services, shall be deposited in the capitol purchase and development account of the state general fund.

Sec. 122. RCW 79.24.664 and 1969 ex.s. c 272 s 8 are each amended to read as follows:

There is appropriated to the department of (~~general administration~~) enterprise services from the general fund—state building construction account the sum of fifteen million dollars or so much thereof as may be necessary to accomplish the purposes set forth in RCW 79.24.650.

Sec. 123. RCW 79.24.710 and 2005 c 330 s 2 are each amended to read as follows:

For the purposes of RCW 79.24.720, 79.24.730, 43.01.090, 43.19.500, and 79.24.087, "state capitol public and historic facilities" includes:

(1) The east, west and north capitol campus grounds, Sylvester park, Heritage park, Marathon park, Centennial park, the Deschutes river basin commonly known as Capitol lake, the interpretive center, Deschutes parkway, and the landscape, memorials, artwork, fountains, streets, sidewalks, lighting, and infrastructure in each of these areas not including state-owned aquatic lands in these areas managed by the department of natural resources under RCW (~~79.90.450~~) 79.105.010;

(2) The public spaces and the historic interior and exterior elements of the following buildings: the visitor center, the Governor's mansion, the legislative building, the John L. O'Brien building, the Cherberg building, the Newhouse building, the Pritchard building, the temple of justice, the insurance building, the Dolliver building, capitol court, and the old capitol buildings, including the historic state-owned furnishings and works of art commissioned for or original to these buildings; and

(3) Other facilities or elements of facilities as determined by the state capitol committee, in consultation with the department of (~~general administration~~) enterprise services.

Sec. 124. RCW 79.24.720 and 2005 c 330 s 3 are each amended to read as follows:

The department of (~~general administration~~) enterprise services is responsible for the stewardship, preservation, operation, and maintenance of the public and historic facilities of the state capitol, subject to the policy direction of the state capitol committee (~~and the legislative buildings committee as created in chapter . . . (House Bill No. 1301), Laws of 2005,~~) and the guidance of the capitol campus design advisory committee. In administering this responsibility, the department shall:

(1) Apply the United States secretary of the interior's standards for the treatment of historic properties;

(2) Seek to balance the functional requirements of state government operations with public access and the long-term preservation needs of the properties themselves; and

(3) Consult with the capitol furnishings preservation committee, the state historic preservation officer, the state arts commission, and the state facilities accessibility advisory committee in fulfilling the responsibilities provided for in this section.

Sec. 125. RCW 79.24.730 and 2005 c 330 s 4 are each amended to read as follows:

(1) To provide for responsible stewardship of the state capitol public and historic facilities, funding for:

(a) Maintenance and operational needs shall be authorized in the state's omnibus appropriations act and funded by the (~~general administration~~) enterprise services account as provided under RCW 43.19.500;

(b) Development and preservation needs shall be authorized in the state's capital budget. To the extent revenue is available, the capitol building construction account under RCW 79.24.087 shall fund capital budget needs. If capitol building construction account funds are not available, the state building construction account funds may be authorized for this purpose.

(2) The department of (~~general administration~~) enterprise services may seek grants, gifts, or donations to support the stewardship of state capitol public and historic facilities. The department may: (a) Purchase historic state capitol furnishings or artifacts; or (b) sell historic state capitol furnishings and artifacts that have been designated as state surplus by the capitol furnishings preservation committee under RCW 27.48.040(6). Funds generated from grants, gifts, donations, or sales for omnibus appropriations act needs shall be deposited into the (~~general administration~~) enterprise services account. Funds generated for capital budget needs shall be deposited into the capitol building construction account.

Sec. 126. RCW 79A.15.010 and 2009 c 341 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) "Acquisition" means the purchase on a willing seller basis of fee or less than fee interests in real property. These interests include, but are not limited to, options, rights of first refusal, conservation easements, leases, and mineral rights.

(2) "Board" means the recreation and conservation funding board.

(3) "Critical habitat" means lands important for the protection, management, or public enjoyment of certain wildlife species or groups of species, including, but not limited to, wintering range for deer, elk, and other species, waterfowl and upland bird habitat, fish habitat, and habitat for endangered, threatened, or sensitive species.

(4) "Farmlands" means any land defined as "farm and agricultural land" in RCW 84.34.020(2).

(5) "Local agencies" means a city, county, town, federally recognized Indian tribe, special purpose district, port district, or other political subdivision of the state providing services to less than the entire state.

(6) "Natural areas" means areas that have, to a significant degree, retained their natural character and are important in preserving rare or vanishing flora, fauna, geological, natural historical, or similar features of scientific or educational value.

(7) "Nonprofit nature conservancy corporation or association" means an organization as defined in RCW 84.34.250.

(8) "Riparian habitat" means land adjacent to water bodies, as well as submerged land such as streambeds, which can provide functional habitat for salmonids and other fish and wildlife species. Riparian habitat includes, but is not limited to, shorelines and near-shore marine habitat, estuaries, lakes, wetlands, streams, and rivers.

(9) "Special needs populations" means physically restricted people or people of limited means.

(10) "State agencies" means the state parks and recreation commission, the department of natural resources, the department of ~~((general administration))~~ enterprise services, and the department of fish and wildlife.

(11) "Trails" means public ways constructed for and open to pedestrians, equestrians, or bicyclists, or any combination thereof, other than a sidewalk constructed as a part of a city street or county road for exclusive use of pedestrians.

(12) "Urban wildlife habitat" means lands that provide habitat important to wildlife in proximity to a metropolitan area.

(13) "Water access" means boat or foot access to marine waters, lakes, rivers, or streams.

***NEW SECTION. Sec. 127. RCW 37.14.010, 43.19.533, 43.320.012, 43.320.013, 43.320.014, 43.320.015, 43.320.901, and 70.120.210 are each decodified.**

Sec. 127 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 128. The following acts or parts of acts are each repealed:

(1) RCW 43.105.041 (Powers and duties of board) and 2011 c 358 s 6, 2010 1st sp.s. c 7 s 65, 2009 c 486 s 13, 2003 c 18 s 3, & 1999 c 285 s 5;

(2) RCW 43.105.178 (Information technology assets—Inventory) and 2010 c 282 s 12;

(3) RCW 43.105.330 (State interoperability executive committee) and 2011 c 367 s 711, 2006 c 76 s 2, & 2003 c 18 s 4;

(4) RCW 43.105.070 (Confidential or privileged information) and 1969 ex.s. c 212 s 4; and

(5) RCW 49.74.040 (Failure to reach conciliation agreement—Administrative hearing—Appeal) and 2002 c 354 s 248, 2002 c 354 s 247, & 1985 c 365 s 11.

NEW SECTION. Sec. 129. Section 91 of this act expires June 30, 2016.

Passed by the Senate April 16, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 11, 2015, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 12, 2015.

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

"I am returning herewith, without my approval as to Sections 19, 25, 48, 49, and 127, Senate Bill No. 5024 entitled:

"AN ACT Relating to conforming amendments made necessary by reorganizing and streamlining central service functions, powers, and duties of state government."

The following sections contain conflicting or double amendments to sections of law amended in legislation I have already signed into law and are not necessary:

Section 19 amends RCW 19.27A.020, which was also amended in House Bill No. 1011, already signed into law.

Section 25 amends RCW 27.48.040, which was also amended in Senate Bill No. 5176, already signed into law.

Sections 48 and 49 amend RCW 39.35C.050 and 39.35C.090, which were also amended in Senate Bill No. 5075, already signed into law.

Section 127 decodifies RCW 43.19.533, which was repealed in Senate Bill No. 5075, already signed into law.

For these reasons I have vetoed Sections 19, 25, 48, 49, and 127 of Senate Bill No. 5024.

With the exception of Sections 19, 25, 48, 49, and 127, Senate Bill No. 5024 is approved."

CHAPTER 226

[Senate Bill 5139]

STATE BUILDING CODE--LOCAL EXEMPTIONS

AN ACT Relating to building code standards for certain buildings four or more stories high; and amending RCW 19.27.060.

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

Sec. 1. RCW 19.27.060 and 2002 c 135 s 1 are each amended to read as follows:

(1) The governing bodies of counties and cities may amend the codes enumerated in RCW 19.27.031 as amended and adopted by the state building code council as they apply within their respective jurisdictions, but the amendments shall not result in a code that is less than the minimum performance standards and objectives contained in the state building code.

(a) No amendment to a code enumerated in RCW 19.27.031 as amended and adopted by the state building code council that affects single-family or multifamily residential buildings shall be effective unless the amendment is approved by the building code council under RCW 19.27.074(1)(b).

(b) Any county or city amendment to a code enumerated in RCW 19.27.031 which is approved under RCW 19.27.074(1)(b) shall continue to be effective after any action is taken under RCW 19.27.074(1)(a) without necessity of reapproval under RCW 19.27.074(1)(b) unless the amendment is declared null and void by the council at the time any action is taken under RCW 19.27.074(1)(a) because such action in any way altered the impact of the amendment.

(2) Except as permitted or provided otherwise under this section, the state building code shall be applicable to all buildings and structures including those owned by the state or by any governmental subdivision or unit of local government.

(3) The governing body of each county or city may limit the application of any portion of the state building code to exclude specified classes or types of buildings or structures according to use other than single-family or multifamily residential buildings. However, in no event shall fruits or vegetables of the tree

or vine stored in buildings or warehouses constitute combustible stock for the purposes of application of the uniform fire code. A governing body of a county or city may inspect facilities used for temporary storage and processing of agricultural commodities.

~~(4) ((The provisions of this chapter shall not apply to any building four or more stories high with a B occupancy as defined by the uniform building code, 1982 edition, and with a city fire insurance rating of 1, 2, or 3 as defined by a recognized fire rating bureau or organization.~~

~~(5))~~ No provision of the uniform fire code concerning roadways shall be part of the state building code: PROVIDED, That this subsection shall not limit the authority of a county or city to adopt street, road, or access standards.

~~((6))~~(5) The provisions of the state building code may be preempted by any city or county to the extent that the code provisions relating to the installation or use of sprinklers in jail cells conflict with the secure and humane operation of jails.

~~((7))~~(6)(a) Effective one year after July 23, 1989, the governing bodies of counties and cities may adopt an ordinance or resolution to exempt from permit requirements certain construction or alteration of either group R, division 3, or group M, division 1 occupancies, or both, as defined in the uniform building code, 1988 edition, for which the total cost of fair market value of the construction or alteration does not exceed fifteen hundred dollars. The permit exemption shall not otherwise exempt the construction or alteration from the substantive standards of the codes enumerated in RCW 19.27.031, as amended and maintained by the state building code council under RCW 19.27.070.

(b) Prior to July 23, 1989, the state building code council shall adopt by rule, guidelines exempting from permit requirements certain construction and alteration activities under (a) of this subsection.

Passed by the Senate March 11, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 227

[Senate Bill 5207]

TOW TRUCK OPERATORS--BUSINESS HOURS

AN ACT Relating to office hours for registered tow truck operators; and amending RCW 46.55.060.

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

Sec. 1. RCW 46.55.060 and 1989 c 111 s 6 are each amended to read as follows:

(1) The address that the tow truck operator lists on his or her application shall be the business location of the firm where its files are kept. Each separate business location requires a separate registration under this chapter. The application shall also list all locations of secure areas for vehicle storage and redemption.

(2) Before an additional lot may be used for vehicle storage, it must be inspected and approved by the state patrol. The lot must also be inspected and approved on an annual basis for continued use.

(3) Each business location must have a sign displaying the firm's name that is readable from the street.

(4) At the business locations listed where vehicles may be redeemed, the registered operator shall post in a conspicuous and accessible location:

(a) All pertinent licenses and permits to operate as a registered tow truck operator;

(b) The current towing and storage charges itemized on a form approved by the department;

(c) The vehicle redemption procedure and rights;

(d) Information supplied by the department as to where complaints regarding either equipment or service are to be directed;

(e) Information concerning the acceptance of commercially reasonable tender as defined in RCW 46.55.120(1)(~~(b)~~)(f).

(5) The department shall adopt rules concerning fencing and security requirements of storage areas, which may provide for modifications or exemptions where needed to achieve compliance with local zoning laws.

(6) On any day when the registered tow truck operator holds the towing services open for business, the business office shall remain open with personnel present who are able to release impounded vehicles in accordance with this chapter and the rules adopted under it. The normal business hours of a towing service shall be from 8:00 a.m. to 5:00 p.m. on weekdays, excluding Saturdays, Sundays, and holidays. The business office may be closed for no more than one hour between the hours of 11:00 a.m. and 1:00 p.m. if a notice is clearly visible at the door with a telephone number at which personnel can be reached to return within no more than one-half of an hour to release an impounded vehicle. If the caller does in fact redeem the vehicle when the personnel returns to release the vehicle, the accrual of charges for storage ceases at the time of the call.

(7) A registered tow truck operator shall maintain personnel who can be contacted twenty-four hours a day to release impounded vehicles within a reasonable time.

(8) A registered operator shall provide access to a telephone for any person redeeming a vehicle, at the time of redemption.

Passed by the Senate February 24, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 228

[Senate Bill 5297]

COMMERCIAL VEHICLE REGISTRATION--FUEL TAX

AN ACT Relating to updating and clarifying statutory provisions within the commercial vehicle registration and fuel tax administrative systems; amending RCW 46.87.010, 46.87.020, 46.87.022, 46.87.025, 46.87.030, 46.87.040, 46.87.050, 46.87.060, 46.87.070, 46.87.080, 46.87.090, 46.87.120, 46.87.130, 46.87.140, 46.87.150, 46.87.190, 46.87.200, 46.87.220, 46.87.230, 46.87.240, 46.87.250, 46.87.260, 46.87.280, 46.87.290, 46.87.294, 46.87.296, 46.87.300, 46.87.310, 46.87.320, 46.87.330, 46.87.335, 46.87.340, 46.87.350, 46.87.360, 46.87.370, 46.87.410, and 46.19.020;

amending 2013 c 225 s 650 (uncodified); amending 2014 c 216 s 601 (uncodified); repealing RCW 46.87.023, 46.87.210, 46.87.270, and 46.87.380; repealing 2013 c 225 s 305; prescribing penalties; providing effective dates; and declaring an emergency.

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

Sec. 1. RCW 46.87.010 and 2011 c 171 s 95 are each amended to read as follows:

This chapter applies to proportional registration and reciprocity granted under the provisions of the international registration plan (IRP). This chapter shall become effective and be implemented beginning with the 1988 registration year.

~~(1) (Provisions and terms of the IRP prevail unless given a different meaning in chapter 46.04 RCW, this chapter, or in rules adopted under the authority of this chapter.~~

~~(2))~~ The director may adopt and enforce rules deemed necessary to implement and administer this chapter.

~~((3))~~ (2) Owners having a fleet of apportionable vehicles operating in two or more IRP member jurisdictions may elect to proportionally register the vehicles of the fleet under the provisions of the IRP and this chapter in lieu of full or temporary registration as provided for in chapter 46.16A RCW.

~~((4))~~ (3) If a due date or an expiration date ~~((established under authority of this chapter))~~ falls on a Saturday, Sunday, or a state legal holiday, such period is automatically extended through the end of the next business day.

Sec. 2. RCW 46.87.020 and 2010 c 161 s 1141 are each amended to read as follows:

Provisions and terms used in this chapter have the meaning given to them in the international registration plan (IRP), in chapter 46.04 RCW, or as otherwise defined in this section. Definitions given to terms by the IRP prevail unless given a different meaning in this chapter or in rules adopted under authority of this chapter.

(1) "Adequate records" are records maintained by the owner of the fleet sufficient to enable the department to verify the distances reported in the owner's application for apportioned registration and to evaluate the accuracy of the owner's distance accounting system.

(2) "Apportionable vehicle" has the meaning given by the IRP, except that it does not include vehicles with a declared gross weight of twelve thousand pounds or less. ((Apportionable vehicles include trucks, tractors, truck tractors, road tractors, and buses, each as separate and licensable vehicles.

~~(2))~~ (3) "Cab card" is a certificate of registration issued for a vehicle ((upon which is disclosed the jurisdictions and registered gross weights in such jurisdictions for which the vehicle is registered)).

~~((3))~~ (4) "Credentials" means cab cards, apportioned plates ((for Washington-based fleets)), temporary operating authority, and validation tabs issued for proportionally registered vehicles.

~~((4))~~ (5) "Declared combined gross weight" means the total unladen weight of any combination of vehicles plus the maximum weight of the ((maximum)) load to be carried on the combination of vehicles as ((set)) declared by the registrant ((in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid)).

~~((5))~~ (6) "Declared gross weight" means the total unladen weight of any vehicle plus the maximum weight of the (~~maximum~~) load to be carried on the vehicle as (~~set~~) declared by the registrant (~~in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid~~). In the case of a bus, auto stage, or a passenger-carrying for hire vehicle with a seating capacity of more than six, the declared gross weight (~~shall be~~) is determined by multiplying (~~the average load factor of~~) one hundred (~~and~~) fifty pounds by the number of seats in the vehicle, including the driver's seat, and (~~add~~) adding this amount to the unladen weight of the vehicle. If the resultant gross weight is not listed in RCW 46.17.355, it (~~will~~) must be increased to the next higher gross weight (~~so listed pursuant to~~) authorized in chapter 46.44 RCW.

~~((6))~~ (7) "Department" means the department of licensing.

~~((7))~~ (8) "Fleet" means one or more apportionable vehicles (~~in the IRP~~).

~~((8))~~ (9) "In-jurisdiction (~~miles~~) distance" means the total distance, in miles, accumulated in a jurisdiction during the (~~preceding year~~) reporting period by vehicles of the fleet while they were a part of the fleet.

~~((9))~~ (10) "IRP" means the international registration plan.

~~((10))~~ (11) "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

~~((11))~~ (12) "Motor carrier" means an entity engaged in the transportation of goods or persons. (~~The term~~) "Motor carrier" includes a for-hire motor carrier, private motor carrier, (~~contract motor carrier, or~~) exempt motor carrier (~~The term includes a~~), registrant licensed under this chapter, (~~a~~) motor vehicle lessor, and (~~a~~) motor vehicle lessee.

~~((12))~~ (13) "Owner" means a person or business (~~firm~~) who holds the legal title to a vehicle, or if a vehicle is the subject of an agreement for its conditional sale with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or if a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or if a mortgagor of a vehicle is entitled to possession, then the owner is deemed to be the person or business (~~firm~~) in whom is vested right of possession or control.

(13) (~~"Preceding year" means the period of twelve consecutive months immediately before July 1st of the year immediately before the commencement of the registration or license year for which apportioned registration is sought.~~) "Person" means any individual, partnership, association, public or private corporation, limited liability company, or other type of legal or commercial entity, including its members, managers, partners, directors, or officers.

(14) "Prorate percentage" is the factor (~~that is~~) applied to the total proratable fees and taxes to determine the apportionable (~~or prorate~~) fees required for registration in a (~~particular~~) jurisdiction. It is determined by dividing the in-jurisdiction (~~miles~~) distance for a particular jurisdiction by the total (~~miles~~). ~~This term is synonymous with the term "mileage percentage."~~ distance.

(15) "Registrant" means a person, business (~~firm~~), or corporation in whose name or names a vehicle or fleet of vehicles is registered.

(16) "Registration year" means the twelve-month period during which the ~~((registration plates))~~ credentials issued by the base jurisdiction are valid ~~((according to the laws of the base jurisdiction))~~.

(17) "Reporting period" means the period of twelve consecutive months immediately prior to July 1st of the calendar year immediately preceding the beginning of the registration year for which apportioned registration is sought. If the fleet registration period commences in October, November, or December, the reporting period is the period of twelve consecutive months immediately preceding July 1st of the current calendar year.

(18) "Total ((miles)) distance" means ~~((the total number of miles accumulated in all jurisdictions during the preceding year by all vehicles of the fleet while they were a part of the fleet. Mileage))~~ all distance operated by a fleet of apportioned vehicles. "Total distance" includes the full distance traveled in all vehicle movements, both interjurisdictional and intrajurisdictional, including loaded, unladen, deadhead, and bobtail distances. Distance traveled by a vehicle while under a trip lease is considered to have been traveled by the lessor's fleet. All distance, both interstate and intrastate, accumulated by vehicles of the fleet ((that did not engage in interstate operations)) is ((not)) included in the fleet ((miles)) distance.

Sec. 3. RCW 46.87.022 and 1990 c 250 s 74 are each amended to read as follows:

Owners of rental trailers and semitrailers over six thousand pounds gross vehicle weight~~((, and converter gears))~~ used solely in pool fleets ~~((shall))~~ must fully register a portion of the pool fleet in this state. To determine the percentage of total fleet vehicles that must be registered in this state, divide the gross revenue received in the ~~((preceding year))~~ reporting period for the use of the rental vehicles arising from rental transactions occurring in this state by the total revenue received in the ~~((preceding year))~~ reporting period for the use of the rental vehicles arising from rental transactions in all jurisdictions in which the vehicles are operated. Apply the resulting percentage to the total number of vehicles that ~~((shall))~~ must be registered in this state. Vehicles registered in this state ~~((shall))~~ must be representative of the vehicles in the fleet according to age, size, and value.

Sec. 4. RCW 46.87.025 and 1990 c 250 s 75 are each amended to read as follows:

All vehicles being added to ~~((an existing))~~ a Washington~~((-based))~~ fleet or those vehicles that make up a new Washington~~((-based))~~ fleet ~~((shall))~~ must be titled in the name of the owner at time of registration~~((, or evidence of filing application for title for such vehicles in the name of the owner shall accompany the application for proportional registration))~~.

Sec. 5. RCW 46.87.030 and 2010 c 161 s 1142 are each amended to read as follows:

(1) When application to register ~~((an apportionable))~~ a vehicle in an existing fleet is made, the Washington ~~((prorated))~~ apportioned fees ~~((may))~~ must be reduced by one-twelfth for each full ~~((registration))~~ month that has elapsed ~~((at))~~ from the time ~~((a temporary authorization permit (TAP) was issued or if no TAP was issued, at such time as))~~ an application for registration is received in the department. ~~((If a vehicle is being added to a currently registered fleet,))~~ The

prorate percentage previously established for the fleet ~~((for such registration year shall))~~ must be used in the computation of the ~~((proportional))~~ apportionable fees and taxes due.

(2) If ~~((any))~~ a vehicle is withdrawn from a ~~((proportionally registered))~~ fleet during the period ~~((for which))~~ it is registered under this chapter, the registrant of the fleet ~~((shall))~~ must notify the department on ~~((appropriate))~~ forms prescribed by the department. The department may require the registrant to surrender credentials ~~((that were))~~ issued to the vehicle. If a ~~((motor))~~ vehicle is ~~((permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold, or otherwise))~~ completely removed from the service of the fleet ~~((registrant))~~, the unused portion of the license fee paid under RCW 46.17.355 ~~((with respect to the vehicle))~~, reduced by one-twelfth for each ~~((calendar))~~ month and fraction thereof elapsing between the first day of the month of the current registration year ~~((in which the vehicle was registered))~~ and the date the notice of ~~((withdrawal, accompanied by such credentials as may be required,))~~ removal is received in the department, ~~((shall))~~ must be credited to the registrant's fleet proportional registration account ~~((of the registrant))~~. Credit ~~((shall))~~ must be applied against the license fee liability for subsequent additions of ~~((motor))~~ vehicles to ~~((be proportionally registered in))~~ the fleet during ~~((such))~~ the registration year or for additional license fees due under RCW 46.17.355 or ~~((to))~~ be due upon audit under RCW 46.87.310. If any credit is less than fifteen dollars, ~~((no))~~ the credit ~~((will))~~ must not be entered. In lieu of credit, the registrant may ~~((choose to))~~ transfer the unused portion of the license fee for the ~~((motor))~~ vehicle to the new owner, in which case it ~~((shall))~~ must remain with the ~~((motor))~~ vehicle for which it was originally paid. ~~((In no event may any))~~ An amount may not be credited against fees other than those for the registration year from which the credit was obtained ~~((nor is any))~~ and an amount ~~((subject to refund))~~ may not be refunded.

Sec. 6. RCW 46.87.040 and 1994 c 262 s 13 are each amended to read as follows:

Additional gross weight may be purchased ~~((for proportionally registered motor vehicles))~~ to the limits authorized under chapter 46.44 RCW. ~~((Reregistration at the higher gross weight (maximum gross weights under this chapter are fifty-four thousand pounds for a solo three-axle truck or one hundred fifty thousand five hundred pounds for a combination)))~~ Registration must be for the ~~((balance))~~ remainder of the registration year, including the full registration month in which the vehicle is initially ~~((licensed))~~ registered at the higher gross weight. The apportionable ~~((or proportional))~~ fee initially paid to the state of Washington, reduced ~~((for))~~ by the number of full registration months the license was in effect, ~~((will))~~ must be deducted from the total fee ~~((to be paid to this state for licensing at the higher gross weight for the balance of the registration year))~~ due. ~~((No))~~ A credit or refund ~~((will))~~ may not be given for a reduction of gross weight.

Sec. 7. RCW 46.87.050 and 2005 c 194 s 4 are each amended to read as follows:

Each day the department ~~((shall))~~ must forward to the state treasurer the fees collected under this chapter~~((;))~~ and, within ten days of the end of each registration quarter, a detailed report identifying the amount to be deposited to

each account for which fees are required (~~for the licensing of proportionally registered vehicles~~). Such fees (~~shall~~) must be deposited pursuant to RCW 46.68.035 (~~and 82.44.170~~).

Sec. 8. RCW 46.87.060 and 1987 c 244 s 21 are each amended to read as follows:

The apportionment of fees to IRP member jurisdictions (~~shall~~) must be in accordance with the provisions of the IRP agreement (~~based on the apportionable fee multiplied by the prorated percentage for each jurisdiction in which the fleet will be registered or is currently registered~~).

Sec. 9. RCW 46.87.070 and 2005 c 194 s 5 are each amended to read as follows:

Trailers, semitrailers, and pole trailers (~~that are~~) properly based in jurisdictions other than Washington(;) and (~~that display~~) displaying currently registered license plates (~~from such~~) issued by the jurisdictions (~~will be~~) are granted vehicle (license) registration reciprocity in this state (~~without the need of further vehicle license registration~~). Unless registered under the provisions of the IRP as a pool fleet, such trailers, semitrailers, and pole trailers must be operated in combination with an apportioned power unit to qualify for reciprocity. If pole trailers are not required to be licensed separately by a member jurisdiction, (~~such vehicles~~) they may be operated in this state without displaying a (~~current~~) base license plate.

Sec. 10. RCW 46.87.080 and 2013 c 225 s 609 are each amended to read as follows:

(1) Upon making satisfactory application and payment of (~~applicable~~) fees and taxes for proportional registration under this chapter, the department must issue (~~a cab card and validation tab for each vehicle, and to vehicles of Washington-based fleets, two distinctive apportionable license plates for each motor vehicle~~) credentials. License plates must be displayed (~~on vehicles~~) as required (~~by~~) under RCW 46.16A.200(5). The (~~number and~~) license plates must be of a design(~~, size, and color~~) determined by the department. The license plates must be treated with reflectorized material and clearly marked with the words "WASHINGTON" and "APPORTIONED," both words to appear in full and without abbreviation.

(2) The cab card (~~serves as~~) is the certificate of registration for (~~a proportionally registered~~) the vehicle. The (~~face of the~~) cab card must contain the name and address of the registrant as (~~contained~~) maintained in the records of the department, the license plate number assigned to the vehicle (~~by the base jurisdiction~~), the vehicle identification number, and (~~such~~) other (~~description of the vehicle and data as~~) information the department may require. The cab card must be signed by the registrant, or a designated person if the registrant is a business (~~firm~~), and must (~~at all times~~) always be carried in (~~or on~~) the vehicle (~~to which it was issued~~).

(3) The apportioned license plates are not transferrable (~~from vehicle to vehicle unless otherwise determined by rule and may be used only on the vehicle to which they are assigned by the department for as long as they are~~). License plates must be legible (~~or~~) and remain with the vehicle until (~~such time as~~) the department requires them to be removed (~~and returned to the department~~).

(4) (~~Distinctive~~) Validation tab(s) of a design(~~(, size, and color)~~) determined by the department must be affixed to the (~~apportioned~~) license plate(s) as prescribed by the department (~~(to)~~) and indicate the month(~~(, if necessary,)~~) and year for which the vehicle is registered.

(5) (~~Renewals are effected by the issuance and display of such tab(s) after making satisfactory application and payment of applicable fees and taxes.~~)

(6)) A fleet vehicle(~~(s - so)~~) properly registered (~~(and identified are)~~) is deemed to be fully (~~(licensed and)~~) registered in this state for any type of legal movement or operation. (~~However,~~) In (~~(those)~~) instances in which a permit or grant of authority is required for interstate or intrastate (~~(movement or)~~) operation, (~~(no such)~~) the vehicle (~~(may)~~) must not be operated in interstate or intrastate commerce (~~(in this state)~~) unless the owner (~~(has been)~~) is granted (~~(interstate)~~) the appropriate operating authority (~~(in the case of interstate operations or intrastate operating authority by the Washington utility and transportation commission in the case of intrastate operations)~~) and (~~(unless)~~) the vehicle is being operated in conformity with that permit or operating authority.

(~~(7) The department may issue temporary authorization permits (TAPs) to qualifying operators for the operation of vehicles pending issuance of license identification. A fee of one dollar plus a one dollar filing fee must be collected for each permit issued. The permit fee must be deposited in the motor vehicle fund, and the filing fee must be deposited in the highway safety fund. The department may adopt rules for use and issuance of the permits.~~)

(8)) (6) The department may (~~(refuse to issue any license or permit)~~) deny, suspend, or revoke the credentials authorized (~~(by)~~) under subsection (1) (~~(or 7)~~) of this section to any person: (a) Who formerly held any type of license, registration, credentials, or permit issued by the department pursuant to chapter 46.16A, 46.44, 46.85, 46.87, or 82.38 RCW that has been revoked for cause, which cause has not been removed; (~~(or)~~) (b) who is a subterfuge for the real party in interest whose license, registration, credentials, or permit issued by the department pursuant to chapter 46.16A, 46.44, 46.85, 46.87, or 82.38 RCW and has been revoked for cause, which cause has not been removed; (~~(or)~~) (c) who, as (~~(an)~~) a person, individual licensee, or officer, partner, director, owner, or managing employee of a nonindividual licensee, has had a license, registration, or permit issued by the department pursuant to chapter 46.16A, 46.44, 46.85, 46.87, or 82.38 RCW (~~(which)~~) that has been revoked for cause, which cause has not been removed; (~~(or)~~) (d) who has an unsatisfied debt to the state assessed under either chapter 46.16A, 46.44, 46.85, 46.87, 82.38, or 82.44 RCW; or (e) who, as a person, individual licensee, officer, partner, director, owner, or managing employee of a nonindividual licensee, has been prohibited from operating as a motor carrier by the federal motor carrier safety administration or Washington state patrol and the cause for such prohibition has not been satisfied.

(~~(9) The department may revoke the license or permit authorized by subsection (1) or (7) of this section issued to any person for any of the grounds constituting cause for denial of licenses or permits set forth in subsection (8) of this section.~~)

(10)) (7) Before such (~~(refusal)~~) denial, suspension, or revocation under subsection (~~(8) or (9)~~) (6) of this section, the department must grant the applicant (~~(a)~~), registrant, or owner an informal hearing and at least ten days written notice of the time and place of the hearing.

Sec. 11. RCW 46.87.090 and 1994 c 262 s 14 are each amended to read as follows:

(1) To replace ~~((an apportioned vehicle)) license ((plate(s))) plates, a cab card, or validation tab(s) ((due to loss, defacement, or destruction)), the registrant ((shall)) must apply to the department on forms furnished ((for that purpose)) by the department. ~~((The application, together with proper payment and other documentation as indicated, shall be filed with the department as follows:))~~~~

(a) ~~((Apportioned plate(s)-))~~ A fee of ten dollars ((shall be)) is charged for ((vehicles required to display)) two ((apportioned)) license plates ((or five dollars for vehicles required to display one apportioned plate. The cab card of the vehicle for which a plate is requested shall accompany the application)). The department ~~((shall))~~ must issue ~~((a))~~ new ((apportioned plate(s))) license plates with validation ~~((tab(s)))~~ tabs and a new cab card ~~((upon acceptance of the completed application form, old cab card, and the required replacement fee)).~~

(b) ~~((Cab card-))~~ A fee of two dollars ((shall be)) is charged for each cab card. ~~((If this is a duplicate cab card, it will be noted thereon:))~~

(c) ~~((Validation year tab(s)-))~~ A fee of two dollars ((shall be)) is charged for each ((vehicle)) validation year tab.

(2) All fees collected under this section ~~((shall))~~ must be deposited ~~((to))~~ in the motor vehicle fund.

Sec. 12. RCW 46.87.120 and 2005 c 194 s 7 are each amended to read as follows:

(1) ~~((The initial))~~ An application for proportional registration of a fleet ((shall)) must state the ((mileage data with respect to)) actual distance accumulated by the fleet ((for the preceding year in this and other jurisdictions)) during the reporting period. If ~~((no))~~ operations were not conducted ~~((with))~~ by the fleet during the ~~((preceding year))~~ reporting period, the application ~~((shall))~~ must contain a ~~((full statement of the proposed method of operation and estimates of annual mileage in each of the jurisdictions in which operation is contemplated. The registrant shall determine the in-jurisdiction and total miles to be used in computing the fees and taxes due for the fleet. The department may evaluate and adjust the estimate in the application if it is not satisfied as to its correctness.~~

(2) ~~When operations of a Washington-based fleet is materially changed through merger, acquisition, or extended authority, the registrant shall notify the department, which shall then require the filing of an amended application setting forth the proposed operation by use of estimated mileage for all jurisdictions. The department may adjust the estimated mileage by audit or otherwise to an actual travel basis to insure proper fee payment. The actual travel basis may be used for determination of fee payments until such time as a normal mileage year is available under the new operation))~~ department determined average per vehicle distance of the fleet in all jurisdictions.

Sec. 13. RCW 46.87.130 and 2005 c 194 s 8 are each amended to read as follows:

~~((In addition to all other fees prescribed for the proportional registration of vehicles under this chapter,))~~ The department ((shall)) must collect a vehicle transaction fee each time a vehicle is added to a Washington((-based)) fleet, and

each time the (~~proportional~~) registration of a Washington(~~-based~~) fleet vehicle is renewed. The exact amount of the vehicle transaction fee (~~shall~~) must be fixed by rule, but (~~shall~~) must not exceed ten dollars. This fee (~~shall~~) must be deposited in the motor vehicle fund.

Sec. 14. RCW 46.87.140 and 2011 c 171 s 98 are each amended to read as follows:

(1) Any owner (~~engaged in interstate operations~~) of one or more fleets of apportionable vehicles may, in lieu of registration of the vehicles under chapter 46.16A RCW, register (~~and license~~) the vehicles of each fleet (~~under this chapter~~) by filing a proportional registration application (~~for each fleet~~) with the department. The application (~~shall~~) must contain the following information and (~~such~~) other information (~~pertinent to vehicle registration as~~) the department may require:

(a) A description and identification of each vehicle (~~of~~) in the fleet.

(b) (~~The member jurisdictions in which registration is desired and such other information as member jurisdictions require.~~

(~~e~~) An original or renewal application (~~shall also~~) must be accompanied by a (~~mileage~~) distance schedule for each fleet.

(~~d~~) (~~c~~) The USDOT number issued to the registrant and the USDOT number of the motor carrier responsible for the safety of (~~the~~) each vehicle, if different.

(~~e~~) A completed Motor Carrier Identification Report (MCS-150) at the time of fleet renewal or at the time of vehicle registration, if required by the department.

(~~f~~) (~~d~~) The taxpayer identification number of the registrant and the motor carrier responsible for the safety of (~~the~~) each vehicle, if different.

(2) Each application (~~shall~~) must, at the time and in the manner required by the department, be supported by payment of a fee computed as follows:

(a) Divide the in-jurisdiction (~~miles~~) distance for each jurisdiction by the total (~~miles~~) distance and carry the answer to the nearest thousandth of a percent (three places beyond the decimal, e.g. 10.543(~~%)~~) percent. This factor is known as the prorate percentage.

(b) Determine the (~~total proratable~~) apportionable fees and taxes required for each vehicle in the fleet (~~for which registration is requested,~~) based on the (~~regular annual fees and taxes or~~) applicable fees and taxes (~~for the unexpired portion of the registration year~~) under the laws of each jurisdiction (~~for which fees or taxes are to be calculated~~).

(~~Applicable~~) Fees and taxes for vehicles of Washington(~~-based~~) fleets and foreign jurisdiction fleets operating in Washington are those prescribed under RCW (~~46.17.350(1)(e)~~) 46.17.315, 46.17.355, and 82.38.075(~~-as applicable~~). If, during the registration period, the lessor of an apportioned vehicle changes and the vehicle remains in the fleet of the registrant, the department (~~shall~~) must only charge those fees prescribed for the issuance of new apportioned license plates, validation tabs, and cab card.

(c) Multiply the total, (~~proratable~~) apportionable fees or taxes for each (~~motor~~) vehicle by the prorate percentage applicable to (~~the desired~~) each jurisdiction and round the results to the nearest cent.

(d) Add the total fees and taxes determined in (c) of this subsection for each vehicle to the (~~nonproratable~~) nonapportionable fees and taxes required under

the laws of ~~((the))~~ each jurisdiction ~~((for which fees are being calculated)).~~
~~((Nonproratable))~~ Nonapportionable fees required for vehicles of Washington~~(-~~
~~based))~~ fleets are the administrative fee required ~~((by))~~ under RCW 82.38.075,
~~((if applicable, and))~~ the vehicle transaction fee pursuant to ~~((the provisions of))~~
 RCW 46.87.130, and the commercial vehicle safety inspection fee in RCW
 46.17.315.

(e) The amount due and payable ~~((for the application))~~ is the sum of the fees and taxes calculated for each ~~((member))~~ jurisdiction in which ~~((registration of))~~ the fleet is ~~((desired))~~ registered.

(3) All assessments for ~~((proportional registration))~~ taxes and fees are due and payable in United States funds on the date presented or mailed to the registrant at the address listed in the proportional registration records of the department. The registrant may petition for reassessment of the fees or taxes due ~~((under this section))~~ within thirty days of the date of original service ~~((as provided for in this chapter))~~.

Sec. 15. RCW 46.87.150 and 1996 c 91 s 1 are each amended to read as follows:

~~((Whenever))~~ If a person ~~((has been required to))~~ pays a fee or tax ~~((pursuant to this chapter))~~ that amounts to an overpayment of ten dollars or more, the person is entitled to a refund of the entire amount of ~~((such))~~ the overpayment, regardless of whether or not a refund ~~((of the overpayment))~~ has been requested. ~~((Nothing in))~~ This subsection does not preclude~~((s anyone))~~ a person from applying for a refund of ~~((such))~~ an overpayment if the overpayment is less than ten dollars. ~~((Conversely,))~~ If the department or its agents ~~((has failed to charge))~~ fail to assess and collect the full amount of fees or taxes ~~((pursuant to this chapter))~~ owed, which underpayment is ~~((in the amount of))~~ ten dollars or more, the department ~~((shall charge and))~~ must collect ~~((such))~~ the additional amount ~~((as will constitute full payment of the fees and taxes due))~~ owed.

Sec. 16. RCW 46.87.190 and 2005 c 194 s 10 are each amended to read as follows:

The department may suspend or cancel the exemptions, benefits, or privileges granted under chapter 46.85 RCW or this chapter to any person ~~((or business firm))~~ who violates any of the conditions or terms of the IRP or who violates the laws or rules of this state relating to the operation or registration of vehicles ~~((or rules lawfully adopted thereunder))~~.

Sec. 17. RCW 46.87.200 and 1987 c 244 s 33 are each amended to read as follows:

The department ~~((may))~~ must refuse registration of a vehicle if the applicant has failed to furnish proof, acceptable to the department, that the federal heavy vehicle use tax imposed ~~((by section 4481 of the internal revenue code of 1954))~~ under 26 U.S.C. Sec. 4481 has been suspended or paid. ~~((The department may adopt rules as deemed necessary to administer this section.))~~

Sec. 18. RCW 46.87.220 and 2010 c 161 s 1144 are each amended to read as follows:

The gross weight ~~((in the case of a motor truck, tractor, or truck tractor))~~ of a vehicle is the scale weight of the ~~((motor truck, tractor, or truck tractor))~~ vehicle, plus the scale weight of any trailer, semitrailer, converter gear, or pole

trailer to be towed by it, to which ~~((shall))~~ must be added the maximum weight of the ~~((maximum))~~ load to be carried on it or towed by it as ~~((set forth))~~ declared by the licensee ~~((in the application providing))~~ as long as it does not exceed the weight limitations prescribed ~~((by))~~ under chapter 46.44 RCW.

The gross weight in the case of a bus, auto stage, or passenger-carrying for hire vehicle~~((, except a taxicab,))~~ with a seating capacity over six, is the scale weight of the bus, auto stage, or passenger-carrying for hire vehicle plus the seating capacity, including the operator's seat, computed at one hundred ~~((and))~~ fifty pounds per seat.

If the resultant gross weight, according to this section, is not listed in RCW 46.17.355, it ~~((will))~~ must be increased to the next higher gross weight ~~((so))~~ listed pursuant to chapter 46.44 RCW.

A ~~((motor))~~ vehicle or combination of vehicles found to be loaded beyond the licensed gross weight of the ~~((motor))~~ vehicle ~~((registered under this chapter shall))~~ or combination of vehicles must be cited and handled under RCW 46.16A.540 and 46.16A.545.

Sec. 19. RCW 46.87.230 and 2011 c 171 s 99 are each amended to read as follows:

Whenever an act or omission is declared to be unlawful under chapter 46.12, 46.16A, or 46.44 RCW or this chapter, and ~~((if))~~ the operator of the vehicle is not the owner or lessee of the vehicle but is ~~((so))~~ operating or moving the vehicle with the express or implied permission of the owner or lessee, ~~((then))~~ the operator and the owner or lessee are both subject to this chapter, with the primary responsibility to be that of the owner or lessee.

If the person operating the vehicle at the time of the unlawful act or omission is not the owner or the lessee of the vehicle, that person is fully authorized to accept the citation or notice of infraction and execute the promise to appear on behalf of the owner or lessee.

Sec. 20. RCW 46.87.240 and 1987 c 244 s 37 are each amended to read as follows:

~~((Under))~~ To administer the provisions of the IRP, the department may act in a quasi-agency relationship with other jurisdictions. The department may collect and forward applicable registration fees and taxes ~~((and applications))~~ to other jurisdictions on behalf of the applicant or another jurisdiction and may take other action that facilitates the administration of the ~~((plan))~~ IRP.

Sec. 21. RCW 46.87.250 and 1987 c 244 s 38 are each amended to read as follows:

This chapter constitutes complete authority for the registration of ~~((fleet))~~ vehicles upon a proportional registration basis without reference to or application of any other statutes of this state except as expressly provided in this chapter.

Sec. 22. RCW 46.87.260 and 2003 c 53 s 255 are each amended to read as follows:

Any person who alters ~~((or))~~, forges, or causes to be altered or forged any ~~((cab card, letter of authority, or other temporary authority issued by the department under this chapter))~~ credential, or holds or uses ~~((a cab card, letter of authority, or other temporary authority,))~~ any credential knowing the

~~((document))~~ credential to have been altered or forged, is guilty of a class B felony punishable according to chapter 9A.20 RCW.

Sec. 23. RCW 46.87.280 and 1987 c 244 s 41 are each amended to read as follows:

~~((Nothing contained in))~~ This chapter ~~((relating to proportional registration of fleet vehicles))~~ does not require~~(s)~~ any vehicle to be proportionally registered if it is otherwise properly registered for operation on the highways of this state.

Sec. 24. RCW 46.87.290 and 2003 c 53 s 256 are each amended to read as follows:

(1) If the department determines at any time that an applicant for proportional registration of a vehicle or ~~((a fleet of))~~ vehicles is not entitled to ~~((a cab card for a vehicle or fleet of vehicles))~~ credentials, the department may refuse to issue ~~((the cab card(s) or to license))~~ credentials for the vehicle or ~~((fleet of))~~ vehicles and ~~((may for like reason))~~, after notice, ~~((and in the exercise of discretion))~~ cancel ~~((the cab card(s) and license plate(s) already issued))~~ any existing credentials. The department ~~((shall))~~ must send the notice of cancellation by firstclass mail, addressed to the owner of the vehicle ~~((in question))~~ or vehicles at the owner's address as it appears in the proportional registration records of the department ~~((and record the transmittal on an affidavit of first class mail))~~. It is ~~((then))~~ unlawful for any person to ~~((remove,))~~ drive~~(s)~~ or operate the vehicle~~(s)~~ until ~~((a))~~ proper ~~((certificate(s) of registration or cab card(s) has))~~ credentials have been issued.

(2) Any person ~~((removing,))~~ driving~~(s)~~ or operating the vehicle~~(s)~~ after the refusal of the department to issue ~~((a cab card(s), certificate(s) of registration, license plate(s),))~~ credentials or the suspension, revocation, or cancellation of the ~~((cab card(s), certificate(s) of registration, or license plate(s)))~~ credentials is guilty of a gross misdemeanor.

(3) ~~((At the discretion of the department,))~~ Δ vehicle that has been ~~((moved,))~~ driven~~(s)~~ or operated in violation of this section may be impounded by the Washington state patrol, county sheriff, or city police in a manner directed for such cases by the chief of the Washington state patrol until proper ~~((registration and license plate))~~ credentials have been issued.

Sec. 25. RCW 46.87.294 and 2011 c 171 s 100 are each amended to read as follows:

The department ~~((shall))~~ must refuse to register a vehicle ~~((under this chapter))~~ if the registrant or motor carrier responsible for the safety of the vehicle has been prohibited ~~((under federal law))~~ from operating by the federal motor carrier safety administration. The department ~~((shall))~~ may not register a vehicle if the Washington state patrol has placed an out-of-service order on the vehicle's department of transportation number, as defined in RCW 46.16A.010.

Sec. 26. RCW 46.87.296 and 2011 c 171 s 101 are each amended to read as follows:

The department ~~((shall))~~ must suspend or revoke the ~~((registration))~~ credentials of a vehicle ~~((registered under this chapter))~~ if the registrant or motor carrier responsible for the safety of the vehicle has been prohibited ~~((under federal law))~~ from operating by the federal motor carrier safety administration. The department ~~((shall))~~ may not register a vehicle if the Washington state patrol

has placed an out-of-service order on the vehicle's department of transportation number, as defined in RCW 46.16A.010.

Sec. 27. RCW 46.87.300 and 1987 c 244 s 43 are each amended to read as follows:

The suspension, revocation, cancellation, or refusal by the director, or the director's designee, of ~~((a license plate(s), certificate(s) of registration, or cab card(s) provided for in))~~ the credentials issued under this chapter is conclusive unless the person whose ~~((license plate(s), certificate(s) of registration, or cab card(s) is))~~ credentials are suspended, revoked, canceled, or refused appeals to the superior court of Thurston county, or at the person's option if a resident of Washington, to the superior court of his or her county of residence, for the purpose of having the suspension, revocation, cancellation, or refusal of the ~~((license plate(s), certificate(s) of registration, or cab card(s)))~~ credentials set aside. Notice of appeal ~~((shall))~~ must be filed within ten calendar days after service of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the appeal, the court ~~((shall))~~ must issue an order to the director to show cause why the ~~((license(s)))~~ credentials should not be granted or reinstated. The director ~~((shall))~~ must respond to the order within ten days after the date of service of the order upon the director. Service ~~((shall))~~ must be in the manner prescribed for service of summons and complaint in other civil actions. Upon the hearing on the order to show cause, the court ~~((shall))~~ must hear evidence concerning matters related to the suspension, revocation, cancellation, or refusal of the ~~((license plate(s), certificate(s) of registration, or cab card(s)))~~ credentials and ~~((shall))~~ enter judgment either affirming or setting aside the suspension, revocation, cancellation, or refusal.

Sec. 28. RCW 46.87.310 and 1996 c 91 s 2 are each amended to read as follows:

~~((Any))~~ An owner ~~((whose application for proportional registration has been accepted shall))~~ must preserve the records on which the owner's application for apportioned registration is based for a period of ~~((four))~~ three years following the ~~((preceding year or period upon which the application is based. These records shall be complete and shall include, but not be limited to, the following: Copies of proportional registration applications and supplements for all jurisdictions in which the fleet is prorated; proof of proportional or full registration with other jurisdictions; vehicle license or trip permits; temporary authorization permits; documents establishing the latest purchase year and cost of each fleet vehicle in ready for the road condition; weight certificates indicating the unladen, ready-for-the-road, weight of each vehicle in the fleet; periodic summaries of mileage by fleet and by individual vehicles; individual trip reports, driver's daily logs, or other source documents maintained for each individual trip that provide trip dates, points of origin and destinations, total miles traveled, miles traveled in each jurisdiction, routes traveled, vehicle equipment number, driver's full name, and all other information pertinent to each trip. Upon request of the department, the owner shall make the records available to the department at its designated office for audit as to accuracy of records, computations, and payments))~~ close of the registration year. The owner must make records available to the department for audit as to the accuracy and adequacy of records, computations, and payments at a location designated by the department. The department ~~((shall))~~

must assess and collect any unpaid fees and taxes ((found to be)) due ((the state)) affected jurisdictions and provide credits ((or refunds)) for any overpayments of ((Washington)) apportionable fees and taxes ((as determined in accordance with formulas and other requirements prescribed in this chapter)) to the jurisdictions affected. If the records produced by the owner for the audit fail to meet the criteria for adequate records, or are not produced within thirty calendar days after a written request by the department, the department must impose on the owner an assessment in the amount of twenty percent of the total apportionable fees paid or found due because of appropriate adjustment for the registration of the fleet in the registration year to which records pertain. In the instance of a second offense, the department must impose upon the owner an assessment in the amount of fifty percent of the total apportionable fees paid or found due because of appropriate adjustment for the registration of the fleet in the registration year to which records pertain. In the instance of a third or any subsequent offense, the department must impose upon the owner an assessment in the amount of one hundred percent of the total apportionable fees paid or found due because of appropriate adjustment for the registration of the fleet in the registration year to which records pertain. The department must distribute the amount of assessments it collects under this section on a pro rata basis to the other jurisdictions in which the fleet was registered or required to be registered.

If the owner fails to maintain complete records as required ((by)) under this section, the department ((shall)) may attempt to reconstruct or reestablish such records. ((However, if the department is unable to do so and the missing or incomplete records involve mileages accrued by vehicles while they are part of the fleet, the department may assess an amount not to exceed the difference between the Washington proportional fees and taxes paid and one hundred percent of the fees and taxes. Further, if the owner fails to maintain complete records as required by this section, or if the department determines that the owner should have registered more vehicles in this state under this chapter, the department may deny the owner the right of any further benefits provided by this chapter until any final audit or assessment made under this chapter has been satisfied.))

The department may ((audit the records of any owner and may make arrangements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any such owner)) conduct joint audits of any owner with other jurisdictions. ((No)) An assessment for deficiency or claim for credit may not be made for any period for which records are no longer required. Any fees, taxes, penalties, or interest ((found to be)) due and owing the state upon audit ((shall)) bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount should have been paid until the date of payment. If the audit discloses a deliberate and willful intent to evade the requirements of payment under RCW 46.87.140, a penalty of ten percent ((shall also)) of the amount owed, in addition to any other assessments authorized under this chapter, must be assessed.

If the audit discloses that an overpayment ((to the state)) in excess of ten dollars has been made, the department ((shall certify)) must refund the overpayment to the ((state treasurer who shall issue a warrant for the overpayment to the vehicle operator)) owner. Overpayments ((shall)) must bear

interest at the rate of eight percent per annum from the date on which the overpayment (~~((is))~~) was incurred until the date of payment.

Sec. 29. RCW 46.87.320 and 1987 c 244 s 45 are each amended to read as follows:

The department may initiate and conduct audits and investigations (~~((as may be reasonably necessary))~~) to establish the existence of any alleged violations of or noncompliance with this chapter or any rules adopted under it.

For the purpose of any audit, investigation, or proceeding under this chapter, the director or any designee of the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, paper, correspondence, memoranda, agreements, or other documents or records that the department deems relevant or material to the inquiry.

In case of contumacy or refusal to obey a subpoena issued to any person, any court of competent jurisdiction (~~((upon application by the department,))~~) may issue an order requiring that person to appear before the director or the officer designated by the director to produce testimony or other evidence touching the matter under audit, investigation, or in question. Failure to obey an order of the court may be punishable by contempt.

Sec. 30. RCW 46.87.330 and 1996 c 91 s 3 are each amended to read as follows:

An owner of (~~((proportionally registered))~~) vehicles against whom an assessment is made under RCW 46.87.310 may petition for reassessment (~~((thereof))~~) within thirty days after service of notice of the assessment upon the owner (~~((of the proportionally registered vehicles))~~). If the petition is not filed within the thirty-day period, the amount of the assessment becomes final (~~((at the expiration of that time period))~~).

If a petition for reassessment is filed within the thirty-day period, the department (~~((shall))~~) must reconsider the assessment and, if the petitioner has (~~((so))~~) requested in the petition, (~~((shall))~~) grant the petitioner an oral hearing and give the petitioner ten days notice of the time and place of the hearing. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment becomes final thirty days after service upon the petitioner of notice of the decision.

Every assessment made under RCW 46.87.310 becomes due and payable at the time it is served on the owner. If the assessment is not paid in full when it becomes final, the department (~~((shall))~~) must add a penalty of ten percent of the amount of the assessment.

Any notice of assessment, reassessment, oral hearing, or decision required (~~((by))~~) under this section (~~((shall))~~) must be served personally or by mail. If served by mail, service is deemed to have been accomplished on the date the notice was deposited in the United States mail (~~((, postage prepaid, addressed to the owner of the proportionally registered vehicles at))~~) and mailed to the owner's address as it appears in the proportional registration records of the department.

~~((No))~~ An injunction or writ of mandate or other legal or equitable process may not be issued in any suit, action, or proceeding in any court against any officer of the state to prevent or enjoin the collection under this chapter of any

fee or tax or any amount of fee or tax required to be collected, except as specifically provided for in chapter 34.05 RCW.

Sec. 31. RCW 46.87.335 and 1994 c 262 s 15 are each amended to read as follows:

Except in the case of violations of filing a false or fraudulent application, if the department deems mitigation of penalties, fees, and interest to be reasonable ~~((and in the best interests of carrying out the purpose of this chapter)),~~ it may mitigate such assessments ~~((upon whatever terms the department deems proper,))~~ giving consideration to the degree and extent of the lack of records and reporting errors. The department may ascertain the facts regarding recordkeeping and payment penalties in lieu of more elaborate proceedings under this chapter.

Sec. 32. RCW 46.87.340 and 1993 c 307 s 16 are each amended to read as follows:

~~((If an owner of proportionally registered vehicles liable for the remittance of fees and taxes imposed by this chapter fails to pay the fees and taxes, the amount thereof, including any interest, penalty, or addition to the fees and taxes together with any additional costs that may accrue, constitutes a lien in favor of the state upon all franchises, property, and rights to property, whether the property is employed by the person for personal or business use or is in the hands of a trustee, receiver, or assignee for the benefit of creditors, from the date the fees and taxes were due and payable until the amount of the lien is paid or the property is sold to pay the lien. The lien has priority over any lien or encumbrance whatsoever, except the lien of other state taxes having priority by law, and except that the lien is not valid as against any bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached before the time the department has filed and recorded notice of the lien as provided in this chapter.~~

~~In order to avail itself of the lien created by this section, the department shall file with any county auditor a statement of claim and lien specifying the amount of delinquent fees and taxes, penalties, and interest claimed by the department. From the time of filing for record, the amount required to be paid constitutes a lien upon all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by the person in the county. Any lien as provided in this section may also be filed in the office of the secretary of state. Filing in the office of the secretary of state is of no effect, however, until the lien or a copy of it has been filed with the county auditor in the county where the property is located. When a lien is filed in compliance with this section and with the secretary of state, the filing has the same effect as if the lien had been duly filed for record in the office of each county auditor of this state.)~~ (1) If a person liable for the payment of fees and taxes fails to pay the amount, including any interest and penalty, together with costs incurred, there must be a lien in favor of the state upon all franchises, property, and rights to property, whether real or personal, belonging to or acquired, whether the property is employed by such person for personal or business use or is in the control of a trustee, receiver, or assignee. The lien is effective from the date fees and taxes were due and payable until the amount is satisfied. The lien has

priority over any lien or encumbrance except liens of other fees and taxes having priority by law.

(2) The department must file with any county auditor or other agent a statement of claim and lien specifying the amount of delinquent fees, taxes, penalties, and interest owed.

Sec. 33. RCW 46.87.350 and 1994 c 262 s 16 are each amended to read as follows:

If ~~((an owner of proportionally registered vehicles for which an assessment has become final))~~ a person is delinquent in the payment of ~~((an))~~ any obligation ~~((imposed under this chapter)),~~ the department may give notice of the amount of the delinquency ~~((by registered or certified)),~~ in person or by mail, to ~~((all))~~ persons having ~~((in their))~~ possession or ~~((under their))~~ control ~~((any))~~ of credits or ~~((other))~~ personal and real property belonging to the ~~((vehicle owner))~~ person, or owing any debts to the ~~((owner, at the time of the receipt by them of the notice))~~ person. ~~((Thereafter, a))~~ Any person ~~((so))~~ notified ~~((shall neither))~~ may not transfer ~~((nor make other disposition))~~ or dispose of ~~((those))~~ credits, personal and real property, or debts ~~((until))~~ without the consent of the department ~~((consents to a transfer or other disposition)).~~ A person ~~((so))~~ notified ~~((shall))~~ must, within twenty days after receipt of the notice, advise the department of any ~~((and all such))~~ credits, personal and real property, or debts in ~~((their))~~ his or her possession, under ~~((their))~~ his or her control or owing by ~~((them, as the case may be))~~ him or her, and ~~((shall forthwith))~~ must immediately deliver ~~((such))~~ the credits, personal and real property, or debts to the department ~~((or its duly authorized representative to be applied to the indebtedness involved)).~~

If a person fails to timely answer the notice ~~((within the time prescribed by this section, it is lawful for the court upon application of the department and after the time to answer the notice has expired, to)),~~ a court may render judgment by default against the person ~~((for the full amount claimed by the department in the notice to withhold and deliver, together with costs)).~~

~~((Upon service,))~~ The notice and order to withhold and deliver constitutes a continuing lien on property of the ~~((taxpayer))~~ person. The department ~~((shall))~~ must include in the ~~((caption of the))~~ notice to withhold and deliver "continuing lien." The effective date of a notice to withhold and deliver ~~((served under this section))~~ is the date of service ~~((of the notice)).~~

Sec. 34. RCW 46.87.360 and 2010 c 8 s 9101 are each amended to read as follows:

~~((Whenever the owner of proportionally registered vehicles))~~ If a person is delinquent in the payment of ~~((an))~~ any obligation ~~((imposed under this chapter)),~~ and the delinquency continues after notice and demand for payment ~~((by the department)),~~ the department ~~((may proceed to))~~ must collect the amount due ~~((from the owner in the following manner:)).~~ The department ~~((shall))~~ must seize any property subject to the lien of the fees, taxes, penalties, and interest and sell it at public auction ~~((to pay the obligation and any and all costs that may have been incurred because of the seizure and sale)).~~ Notice of the intended sale and its time and place ~~((shall))~~ must be given to the ~~((delinquent owner))~~ person and to all persons ~~((appearing of record to have))~~ with an interest in the property. ~~((The notice shall be given in writing at least ten days before the~~

~~date set for the sale by registered or certified mail addressed to the owner as appearing in the proportional registration records of the department and, in the case of any person appearing of record to have an interest in such property, addressed to that person at his or her last known residence or place of business.~~ ~~In addition,)~~ The notice ((shall)) must be published at least ten days before the date set for the sale in a newspaper of general circulation published in the county in which the property ((seized is to)) will be sold. If there is no newspaper of general circulation in the county, the notice ((shall)) must be posted in three public places in the county for a period of ten days. The notice ((shall)) must contain a description of the property ((to be sold)), a statement of the amount due ((under this chapter)), the name of the ((owner of the proportionally registered vehicles)) person, and ((the further)) a statement that unless the amount due is paid on or before the time ((fixed)) in the notice the property will be sold ((in accordance with law)).

~~The department ((shall then proceed to)) must sell the property ((in accordance with law and the notice,)) and ((shall)) deliver to the purchaser a bill of sale or deed ((that vests title in the purchaser)). If ((upon any such sale)) the moneys received exceed the amount due ((to the state under this chapter)) from the ((delinquent owner)) person, the excess ((shall)) must be returned to the ((delinquent owner and his or her)) person with a receipt ((obtained for it)). ((The department may withhold payment of the excess to the delinquent owner)) If ((a)) any person having an interest in or lien upon the property has filed notice with the department ((his or her notice of the lien or interest)) before the sale, the department must withhold payment of any excess to the person pending determination of the rights of the respective parties ((thereto)) by a court of competent jurisdiction. If ((for any reason)) the receipt of the ((delinquent owner)) person is not available, the department ((shall)) must deposit the excess with the state treasurer as trustee for the ((delinquent owner)) person or his or her heirs, successors, or assigns.~~

Sec. 35. RCW 46.87.370 and 2001 c 146 s 6 are each amended to read as follows:

~~((Whenever any))~~ When an assessment ((has)) becomes final ((in accordance with this chapter)), the department may file with the clerk of any county within ((this)) the state a warrant in the amount of fees, taxes, penalties, interest, and a filing fee under RCW 36.18.012(10). ((The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant the name of the delinquent owner of proportionally registered vehicles mentioned in the warrant, the amount of the fees, taxes, penalties, interest, and filing fee, and the date when the warrant was filed.)) The ((aggregate amount of the)) warrant ((as docketed)) constitutes a lien upon the title to, and interest in, all real and personal property of the ((named)) person against whom the warrant is issued ((; the same as a judgment in a civil case duly docketed in the office of the clerk)). ((A)) The warrant ((so docketed)) is sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state ((in the manner provided by law in the case of civil judgment wholly or partially unsatisfied. The clerk of the court is entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant)).

Sec. 36. RCW 46.87.410 and 1997 c 183 s 1 are each amended to read as follows:

A (~~(proportional registration)~~) licensee(~~(s)~~) who files (~~(or against whom is filed)~~) a petition in bankruptcy, (~~(shall, within ten days of the filing,)~~) or against whom a petition for bankruptcy is filed, must notify the department (~~(of the proceedings in bankruptcy)~~) within ten days of the filing, including the (~~(identity)~~) name and location of the court in which (~~(the proceedings are pending)~~) petition is filed.

Sec. 37. RCW 46.19.020 and 2014 c 124 s 3 are each amended to read as follows:

(1) The following organizations may apply for special parking privileges:

(a) Public transportation authorities;

(b) Nursing homes licensed under chapter 18.51 RCW;

(c) Assisted living facilities licensed under chapter 18.20 RCW;

(d) Senior citizen centers;

(e) Accessible van rental companies registered (~~(under RCW 46.87.023)~~) with the department;

(f) Private nonprofit corporations, as defined in RCW 24.03.005; and

(g) Cabulance companies that regularly transport persons with disabilities who have been determined eligible for special parking privileges under this section and who are registered with the department under chapter 46.72 RCW.

(2) An organization that qualifies for special parking privileges may receive, upon application, special license plates or parking placards, or both, for persons with disabilities as defined by the department.

(3) Public transportation authorities, nursing homes, assisted living facilities, senior citizen centers, accessible van rental companies, private nonprofit corporations, and cabulance services are responsible for ensuring that the parking placards and special license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) The department shall adopt rules to determine organization eligibility.

NEW SECTION. **Sec. 38.** The following acts or parts of acts are each repealed:

(1) RCW 46.87.023 (Rental car businesses) and 2011 c 171 s 96, 1994 c 227 s 2, & 1992 c 194 s 7;

(2) RCW 46.87.210 (Refusal of application from nonreciprocal jurisdiction) and 1987 c 244 s 34;

(3) RCW 46.87.270 (Gross weight on vehicle) and 1990 c 250 s 77 & 1987 c 244 s 40; and

(4) RCW 46.87.380 (Delinquent obligations—Collection by attorney general) and 1987 c 244 s 51.

NEW SECTION. **Sec. 39.** 2013 c 225 s 305 is repealed.

Sec. 40. 2013 c 225 s 650 (uncodified) is amended to read as follows:

~~(This act takes effect July 1, 2015.)~~ Section 110, chapter 225, Laws of 2013 takes effect July 1, 2015. Sections 101 through 109, 111 through 304, and 306 through 647, chapter 225, Laws of 2013 take effect July 1, 2016.

Sec. 41. 2014 c 216 s 601 (uncodified) is amended to read as follows:

~~((This act takes effect July 1, 2015.))~~ Sections 101, 202, and 207 through 501, chapter 216, Laws of 2014 take effect July 1, 2015. Sections 201 and 203 through 206, chapter 216, Laws of 2014 take effect July 1, 2016.

NEW SECTION. Sec. 42. Sections 1 through 27 and 29 through 38 of this act take effect July 1, 2016.

NEW SECTION. Sec. 43. Sections 28 and 39 through 41 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, 2015.

Passed by the Senate April 16, 2015.

Passed by the House April 8, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 229

[Substitute Senate Bill 5299]

DEPARTMENT OF FINANCIAL INSTITUTIONS--RESIDENTIAL MORTGAGE LENDING

AN ACT Relating to updating, clarifying, and strengthening department of financial institutions' enforcement, licensing, and examination statutes relating to residential mortgage lending, and enhancing the crime of mortgage fraud in the residential mortgage lending process; amending RCW 18.44.021, 19.144.010, 19.144.080, 19.144.090, 19.146.010, 19.146.020, 19.146.0201, 19.146.030, 19.146.040, 19.146.070, 19.146.205, 19.146.220, 19.146.221, 19.146.227, 19.146.228, 19.146.265, 19.146.300, 19.146.390, 31.04.015, 31.04.027, 31.04.045, 31.04.075, 31.04.093, 31.04.102, 31.04.105, 31.04.145, 31.04.205, 31.04.221, 31.04.224, 31.04.247, 31.04.277, 31.04.290, and 31.04.520; reenacting and amending RCW 31.04.025; adding new sections to chapter 31.04 RCW; repealing RCW 19.146.290 and 19.146.330; and prescribing penalties.

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

Sec. 1. RCW 18.44.021 and 2012 c 124 s 1 are each amended to read as follows:

(1) It shall be unlawful for any person to engage in business as an escrow agent by performing escrows or any of the functions of an escrow agent as described in RCW 18.44.011(7) within this state or with respect to transactions that involve personal property or real property located in this state unless such person possesses a valid license issued by the director pursuant to this chapter. The licensing requirements of this chapter shall not apply to:

~~((1))~~ (a) Any person doing business under the law of this state or the United States relating to banks, trust companies, mutual savings banks, savings and loan associations, credit unions, insurance companies, or any federally approved agency or lending institution under the national housing act (12 U.S.C. Sec. 1703).

~~((2))~~ (b) Any person licensed to practice law in this state if:

~~((a))~~ (i) All escrow transactions are performed by the lawyer while engaged in the practice of law, or by employees of the law practice under the direct supervision of the lawyer while engaged in the practice of law;

~~((b))~~ (ii) All escrow transactions are performed under a legal entity publicly identified and operated as a law practice; and

~~((e))~~ (iii) All escrow funds are deposited to, maintained in, and disbursed from a trust account in compliance with rules enacted by the Washington supreme court regulating the conduct of lawyers.

~~((3))~~ (c) Any real estate company, broker, or agent subject to the jurisdiction of the director of licensing while performing acts in the course of or incidental to sales or purchases of real or personal property handled or negotiated by such real estate company, broker, or agent: PROVIDED, That no compensation is received for escrow services.

~~((4))~~ (d) Any transaction in which money or other property is paid to, deposited with, or transferred to a joint control agent for disbursement or use in payment of the cost of labor, material, services, permits, fees, or other items of expense incurred in the construction of improvements upon real property.

~~((5))~~ (e) Any receiver, trustee in bankruptcy, executor, administrator, guardian, or other person acting under the supervision or order of any superior court of this state or of any federal court.

~~((6))~~ (f) Title insurance companies having a valid certificate of authority issued by the insurance commissioner of this state and title insurance agents having a valid license as a title insurance agent issued by the insurance commissioner of this state.

(2) The director may at his or her discretion waive applicability of the licensing provisions of this chapter if the director determines it necessary to facilitate commerce or protect consumers. The director may adopt rules interpreting this section.

Sec. 2. RCW 19.144.010 and 2008 c 108 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) "Adjustable rate mortgage" or "ARM" means a payment option ARM or a hybrid ARM (commonly known as a 2/28 or 3/27 loan).

(2) "Application" means the same as in Regulation X, Real Estate Settlement Procedures, 24 C.F.R. Sec. 3500, as used in an application for a residential mortgage loan.

(3) "Borrower" means any person who consults with or retains a person subject to this chapter in an effort to seek information about obtaining a residential mortgage loan, regardless of whether that person actually obtains such a loan.

(4) "Department" means the department of financial institutions.

(5) "Director" means the director of the department of financial institutions.

(6) "Financial institution" means commercial banks and alien banks subject to regulation under Title 30A RCW, savings banks subject to regulation under Title 32 RCW, savings associations subject to regulation under Title 33 RCW, credit unions subject to regulation under chapter 31.12 RCW, consumer loan companies subject to regulation under chapter 31.04 RCW, and mortgage brokers and lenders subject to regulation under chapter 19.146 RCW.

(7) "Fully indexed rate" means the index rate prevailing at the time a residential mortgage loan is made, plus the margin that will apply after the expiration of an introductory interest rate.

(8) "Mortgage lending process" means the process through which a person seeks or obtains a residential mortgage loan or residential mortgage loan

modification including, but not limited to, solicitation, application, or origination; negotiation of terms; third-party provider services; underwriting; signing and closing; and funding of the loan. Documents involved in the mortgage lending process include, but shall not be limited to, uniform residential loan applications or other loan applications, appraisal reports, settlement statements, supporting personal documentation for loan applications such as W-2 forms, verifications of income and employment, bank statements, tax returns, payroll stubs, and any required disclosures.

(9) "Negative amortization" means an increase in the principal balance of a loan caused when the loan agreement allows the borrower to make payments less than the amount needed to pay all the interest that has accrued on the loan. The unpaid interest is added to the loan balance and becomes part of the principal.

~~((9))~~ (10) "Person" means individuals, partnerships, associations, limited liability companies, limited liability partnerships, trusts, corporations, and all other legal entities.

~~((10))~~ (11) "Residential mortgage loan" means an extension of credit secured by residential real property located in this state upon which is constructed or intended to be constructed, a single-family dwelling or multiple-family dwelling of four or less units. It does not include a reverse mortgage or a borrower credit transaction that is secured by rental property. It does not include a bridge loan. It does not include loans to individuals making or acquiring a residential mortgage loan solely with his or her own funds for his or her own investment. For purposes of this subsection, a "bridge loan" is any temporary loan, having a maturity of one year or less, for the purpose of acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

~~((11))~~ (12) "Residential mortgage loan modification" means a change in one or more of a residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or conditions include, but are not limited to, forbearances; repayment plans; changes in interest rates, loan terms, or loan types; capitalizations of arrearages; or principal reductions.

(13) "The interagency guidance on nontraditional mortgage product risks" means the guidance document issued in September 2006 by the office of the comptroller of the currency, the board of governors of the federal reserve system, the federal deposit insurance corporation, the office of thrift supervision, and the national credit union administration, and the guidance on nontraditional mortgage product risks released in November 2006 by the conference of state bank supervisors and the American association of residential mortgage regulators.

~~((12))~~ (14) "The statement on subprime mortgage lending" means the guidance document issued in June 2007 by the office of the comptroller of the currency, the board of governors of the federal reserve system, the federal deposit insurance corporation, the office of thrift supervision, and the national credit union administration, and the statement on subprime mortgage lending released in July 2007 by the conference of state bank supervisors, the American association of residential mortgage regulators, and the national association of consumer credit administrators.

Sec. 3. RCW 19.144.080 and 2010 c 35 s 12 are each amended to read as follows:

(1) It is unlawful for any person in connection with ~~((making, brokering, obtaining, or modifying a residential))~~ the mortgage ((loan)) lending process to directly or indirectly:

~~((1))~~(a)(i) Employ any scheme, device, or artifice to defraud or materially mislead any borrower during the lending process; ~~((b))~~ (ii) defraud or materially mislead any lender, defraud or materially mislead any person, or engage in any unfair or deceptive practice toward any person ~~((h))~~ related to the mortgage lending process; or ~~((e))~~ (iii) obtain property by fraud or material misrepresentation ~~((h))~~ during the mortgage lending process;

~~((2))~~ (b) Knowingly make any misstatement, misrepresentation, or omission ~~((during))~~ related to the mortgage lending process knowing that it may be relied on by a mortgage lender, borrower, or any other party related to the mortgage lending process;

~~((3))~~ (c) Use or facilitate the use of any misstatement, misrepresentation, or omission, knowing the same to contain a misstatement, misrepresentation, or omission, ~~((during))~~ related to the mortgage lending process with the intention that it be relied on by a mortgage lender, borrower, or any other party related to the mortgage lending process; ~~((e))~~

~~((4))~~ (d) Receive any proceeds or anything of value in connection with a residential mortgage closing that such person knew resulted from a violation of subsection (1), (2), or (3) of this section;

(e) File or cause to be filed with the county recorder or the official registrar of deeds of any county of this state any document such person knows to contain a material misstatement, misrepresentation, or omission;

(f) Violate RCW 31.04.297(3); or

(g) Knowingly alter, destroy, shred, mutilate, or conceal a record, document, or other object, or attempt to do so, with the intent to impair the investigation and prosecution of this crime.

(2) Each crime prosecuted under this section shall be punished separately under chapter 9.94A RCW, unless it is the same criminal conduct as any other crime under RCW 9.94A.589.

(3) Every person who, in the commission of mortgage fraud as described in this section, commits any other crime may be punished for that other crime in addition to mortgage fraud, and may be prosecuted for each crime separately.

Sec. 4. RCW 19.144.090 and 2008 c 108 s 10 are each amended to read as follows:

(1) Any person who knowingly violates RCW 19.144.080 or who knowingly aids or abets in the violation of RCW 19.144.080 is guilty of a class B felony punishable under RCW 9A.20.021(1)(b). Mortgage fraud is a serious level III offense per chapter 9.94A RCW.

~~((2))~~ ~~((Any person who knowingly alters, destroys, shreds, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the investigation and prosecution of this crime is guilty of a class B felony punishable under RCW 9A.20.021(1)(b).))~~

~~((3))~~ No information may be returned more than (a) five years after the violation, or (b) three years after the actual discovery of the violation, whichever date of limitation is later.

(3) For purposes of venue under this chapter, any violation of RCW 19.144.080 and 31.04.297(3), is considered to have been committed: (a) In the

county in which the residential property for which a residential mortgage loan is being sought is located; (b) in any county in which any act was performed in furtherance of the violation; or (c) in any county in which a document containing a misstatement, misrepresentation, or omission of a material fact is filed with the county recorder or the official registrar of deeds.

(4) Any person who violates this chapter is subject to civil forfeiture statutes.

(5) Any person who violates RCW 19.144.080 or 31.04.297(3) is liable for civil damages of five thousand dollars or actual damages, whichever is greater, including costs to repair the victim's credit record and quiet title on the residential property that is involved in the prosecution, and reasonable attorneys' fees as determined by the court.

(6) In a proceeding under RCW 19.144.080 in which there has been a conviction, the sentencing court may issue such orders as necessary to correct a public record that contains false information resulting from a violation of the referenced sections.

Sec. 5. RCW 19.146.010 and 2013 c 30 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) "Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

~~(2) ("Application" means the same as in Regulation X, Real Estate Settlement Procedures, 24 C.F.R. Sec. 3500.~~

~~(3))~~ (3) "Borrower" means any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information on obtaining or applying to obtain a residential mortgage loan, or a residential mortgage loan modification, for himself, herself, or persons including himself or herself, regardless of whether the person actually obtains such a loan.

~~((4))~~ (3) "Computer loan information systems" or "CLI system" means a real estate mortgage financing information system that facilitates the provision of information to consumers by a mortgage broker, loan originator, lender, real estate agent, or other person regarding interest rates and other loan terms available from different lenders.

~~((5))~~ (4) "Department" means the state department of financial institutions.

~~((6))~~ (5) "Designated broker" means ~~((a natural person))~~ an individual designated as the person responsible for activities of the licensed mortgage broker in conducting the business of a mortgage broker under this chapter and who meets the experience and examination requirements set forth in RCW 19.146.210(1)(e).

~~((7))~~ (6) "Director" means the director of financial institutions.

~~((8))~~ (7) "Employee" means an individual who has an employment relationship with a mortgage broker, and the individual is treated as an employee by the mortgage broker for purposes of compliance with federal income tax laws.

~~((9))~~ (8) "Federal banking agencies" means the board of governors of the federal reserve system, comptroller of the currency, director of the office of thrift

supervision, national credit union administration, and federal deposit insurance corporation.

~~((10) "Independent contractor" or "person who independently contracts" means any person that expressly or impliedly contracts to perform mortgage brokering services for another and that with respect to its manner or means of performing the services is not subject to the other's right of control, and that is not treated as an employee by the other for purposes of compliance with federal income tax laws.~~

~~((11)) (9) "License" means a single license issued under the authority of this chapter.~~

~~(10) "Licensee" means a person to whom one or more licenses have been issued. "Licensee" also means any person, whether located within or outside of this state, who fails to obtain a license required by this chapter.~~

~~(11)(a) "Loan originator" means ((a natural person)) an individual who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain (i) takes a residential mortgage loan application ((for a mortgage broker)), or (ii) offers or negotiates terms of a residential mortgage loan. "Loan originator" also includes a person who holds themselves out to the public as able to perform any of these activities. "Loan originator" does not mean persons performing purely administrative or clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a borrower to obtain information necessary for the processing of a residential mortgage loan. A person who holds himself or herself out to the public as able to obtain a residential mortgage loan is not performing administrative or clerical tasks.~~

~~(b) "Loan originator" also includes ((a natural person)) an individual who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain performs residential mortgage loan modification services or holds himself or herself out as being able to perform residential mortgage loan modification services.~~

~~(c) "Loan originator" does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mortgage broker, or other mortgage loan originator. For purposes of this chapter, the term "real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:~~

~~(i) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;~~

~~(ii) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;~~

~~(iii) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to such a transaction;~~

~~(iv) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and~~

(v) Offering to engage in any activity, or act in any capacity, described in (c)(i) through (iv) of this subsection.

(d) "Loan originator" does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code.

(e) This subsection does not apply to employees of a housing counseling agency approved by the United States department of housing and urban development unless the employees of a housing counseling agency are required under federal law to be licensed individually as loan originators.

(12) "Loan processor" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under this chapter.

(13) "Lock-in agreement" means an agreement with a borrower made by a mortgage broker or loan originator, in which the mortgage broker or loan originator agrees that, for a period of time, a specific interest rate or other financing terms will be the rate or terms at which it will make a residential mortgage loan available to that borrower.

(14) "Mortgage broker" means any person who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan or performs residential mortgage loan modification services or (b) holds himself or herself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan or provide residential mortgage loan modification services.

(15) "Mortgage loan originator" has the same meaning as "loan originator."

(16) "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and maintained by the conference of state bank supervisors (~~and the American association of residential mortgage regulators for the~~) for licensing and registration (~~of mortgage loan originators~~).

(17) "Person" means (~~a natural person~~) an individual, corporation, company, limited liability (~~corporation~~) company, partnership, (~~or~~) association, and all other legal entities.

(18) "Principal" means any person who controls, directly or indirectly through one or more intermediaries, or alone or in concert with others, a ten percent or greater interest in a partnership, company, association, (~~or~~) corporation, limited liability company, and the owner of a sole proprietorship.

(19) "Residential mortgage loan" means any loan primarily for personal, family, or household use secured by a mortgage (~~or~~), deed of trust (~~or~~) or other consensual security interest on a dwelling as defined in the truth in lending act, or residential real estate upon which is constructed or intended to be constructed a ((single-family)) dwelling ((or multiple-family dwelling of four or less units)).

(20) "Residential mortgage loan modification" means a change in one or more of a residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or conditions include but are not limited to forbearances; repayment plans; changes in interest rates, loan terms, or loan types; capitalizations of arrearages; or principal reductions.

(21) "Residential mortgage loan modification services" includes negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to perform a residential mortgage loan modification. "Residential mortgage loan modification services" also includes the collection of data for submission to any entity performing mortgage loan modification services.

(22) "S.A.F.E. act" means the secure and fair enforcement for mortgage licensing act of 2008, or Title V of the housing and economic recovery act of 2008 ("HERA"), P.L. 110-289, effective July 30, 2008, codified at 12 U.S.C. Sec. 5101 et seq.

(23) "Third-party provider" means any person other than a mortgage broker or lender who provides goods or services to the mortgage broker in connection with the preparation of the borrower's residential mortgage loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.

(24) "Third-party residential mortgage loan modification services" means residential mortgage loan modification services offered or performed by any person other than the owner or servicer of the loan.

(25) "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry.

Sec. 6. RCW 19.146.020 and 2013 c 30 s 2 are each amended to read as follows:

(1) The following are exempt from all provisions of this chapter:

(a) Any person doing business under the laws of the state of Washington or the United States, and any federally insured depository institution doing business under the laws of any other state, relating to commercial banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, insurance companies, or real estate investment trusts as defined in 26 U.S.C. Sec. 856 and the affiliates, subsidiaries, and service corporations thereof;

(b) Any person doing business under the consumer loan act is exempt from this chapter only for that business conducted under the authority and coverage of the consumer loan act;

(c) An attorney licensed to practice law in this state. However, (i) all mortgage broker or loan originator services must be performed by the attorney while engaged in the practice of law; (ii) all mortgage broker or loan originator services must be performed under a business that is publicly identified and operated as a law practice; and (iii) all funds associated with the transaction and received by the attorney must be deposited in, maintained in, and disbursed from a trust account to the extent required by rules enacted by the Washington supreme court regulating the conduct of attorneys;

(d) Any person doing any act under order of any court, except for a person subject to an injunction to comply with any provision of this chapter or any order of the director issued under this chapter;

(e) A real estate broker or salesperson licensed by the state who obtains financing for a real estate transaction involving a bona fide sale of real estate in the performance of his or her duties as a real estate broker and who receives only the customary real estate broker's or salesperson's commission in connection with the transaction;

(f) The United States of America, the state of Washington, any other state, and any Washington city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the entities in this subsection (1)(f);

(g) A real estate broker who provides only information regarding rates, terms, and lenders in connection with a CLI system, who receives a fee for providing such information, who conforms to all rules of the director with respect to the providing of such service, and who discloses on a form approved by the director that to obtain a loan the borrower must deal directly with a mortgage broker or lender. However, a real estate broker shall not be exempt if he or she does any of the following:

(i) Holds himself or herself out as able to obtain a loan from a lender;

(ii) Accepts a loan application, or submits a loan application to a lender;

(iii) Accepts any deposit for third-party services or any loan fees from a borrower, whether such fees are paid before, upon, or after the closing of the loan;

(iv) Negotiates rates or terms with a lender on behalf of a borrower; or

(v) Provides the disclosure required by RCW 19.146.030(1);

(h) Registered mortgage loan originators, or any individual required to be registered; ~~((and))~~

(i) A manufactured or modular home retailer employee who performs purely administrative or clerical tasks and who receives only the customary salary or commission from the employer in connection with the transaction; and

(j) Nonprofit housing organizations brokering residential mortgage loans under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing, repairing, or otherwise providing housing for low-income Washington state residents.

(2) Any person otherwise exempted from the licensing provisions of this chapter may voluntarily submit an application to the director for a mortgage broker's license. The director shall review such application and may grant or deny licenses to such applicants upon the same grounds and with the same fees as may be applicable to persons required to be licensed under this chapter.

(a) Upon receipt of a license under this subsection, the licensee is required to continue to maintain a valid license, is subject to all provisions of this chapter, and has no further right to claim exemption from the provisions of this chapter except as provided in (b) of this subsection.

(b) Any licensee under this subsection who would otherwise be exempted from the requirements of licensing by this section may apply to the director for exemption from licensing. The director shall adopt rules for reviewing such applications and shall grant exemptions from licensing to applications which are consistent with those rules and consistent with the other provisions of this chapter.

Sec. 7. RCW 19.146.0201 and 2013 c 30 s 3 are each amended to read as follows:

It is a violation of this chapter for ~~((a))~~ loan originators~~((or))~~, mortgage brokers, ~~((required to be licensed under))~~ officers, directors, employees, independent contractors, or any other person subject to this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that the mortgage broker may earn a fee or commission through the mortgage broker's "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting from a person exempt from licensing under RCW 19.146.020(1)(f) or a lender with whom the mortgage broker maintains a written correspondent or loan broker agreement under RCW 19.146.040;

(6) Fail to make disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other applicable state or federal law;

(7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;

(8) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed by a ~~((mortgage broker))~~ licensee or in connection with any investigation conducted by the department;

(9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(10) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by such rate of interest;

(11) Fail to comply with state and federal laws applicable to the activities governed by this chapter;

(12) Fail to pay third-party providers no later than thirty days after the recording of the loan closing documents or ninety days after completion of the third-party service, whichever comes first, unless otherwise agreed or unless the third-party service provider has been notified in writing that a bona fide dispute exists regarding the performance or quality of the third-party service;

(13) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by RCW 19.146.030 or 19.146.070;

(14)(a) Except when complying with (b) and (c) of this subsection, act as a loan originator in any transaction (i) in which the loan originator acts or has acted as a real estate broker or salesperson or (ii) in which another person doing business under the same licensed real estate broker acts or has acted as a real estate broker or salesperson;

(b) Prior to providing mortgage services to the borrower, a loan originator, in addition to other disclosures required by this chapter and other laws, ~~((shall))~~ must provide to the borrower the following written disclosure:

THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES HAVE/HAS ACTED AS A REAL ESTATE BROKER OR SALESPERSON REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO YOU. I AM ALSO A LOAN ORIGINATOR, AND WOULD LIKE TO PROVIDE MORTGAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO PURCHASE THE PROPERTY.

YOU ARE NOT REQUIRED TO USE ME AS A LOAN ORIGINATOR IN CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON SHOP WITH OTHER MORTGAGE BROKERS AND LENDERS, AND TO SELECT ANY MORTGAGE BROKER OR LENDER OF YOUR CHOOSING; and

(c) A real estate broker or salesperson licensed under chapter 18.85 RCW who also acts as a mortgage broker (~~(shall)~~) must carry on such mortgage broker business activities and (~~(shall)~~) must maintain such person's mortgage broker business records separate and apart from the real estate broker activities conducted pursuant to chapter 18.85 RCW. Such activities (~~(shall be deemed)~~) are separate and apart even if they are conducted at an office location with a common entrance and mailing address, so long as each business is clearly identified by a sign visible to the public, each business is physically separated within the office facility, and no deception of the public as to the separate identities of the broker business firms results. This subsection (14)(c) (~~(shall)~~) does not require a real estate broker or salesperson licensed under chapter 18.85 RCW who also acts as a mortgage broker to maintain a physical separation within the office facility for the conduct of its real estate and mortgage broker activities where the director determines that maintaining such physical separation would constitute an undue financial hardship upon the mortgage broker and is unnecessary for the protection of the public; (~~(or)~~)

(15) Fail to comply with any provision of RCW 19.146.030 through 19.146.080 or any rule adopted under those sections;

(16) Originate loans from any unlicensed location;

(17) Solicit or accept from any borrower at or near the time a loan application is taken, and in advance of any foreclosure of the borrower's existing residential mortgage loan or loans, any instrument of conveyance of any interest in the borrower's primary dwelling that is the subject of the residential mortgage loan or loans; or

(18) Make a residential mortgage loan unless the loan is table funded.

Sec. 8. RCW 19.146.030 and 2006 c 19 s 5 are each amended to read as follows:

(1) Within three business days following receipt of a loan application (~~(or any moneys)~~) from a borrower, a mortgage broker or loan originator (~~(on behalf of the mortgage broker shall)~~) must provide to (~~(each)~~) the borrower a full written disclosure containing an itemization and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a residential mortgage loan, and specifying the fee or fees which inure to the benefit of the mortgage broker and other such disclosures as may be required by rule. A good faith estimate of a fee or cost (~~(shall)~~) must be provided if the exact amount of

the fee or cost is not determinable. (~~This subsection shall not be construed to require disclosure of the distribution or breakdown of loan fees, discount, or points between the mortgage broker and any lender or investor.~~)

(2) The written disclosure (~~shall~~) must contain the following information:

(a) The annual percentage rate, finance charge, amount financed, total amount of all payments, number of payments, amount of each payment, amount of points or prepaid interest and the conditions and terms under which any loan terms may change between the time of disclosure and closing of the loan; and if a variable rate, the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase, and an example of the payment terms resulting from an increase. Disclosure in compliance with the requirements of the truth-in-lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. (~~Sec. 226~~) Part 1026, as now or hereafter amended, (~~shall be deemed to comply~~) is in compliance with the disclosure requirements of this subsection;

(b) The itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, escrow fee, property tax, insurance, structural or pest inspection, and any other third-party provider's costs associated with the residential mortgage loan. Disclosure through good faith estimates of settlement services and special information booklets in compliance with the requirements of the real estate settlement procedures act, 12 U.S.C. Sec. 2601, and Regulation X, 24 C.F.R. (~~Sec. 3500~~) Part 1024, as now or hereafter amended, (~~shall be deemed to comply~~) is in compliance with the disclosure requirements of this subsection;

(c) If applicable, the cost, terms, duration, and conditions of a lock-in agreement and whether a lock-in agreement has been entered, and whether the lock-in agreement is guaranteed by the mortgage broker or lender, and if a lock-in agreement has not been entered, disclosure in a form acceptable to the director that the disclosed interest rate and terms are subject to change;

(d) If applicable, a statement that if the borrower is unable to obtain a loan for any reason, the mortgage broker must, within five days of a written request by the borrower, give copies of any appraisal, title report, or credit report paid for by the borrower to the borrower, and transmit the appraisal, title report, or credit report to any other mortgage broker or lender to whom the borrower directs the documents to be sent;

(e) Whether and under what conditions any lock-in fees are refundable to the borrower; and

(f) A statement providing that moneys paid by the borrower to the mortgage broker for third-party provider services are held in a trust account and any moneys remaining after payment to third-party providers will be refunded.

(3) If subsequent to the written disclosure being provided under this section, a mortgage broker or loan originator enters into a lock-in agreement with a borrower or represents to the borrower that the borrower has entered into a lock-in agreement, then no less than three business days thereafter including Saturdays, the mortgage broker or loan originator (~~shall~~) must deliver or send by first-class mail to the borrower a written confirmation of the terms of the lock-in agreement, which (~~shall~~) must include a copy of the disclosure made under subsection (2)(c) of this section.

(4) A mortgage broker or loan originator on behalf of a mortgage broker ~~((shall))~~ must not charge any fee that inures to the benefit of the mortgage broker if it exceeds the fee disclosed on the written disclosure pursuant to this section, unless (a) the need to charge the fee was not reasonably foreseeable at the time the written disclosure was provided and (b) the mortgage broker or loan originator on behalf of a mortgage broker has provided to the borrower, no less than three business days prior to the signing of the loan closing documents, a clear written explanation of the fee and the reason for charging a fee exceeding that which was previously disclosed. However, if the borrower's closing costs on the final settlement statement, excluding prepaid escrowed costs of ownership as defined by rule, does not exceed the total closing costs in the most recent good faith estimate, excluding prepaid escrowed costs of ownership as defined by rule, no other disclosures ~~((shall be))~~ are required by this subsection.

Sec. 9. RCW 19.146.040 and 2006 c 19 s 6 are each amended to read as follows:

(1) Every contract between a mortgage broker, or a loan originator, and a borrower ~~((shall))~~ must be in writing and ~~((shall))~~ contain the entire agreement of the parties.

(2) Any contract under this section entered by a loan originator ~~((shall be))~~ is binding on the mortgage broker.

(3) A mortgage broker ~~((shall))~~ must have a written ~~((correspondent or))~~ loan broker agreement with a lender before any solicitation of, or contracting with, the public.

Sec. 10. RCW 19.146.070 and 2006 c 19 s 8 are each amended to read as follows:

(1) Except as otherwise permitted by this section, a mortgage broker ~~((shall))~~ must not receive a fee, commission, or compensation of any kind in connection with the preparation, negotiation, and brokering of a residential mortgage loan unless a borrower actually obtains a loan from a lender on the terms and conditions agreed upon by the borrower and mortgage broker. A loan originator may not accept a fee, commission, or compensation of any kind from borrowers in connection with the preparation, negotiation, and brokering of a residential mortgage loan.

(2) A mortgage broker may:

(a) If the mortgage broker has obtained for the borrower a written commitment from a lender for a loan on the terms and conditions agreed upon by the borrower and the mortgage broker, and the borrower fails to close on the loan through no fault of the mortgage broker, charge a fee not to exceed three hundred dollars for services rendered, preparation of documents, or transfer of documents in the borrower's file which were prepared or paid for by the borrower if the fee is not otherwise prohibited by the Truth-in-Lending Act, 15 U.S.C. Sec. 1601, and Regulation Z, 12 C.F.R. ~~((Sec. 226))~~ Part 1026, as now or hereafter amended; or

(b) Solicit or receive fees for third party provider goods or services in advance. Fees for any goods or services not provided must be refunded to the borrower and the mortgage broker may not charge more for the goods and services than the actual costs of the goods or services charged by the third party provider.

(3) A loan originator may not solicit or receive fees for a third-party provider of goods or services except that a loan originator may transfer funds from a borrower to a licensed mortgage broker, exempt mortgage broker, or third-party provider, if the loan originator does not deposit, hold, retain, or use the funds for any purpose other than the payment of bona fide fees to third-party providers.

Sec. 11. RCW 19.146.205 and 2009 c 528 s 4 are each amended to read as follows:

(1) Application for a mortgage broker license under this chapter must be made to the nationwide mortgage licensing system and registry and in the form prescribed by the director. The application (~~(shall)~~) must contain at least the following information:

(a) The name, address, date of birth, and social security number of the applicant, and any other names, dates of birth, or social security numbers previously used by the applicant, unless waived by the director;

(b) If the applicant is a partnership (~~(or)~~), association, or limited liability company the name, address, date of birth, and social security number of each general partner (~~(or)~~), principal, or member of the association, and any other names, dates of birth, or social security numbers previously used by the members, unless waived by the director;

(c) If the applicant is a corporation, the name, address, date of birth, and social security number of each officer, director, registered agent, and each principal stockholder, and any other names, dates of birth, or social security numbers previously used by the officers, directors, registered agents, and principal stockholders unless waived by the director;

(d) The street address, county, and municipality where the principal business office is to be located;

(e) The name, address, date of birth, and social security number of the applicant's designated broker, and any other names, dates of birth, or social security numbers previously used by the designated broker and a complete set of the designated broker's fingerprints taken by an authorized law enforcement officer; and

(f)(i) Such other information regarding the applicant's or designated broker's background, financial responsibility, experience, character, and general fitness as the director may require by rule.

(ii) The director may waive one or more requirements of this section or permit an applicant to submit other information in lieu of the required information.

(2) As a part of or in connection with an application for any license under this section, or periodically upon license renewal, the applicant (~~(shall)~~) must furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, the nationwide mortgage licensing system and registry, or any governmental agency or entity authorized to receive this information for a state and national criminal history background check; personal history; experience; business record; purposes; and other pertinent facts, as the director may reasonably require. As part of or in connection with an application for a license under this chapter, the director is authorized to receive criminal history record information that includes nonconviction data as defined in RCW 10.97.030. The department

may only disseminate nonconviction data obtained under this section to criminal justice agencies. This section does not apply to financial institutions regulated under chapters 31.12 and 31.13 RCW and Titles 30A, 32, and 33 RCW.

(3) In order to reduce the points of contact which the federal bureau of investigation may have to maintain, the director may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.

(4) In order to reduce the points of contact which the director may have to maintain, the director may use the nationwide mortgage licensing system and registry as a channeling agent for requesting and distributing information to and from any source so directed by the director.

(5) At the time of filing an application for a license under this chapter, each applicant (~~shall~~) must pay to the director through the nationwide mortgage licensing system and registry the appropriate application fee in an amount determined by rule of the director in accordance with RCW 43.24.086 to cover, but not exceed, the cost of processing and reviewing the application. The director (~~shall~~) must deposit the moneys in the financial services regulation fund, unless the consumer services account is created as a dedicated, nonappropriated account, in which case the director (~~shall~~) must deposit the moneys in the consumer services account.

(6)(a) Except as provided in (b) of this subsection, each applicant for a mortgage broker's license (~~shall~~) must file and maintain a surety bond, in an amount which the director deems adequate to protect the public interest, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety. The bonding requirement as established by the director (~~shall~~) must take the form of a range of bond amounts which (~~shall~~) vary according to the annual loan origination volume of the licensee. The bond (~~shall~~) must run to the state of Washington as obligee, and (~~shall~~) must run first to the benefit of the borrower and then to the benefit of the state and any person or persons who suffer loss by reason of the applicant's or its loan originator's violation of any provision of this chapter or rules adopted under this chapter. The bond (~~shall~~) must be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted under this chapter, and (~~shall~~) must reimburse all persons who suffer loss by reason of a violation of this chapter or rules adopted under this chapter. Borrowers (~~shall~~) must be given priority over the state and other persons. The state and other third parties (~~shall~~) must be allowed to receive distribution pursuant to a valid claim against the remainder of the bond. In the case of claims made by any person or entity who is not a borrower, no final judgment may be entered prior to one hundred eighty days following the date the claim is filed. The bond (~~shall~~) must be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation (~~shall~~) must be effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it (~~shall be~~) is considered one continuous obligation, and the surety upon the bond (~~shall not be~~) is not liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event (~~shall~~) is

the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond ~~((shall))~~ is not be liable for any penalties imposed on the licensee, including, but not limited to, any increased damages or attorneys' fees, or both, awarded under RCW 19.86.090. The applicant may obtain the bond directly from the surety or through a group bonding arrangement involving a professional organization comprised of mortgage brokers if the arrangement provides at least as much coverage as is required under this subsection.

(b) If the director determines that the bond required in (a) of this subsection is not reasonably available, the director ~~((shall))~~ must waive the requirements for such a bond. The mortgage recovery fund account is created in the custody of the state treasurer. The director is authorized to charge fees to fund the account. All fees charged under this section, except those retained by the director for administration of the ~~((fund [account]))~~ account, must be deposited into the mortgage recovery fund account. Expenditures from the account may be used only for the same purposes as the surety bond as described in (a) of this subsection. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. A person entitled to receive payment from the mortgage recovery ~~((fund [account]))~~ account may only receive reimbursement after a court of competent jurisdiction has determined the actual damages caused by the licensee. The director may determine by rule the procedure for recovery; the amount each mortgage broker must pay through the nationwide mortgage licensing system and registry for deposit in the mortgage recovery ~~((fund [account]))~~ account; and the amount necessary to administer the ~~((fund [account]))~~ account.

Sec. 12. RCW 19.146.220 and 2014 c 36 s 2 are each amended to read as follows:

(1) The director may enforce all laws and rules relating to the licensing of mortgage brokers and loan originators, grant or deny licenses to mortgage brokers and loan originators, and hold hearings.

(2) The director may impose fines ~~((or))~~ and order restitution and refunds against licensees ~~((or))~~ employees, independent contractors, agents of licensees, and other persons subject to this chapter, ~~((or))~~ and may deny, condition, suspend, decline to renew, decline to reactivate, or revoke licenses for:

(a) Violations of orders, including cease and desist orders;

(b) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(c) Failure to pay a fee required by the director or maintain the required bond;

(d) Failure to comply with any directive, order, or subpoena of the director;
or

(e) Any violation of this chapter.

(3) ~~((The director may impose fines on an employee, loan originator, independent contractor, or agent of the licensee, or other person subject to this chapter for:~~

~~(a) Any violations of this chapter; or~~

~~(b) Failure to comply with any directive or order of the director.~~

(4)) The director may issue orders directing a licensee, its employee, loan originator, independent contractor, agent, or other person subject to this chapter to cease and desist from conducting business or take such other affirmative action as is necessary to comply with this chapter.

((5)) (4) The director may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:

(a) Any violation of this chapter;

(b) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(c) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or

(d) Failure to comply with any directive or order of the director.

((6)) (5) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

((7)) (6) The statute of limitations on actions not subject to RCW 4.16.160 that are brought under this chapter by the director is five years.

((8)) (7) The director ((shall)) must establish by rule standards for licensure of applicants licensed in other jurisdictions.

((9)) (8) The director ((shall)) must immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate ((shall be)) is automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 13. RCW 19.146.221 and 1994 c 33 s 13 are each amended to read as follows:

(1) The director may, at his or her discretion ((and as provided for in RCW 19.146.220(2))), take any action ((specified in RCW 19.146.220(1))) as provided for in this chapter to enforce this chapter. If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action then the person shall be deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

(2) The director may recover the state's costs and expenses for prosecuting violations of this chapter including staff time spent preparing for and attending administrative hearings and reasonable attorneys' fees, unless, after a hearing, the director determines no violation occurred.

Sec. 14. RCW 19.146.227 and 1994 c 33 s 14 are each amended to read as follows:

Whenever the director determines that the public is likely to be substantially injured by delay in issuing a cease and desist order, the director may immediately issue a temporary cease and desist order. The order may direct the licensee to discontinue any violation of this chapter and take such affirmative action as is necessary to comply with this chapter, may include a summary suspension of the licensee's license, and may order the licensee to immediately cease the conduct of business under this chapter. The order (~~shall~~) becomes effective at the time specified in the order. Every temporary cease and desist order (~~shall~~) must include a provision that a hearing will be held, within fourteen days unless otherwise specified in chapter 34.05 RCW, upon request to determine whether the order will become permanent.

If it appears that a person has engaged in an act or practice constituting a violation of a provision of this chapter, or a rule or order under this chapter, the director, with or without prior administrative proceedings, may bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order under this chapter. Upon proper showing, injunctive relief or temporary restraining orders (~~shall~~) must be granted. The director (~~shall not be~~) is not required to post a bond in any court proceedings.

Sec. 15. RCW 19.146.228 and 2009 c 528 s 5 are each amended to read as follows:

The director (~~shall~~) must establish fees sufficient to cover, but not exceed, the costs of administering this chapter. These fees may include:

- (1) An annual assessment paid by each licensee on or before a date specified by rule;
- (2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or other person subject to this chapter; and
- (3) An application fee to cover the costs of processing applications made to the director under this chapter.

Mortgage brokers (~~and~~), loan originators (~~shall~~), and any person subject to licensing under this chapter must not be charged investigation fees for the processing of complaints when the investigation determines that no violation of this chapter occurred or when the mortgage broker or loan originator provides a remedy satisfactory to the complainant and the director and no order of the director is issued. All moneys, fees, and penalties collected under the authority of this chapter (~~shall~~) must be deposited into the financial services regulation fund, unless the consumer services account is created as a dedicated, nonappropriated account, in which case all moneys, fees, and penalties collected under this chapter (~~shall~~) must be deposited in the consumer services account.

Sec. 16. RCW 19.146.265 and 1997 c 106 s 19 are each amended to read as follows:

A licensed mortgage broker may apply to the director for authority to establish one or more branch offices under the same or different name as the main office upon the payment of a fee as prescribed by the director by rule. (~~Provided that~~) The applicant (is) must be in good standing with the department, as defined in rule by the director, and the director (~~shall~~) must promptly issue a (~~duplicate~~) license for each of the branch offices showing the location of the main office and the particular branch. (~~Each duplicate license shall be prominently displayed in the office for which it is issued.~~)

Sec. 17. RCW 19.146.300 and 2009 c 528 s 9 are each amended to read as follows:

(1) Application for a loan originator license under this chapter must be made to the nationwide mortgage licensing system and registry and in the form prescribed by the director. The application (~~(shall)~~) must contain at least the following information:

(a) The name, address, date of birth, and social security number of the loan originator applicant, and any other names, dates of birth, or social security numbers previously used by the loan originator applicant, unless waived by the director; and

(b) Such other information regarding the loan originator applicant's background, experience, character, and general fitness as the director may require by rule or as deemed necessary by the nationwide mortgage licensing system and registry.

(2)(a) As part of or in connection with an application for any license under this section, or periodically upon license renewal, the loan originator applicant (~~(shall)~~)must furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, the nationwide mortgage licensing system and registry, or any governmental agency or entity authorized to receive this information for a state and national criminal history background check; personal history; experience; business record; purposes; and other pertinent facts, as the director may reasonably require. As part of or in connection with an application for a license under this chapter, or periodically upon license renewal, the director is authorized to receive criminal history record information that includes nonconviction data as defined in RCW 10.97.030. The department may only disseminate nonconviction data obtained under this section to criminal justice agencies. This section does not apply to financial institutions regulated under chapters 31.12 and 31.13 RCW and Titles 30A, 32, and 33 RCW.

(b) In order to reduce the points of contact which the federal bureau of investigation may have to maintain, the director may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.

(c) In order to reduce the points of contact which the director may have to maintain, the director may use the nationwide mortgage licensing system and registry as a channeling agent for requesting and distributing information to and from any source so directed by the director.

(d) As part of or in connection with an application for a license under this section, the loan originator applicant must furnish to the nationwide mortgage licensing system and registry personal history and experience in a form prescribed by the nationwide mortgage licensing system and registry, including the submission of authorization for the nationwide mortgage licensing system and registry and the director to obtain:

(i) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the federal fair credit reporting act; and

(ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(3) At the time of filing an application for a license under this chapter, each loan originator applicant (~~(shall)~~) must pay to the director the appropriate application fee in an amount determined by rule of the director in accordance with RCW 19.146.228 to cover the cost of processing and reviewing the application. The director (~~(shall)~~) must deposit the moneys in the financial services regulation fund.

(4) The director must establish by rule procedures for accepting and processing incomplete applications.

Sec. 18. RCW 19.146.390 and 2009 c 528 s 17 are each amended to read as follows:

Each mortgage broker licensee (~~(shall)~~) must submit (~~(to)~~) call reports through the nationwide mortgage licensing system and registry (~~(reports of condition, which must be in the)~~) in a form and (~~(must contain)~~) containing the information as prescribed by the director or as deemed necessary by the nationwide mortgage licensing system and registry (~~(may require)~~).

Sec. 19. RCW 31.04.015 and 2013 c 29 s 1 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context clearly requires a different meaning.

(1) "Add-on method" means the method of precomputing interest payable on a loan whereby the interest to be earned is added to the principal balance and the total plus any charges allowed under this chapter is stated as the loan amount, without further provision for the payment of interest except for failure to pay according to loan terms. The director may adopt by rule a more detailed explanation of the meaning and use of this method.

(2) "Applicant" means a person applying for a license under this chapter.

(3) "Borrower" means any person who consults with or retains a licensee or person subject to this chapter in an effort to obtain, or who seeks information about obtaining a loan, regardless of whether that person actually obtains such a loan. "Borrower" includes a person who consults with or retains a licensee or person subject to this chapter in an effort to obtain, or who seeks information about obtaining a residential mortgage loan modification, regardless of whether that person actually obtains a residential mortgage loan modification.

(4) "Depository institution" has the same meaning as in section 3 of the federal deposit insurance act on July 26, 2009, and includes credit unions.

(5) "Director" means the director of financial institutions.

(6) "Federal banking agencies" means the board of governors of the federal reserve system, comptroller of the currency, director of the office of thrift supervision, national credit union administration, and federal deposit insurance corporation.

(7) "Individual servicing a mortgage loan" means a person on behalf of a lender or servicer licensed by this state, who collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due, on existing obligations due and owing to the licensed lender or servicer for a residential mortgage loan when the borrower is in default, or in reasonably foreseeable likelihood of default, working with the borrower and the licensed lender or servicer, collects data and makes decisions necessary to modify either

temporarily or permanently certain terms of those obligations, or otherwise finalizing collection through the foreclosure process.

(8) "Insurance" means life insurance, disability insurance, property insurance, involuntary unemployment insurance, and such other insurance as may be authorized by the insurance commissioner.

(9) "License" means a single license issued under the authority of this chapter (~~(with respect to a single place of business)~~).

(10) "Licensee" means a person to whom one or more licenses have been issued. "Licensee" also means any person, whether located within or outside of this state, who fails to obtain a license required by this chapter.

(11) "Loan" means a sum of money lent at interest or for a fee or other charge and includes both openend and closedend loan transactions.

(12) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under this chapter.

(13) "Making a loan" means advancing, offering to advance, or making a commitment to advance funds to a borrower for a loan.

(14) "Mortgage broker" means the same as defined in RCW 19.146.010, except that for purposes of this chapter, a licensee or person subject to this chapter cannot receive compensation as both a consumer loan licensee making the loan and as a consumer loan licensee acting as the mortgage broker in the same loan transaction.

(15)(a) "Mortgage loan originator" means an individual who for compensation or gain (i) takes a residential mortgage loan application, or (ii) offers or negotiates terms of a residential mortgage loan. "Mortgage loan originator" also includes individuals who hold themselves out to the public as able to perform any of these activities. "Mortgage loan originator" does not include any individual who performs purely administrative or clerical tasks; and does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code. For the purposes of this definition, administrative or clerical tasks means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing of a residential mortgage loan.

(b) "Mortgage loan originator" also includes an individual who for direct or indirect compensation or gain performs residential mortgage loan modification services or holds himself or herself out as being able to perform residential mortgage loan modification services.

(c) "Mortgage loan originator" does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mortgage broker, or other mortgage loan originator. For the purposes of chapter 120, Laws of 2009, the term "real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

(i) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(ii) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(iii) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to such a transaction;

(iv) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(v) Offering to engage in any activity, or act in any capacity, described in (c)(i) through (iv) of this subsection.

(d) This subsection does not apply to employees of a housing counseling agency approved by the United States department of housing and urban development unless the employees of a housing counseling agency are required under federal law to be individually licensed as mortgage loan originators.

(16) "Nationwide (~~multistate~~) mortgage licensing system" means a licensing system developed and maintained by the conference of state bank supervisors (~~and the American association of residential mortgage regulators for the~~) for licensing and registration (~~of mortgage loan originators and other licensing types~~).

(17) "Officer" means an official appointed by the company for the purpose of making business decisions or corporate decisions.

(18) "Person" includes individuals, partnerships, associations, limited liability companies, limited liability partnerships, trusts, corporations, and all other legal entities.

(19) "Principal" means any person who controls, directly or indirectly through one or more intermediaries, alone or in concert with others, a ten percent or greater interest in a partnership; company; association or corporation; or a limited liability company, and the owner of a sole proprietorship.

(20) "Registered mortgage loan originator" means any individual who meets the definition of mortgage loan originator and is an employee of a depository institution; a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or an institution regulated by the farm credit administration and is registered with, and maintains a unique identifier through, the nationwide (~~multistate~~) mortgage licensing system.

(21) "Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other (~~equivalent~~) consensual security interest on a dwelling, as defined in (~~section 103(v) of~~) the truth in lending act, or residential real estate upon which is constructed or intended to be constructed a dwelling.

(22) "Residential mortgage loan modification" means a change in one or more of a residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or conditions include but are not limited to forbearances; repayment plans; changes in interest rates, loan terms, or loan types; capitalizations of arrearages; or principal reductions.

(23) "Residential mortgage loan modification services" includes negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to perform a residential mortgage loan modification for

compensation or gain. "Residential mortgage loan modification services" also includes the collection of data for submission to an entity performing mortgage loan modification services.

(24) "S.A.F.E. act" means the secure and fair enforcement for mortgage licensing act of 2008, Title V of the housing and economic recovery act of 2008 ("HERA"), P.L. 110-289, effective July 30, 2008.

(25) "Senior officer" means an officer of a licensee at the vice president level or above.

(26) "Service or servicing a loan" means on behalf of the lender or investor of a residential mortgage loan: (a) Collecting or receiving payments on existing obligations due and owing to the lender or investor, including payments of principal, interest, escrow amounts, and other amounts due; (b) collecting fees due to the servicer; (c) working with the borrower and the licensed lender or servicer to collect data and make decisions necessary to modify certain terms of those obligations either temporarily or permanently; (d) otherwise finalizing collection through the foreclosure process; or (e) servicing a reverse mortgage loan.

(27) "Service or servicing a reverse mortgage loan" means, pursuant to an agreement with the owner of a reverse mortgage loan: Calculating, collecting, or receiving payments of interest or other amounts due; administering advances to the borrower; and providing account statements to the borrower or lender.

(28) "Simple interest method" means the method of computing interest payable on a loan by applying the annual percentage interest rate or its periodic equivalent to the unpaid balances of the principal of the loan outstanding for the time outstanding.

(a) On a nonresidential loan each payment is applied first to any unpaid penalties, fees, or charges, then to accumulated interest, and the remainder of the payment applied to the unpaid balance of the principal until paid in full. In using such method, interest (~~shall~~) must not be payable in advance nor compounded. The prohibition on compounding interest does not apply to reverse mortgage loans made in accordance with the Washington state reverse mortgage act. The director may adopt by rule a more detailed explanation of the meaning and use of this method.

(b) On a residential mortgage loan payments are applied as determined in the security instrument.

(29) "Third-party residential mortgage loan modification services" means residential mortgage loan modification services offered or performed by any person other than the owner or servicer of the loan.

(30) "Third-party service provider" means any person other than the licensee or a mortgage broker who provides goods or services to the licensee or borrower in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, real estate brokers or salespersons, title insurance companies and agents, appraisers, structural and pest inspectors, or escrow companies.

(31) "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide (~~multistate~~) mortgage licensing system.

(32) "Affiliate" means any person who, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

(33) "Department" means the state department of financial institutions.

Sec. 20. RCW 31.04.025 and 2013 c 64 s 2 and 2013 c 29 s 2 are each reenacted and amended to read as follows:

(1) Each loan made to a resident of this state by a licensee, or persons subject to this chapter, is subject to the authority and restrictions of this chapter.

(2) This chapter does not apply to the following:

(a) Any person doing business under, and as permitted by, any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions;

(b) Entities making loans under chapter 19.60 RCW (pawnbroking);

(c) Entities conducting transactions under chapter 63.14 RCW (retail installment sales of goods and services), unless credit is extended to purchase merchandise certificates, coupons, open or closed loop stored value, or other similar items issued and redeemable by a retail seller other than the retail seller extending the credit;

(d) Entities making loans under chapter 31.45 RCW (check cashers and sellers);

(e) Any person making a loan primarily for business, commercial, or agricultural purposes unless the loan is secured by a lien on the borrower's primary (~~residence~~) dwelling;

(f) Any person selling property owned by that person who provides financing for the sale when the property does not contain a dwelling and when the property serves as security for the financing. This exemption is available for five or fewer transactions in a calendar year. This exemption is not available to individuals subject to the federal S.A.F.E. act or any person in the business of constructing or acting as a contractor for the construction of residential dwellings.

(g) Any person making loans made to government or government agencies or instrumentalities or making loans to organizations as defined in the federal truth in lending act;

~~((g))~~ (h) Entities making loans under chapter 43.185 RCW (housing trust fund);

~~((h))~~ (i) Entities making loans under programs of the United States department of agriculture, department of housing and urban development, or other federal government program that provides funding or access to funding for single-family housing developments or grants to low-income individuals for the purchase or repair of single-family housing;

~~((i))~~ (j) Nonprofit housing organizations making loans, or loans made, under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income Washington state residents;

~~((j))~~ (k) Entities making loans which are not residential mortgage loans under a credit card plan;

~~((4))~~ (1) Individuals employed by a licensed residential mortgage loan servicing company engaging in activities related to servicing, unless ~~((5))~~ licensing is required by federal law or regulation; and

~~((4))~~ (m) Entities licensed under chapter 18.44 RCW that process payments on seller-financed loans secured by liens on real or personal property.

(3) The director may, at his or her discretion, waive applicability of the consumer loan company licensing provisions of this chapter to other persons, not including individuals subject to the S.A.F.E. act, making or servicing loans when the director determines it necessary to facilitate commerce and protect consumers. ~~((The director may adopt rules interpreting this section.))~~

(4) The burden of proving the application for an exemption or exception from a definition, or a preemption of a provision of this chapter, is upon the person claiming the exemption, exception, or preemption.

(5) The director may adopt rules interpreting this section.

Sec. 21. RCW 31.04.027 and 2013 c 29 s 3 are each amended to read as follows:

It is a violation of this chapter for a licensee, its officers, directors, employees, or independent contractors, or any other person subject to this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(2) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that the consumer loan company may earn a fee or commission through the consumer loan company's best efforts to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) Fail to make disclosures to loan applicants as required by RCW 31.04.102 and any other applicable state or federal law;

(7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;

(8) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed with the department by a licensee or in connection with any investigation conducted by the department;

(9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(10) Accept from any borrower at or near the time a loan is made and in advance of any default an execution of, or induce any borrower to execute, any instrument of conveyance, not including a mortgage or deed of trust, to the lender of any ownership interest in the borrower's primary ~~((residence))~~ dwelling that is the security for the borrower's loan;

(11) Obtain at the time of closing a release of future damages for usury or other damages or penalties provided by law or a waiver of the provisions of this chapter;

(12) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by that rate of interest;

(13) Violate any applicable state or federal law relating to the activities governed by this chapter; or

(14) Make or originate loans from any unlicensed location.

Sec. 22. RCW 31.04.045 and 2014 c 36 s 5 are each amended to read as follows:

(1) Application for a license under this chapter must be made to the nationwide mortgage licensing system and registry or in the form prescribed by the director. The application must contain at least the following information:

(a) The name and the business addresses of the applicant;

(b) If the applicant is a partnership, limited liability company, or association, the name of every member;

(c) If the applicant is a corporation, the name, residence address, and telephone number of each officer and director;

(d) The street address, county, and municipality from which business is to be conducted; and

(e) Such other information as the director may require by rule.

(2) As part of or in connection with an application for any license under this section, or periodically upon license renewal, each officer, director, and owner applicant (~~(shall)~~ must furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, or any governmental agency or entity authorized to receive this information for a state and national criminal history background check; personal history; experience; business record; purposes; and other pertinent facts, as the director may reasonably require. As part of or in connection with an application for a license under this chapter, or periodically upon license renewal, the director is authorized to receive criminal history record information that includes nonconviction data as defined in RCW 10.97.030. The department may only disseminate nonconviction data obtained under this section to criminal justice agencies. This section does not apply to financial institutions regulated under chapters 31.12 and 31.13 RCW and Titles 30A, 32, and 33 RCW.

(3) At the time of filing an application for a license under this chapter, each applicant shall pay to the director or through the nationwide mortgage licensing system and registry an investigation fee and the license fee in an amount determined by rule of the director to be sufficient to cover the director's costs in administering this chapter.

(4) Each applicant (~~(shall)~~ must file and maintain a surety bond, approved by the director, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as such surety (~~(shall)~~ must not exceed in the aggregate the penal sum of the bond. The penal sum of the bond (~~(shall)~~ must be a minimum of thirty thousand dollars and based on the annual dollar amount of loans originated or residential mortgage loans serviced. The bond (~~(shall)~~ must run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who

may have a cause of action against the obligor under this chapter. The bond (~~(shall)~~) must be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter. The bond must be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation is effective forty-five days after the notice is received by the director. In lieu of a surety bond, if the applicant is a Washington business corporation, the applicant may maintain unimpaired capital, surplus, and long-term subordinated debt in an amount that at any time its outstanding promissory notes or other evidences of debt (other than long-term subordinated debt) in an aggregate sum do not exceed three times the aggregate amount of its unimpaired capital, surplus, and long-term subordinated debt. The director may define qualifying "long-term subordinated debt" for purposes of this section.

(5) The director may waive one or more requirements of this section or permit an applicant to submit other information in lieu of the required information.

Sec. 23. RCW 31.04.075 and 2001 c 81 s 6 are each amended to read as follows:

The licensee may not maintain more than one place of business under the same license, but the director may issue more than one license to the same licensee upon application by the licensee in a form and manner established by the director.

Whenever a licensee wishes to change the place of business to a street address other than that (~~(designated in the license)~~) reported in the nationwide mortgage licensing system and registry, the licensee (~~(shall)~~) must give prior written notice to the director (~~(as required by rule)~~), pay the (~~(license)~~) fee, and obtain the director's approval.

Sec. 24. RCW 31.04.093 and 2014 c 36 s 6 are each amended to read as follows:

(1) The director (~~(shall)~~) must enforce all laws and rules relating to the licensing and regulation of licensees and persons subject to this chapter.

(2) The director may deny applications for licenses for:

(a) Failure of the applicant to demonstrate within its application for a license that it meets the requirements for licensing in RCW 31.04.045 and 31.04.055;

(b) Violation of an order issued by the director under this chapter or another chapter administered by the director, including but not limited to cease and desist orders and temporary cease and desist orders;

(c) Revocation or suspension of a license to conduct lending or residential mortgage loan servicing, or to provide settlement services associated with lending or residential mortgage loan servicing, by this state, another state, or by the federal government within five years of the date of submittal of a complete application for a license; or

(d) Filing an incomplete application when that incomplete application has been filed with the department for sixty or more days, provided that the director has given notice to the licensee that the application is incomplete, informed the

applicant why the application is incomplete, and allowed at least twenty days for the applicant to complete the application.

(3) The director may condition, suspend, or revoke a license issued under this chapter if the director finds that:

(a) The licensee has failed to pay any fee due the state of Washington, has failed to maintain in effect the bond or permitted substitute required under this chapter, or has failed to comply with any specific order or demand of the director lawfully made and directed to the licensee in accordance with this chapter;

(b) The licensee, either knowingly or without the exercise of due care, has violated any provision of this chapter or any rule adopted under this chapter; ~~((or))~~

(c) A fact or condition exists that, if it had existed at the time of the original application for the license, clearly would have allowed the director to deny the application for the original license ~~((The director may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist unless the director finds that the grounds for revocation or suspension are of general application to all offices or to more than one office operated by the licensee, in which case, the director may revoke or suspend all of the licenses issued to the licensee)); or~~

(d) The licensee failed to comply with any directive, order, or subpoena issued by the director under this chapter.

The director may condition, revoke, or suspend only the particular license with respect to which grounds for conditioning, revocation, or suspension may occur or exist or the director may condition, revoke, or suspend all of the licenses issued to the licensee.

(4) The director may impose fines of up to one hundred dollars per day, per violation, upon the licensee, its employee or loan originator, or other person subject to this chapter for:

(a) Any violation of this chapter; or

(b) Failure to comply with any directive, order, or subpoena issued by the director under this chapter.

(5) The director may issue an order directing the licensee, its employee or loan originator, or other person subject to this chapter to:

(a) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter;

(b) Take such affirmative action as is necessary to comply with this chapter; ~~((or))~~

(c) Make a refund or restitution to a borrower or other person who is damaged as a result of a violation of this chapter;

(d) Refund all fees received through any violation of this chapter.

(6) The director may issue an order removing from office or prohibiting from participation in the affairs of any licensee, or both, any officer, principal, employee or mortgage loan originator, or any person subject to this chapter for:

(a) False statements or omission of material information from an application for a license that, if known, would have allowed the director to deny the original application for a license;

(b) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony;

(c) Suspension or revocation of a license to engage in lending or residential mortgage loan servicing, or perform a settlement service related to lending or residential mortgage loan servicing, in this state or another state;

(d) Failure to comply with any order or subpoena issued under this chapter;

(e) A violation of RCW 31.04.027, 31.04.102, 31.04.155, or 31.04.221; or

(f) Failure to obtain a license for activity that requires a license.

(7) Except to the extent prohibited by another statute, the director may engage in informal settlement of complaints or enforcement actions including, but not limited to, payment to the department for purposes of financial literacy and education programs authorized under RCW 43.320.150. If any person subject to this chapter makes a payment to the department under this section, the person may not advertise such payment.

(8) Whenever the director determines that the public is likely to be substantially injured by delay in issuing a cease and desist order, the director may immediately issue a temporary cease and desist order. The order may direct the licensee to discontinue any violation of this chapter, to take such affirmative action as is necessary to comply with this chapter, and may include a summary suspension of the licensee's license and may order the licensee to immediately cease the conduct of business under this chapter. The order (~~shall~~) becomes effective at the time specified in the order. Every temporary cease and desist order (~~shall~~) must include a provision that a hearing will be held upon request to determine whether the order will become permanent. Such hearing (~~shall~~) must be held within fourteen days of receipt of a request for a hearing unless otherwise specified in chapter 34.05 RCW.

(9) A licensee may surrender a license by delivering to the director written notice of surrender, but the surrender does not affect the licensee's civil or criminal liability, if any, for acts committed before the surrender, including any administrative action initiated by the director to suspend or revoke a license, impose fines, compel the payment of restitution to borrowers or other persons, or exercise any other authority under this chapter. The statute of limitations on actions not subject to RCW 4.16.160 that are brought under this chapter by the director is five years.

(10) The revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and a borrower.

(11) Every license issued under this chapter remains in force and effect until it has been surrendered, revoked, or suspended in accordance with this chapter. However, the director may on his or her own initiative reinstate suspended licenses or issue new licenses to a licensee whose license or licenses have been revoked if the director finds that the licensee meets all the requirements of this chapter.

(12) A license issued under this chapter expires upon the licensee's failure to comply with the annual assessment requirements in RCW 31.04.085, and the rules. The department must provide notice of the expiration to the address of record provided by the licensee. On the 15th day after the department provides notice, if the assessment remains unpaid, the license expires. The licensee must receive notice prior to expiration and have the opportunity to stop the expiration as set forth in rule.

NEW SECTION. Sec. 25. A new section is added to chapter 31.04 RCW to read as follows:

(1) A residential mortgage loan servicer licensee must maintain liquidity, operating reserves, and a tangible net worth in accordance with generally accepted accounting principles as determined by the director. The director may adopt rules to interpret this subsection.

(2) A residential mortgage loan servicer that is a Fannie Mae or Freddie Mac-approved servicer meets the requirements of subsection (1) of this section if the liquidity, operating reserves, and tangible net worth each meet the standards of the government-sponsored enterprise for which they are approved. For loans serviced that would not otherwise be subject to the liquidity, operating reserves, and tangible net worth requirements of Fannie Mae or Freddie Mac, the residential mortgage loan servicer must maintain liquidity, operating reserves, and tangible net worth consistent with the highest standards of the government-sponsored entity or entities for which they are approved.

(3) If a licensee's liquidity, operating reserves, or tangible net worth fall below the amount required under subsection (1) or (2) of this section, the director or the director's designee may initiate an action.

NEW SECTION. Sec. 26. A new section is added to chapter 31.04 RCW to read as follows:

Upon application by the director and upon a showing that the interests of borrowers or creditors so requires, the superior court may appoint a receiver to take over, operate, or liquidate any residential mortgage loan servicer.

Sec. 27. RCW 31.04.102 and 2013 c 29 s 6 are each amended to read as follows:

(1) For all loans made by a licensee that are not secured by a lien on real property, the licensee must make disclosures in compliance with the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part ((226)) 1026, and all other applicable federal laws and regulations.

(2) For all loans made by a licensee that are secured by a lien on real property, the licensee ((shall)) must provide to each borrower within three business days following receipt of a loan application a written disclosure containing an itemized estimation and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a loan from the licensee. A good faith estimate of a fee or cost ((shall)) must be provided if the exact amount of the fee or cost is not available when the disclosure is provided. Disclosure in a form which complies with the requirements of the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part ((226)) 1026, the real estate settlement procedures act and regulation X, 24 C.F.R. ((See-3500)) Part 1024, and all other applicable federal laws and regulations, as now or hereafter amended, ((shall be deemed to)) constitutes compliance with this disclosure requirement. Each licensee ((shall)) must comply with all other applicable federal and state laws and regulations.

(3) In addition, for all loans made by the licensee that are secured by a lien on real property, the licensee must provide to the borrower an estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty within three days of receipt of a loan application. The annual percentage rate must be calculated in compliance with the truth in

lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part ((226)) 1024. If a licensee provides the borrower with a disclosure in compliance with the requirements of the truth in lending act within three business days of receipt of a loan application, then the licensee has complied with this subsection. If the director determines that the federal government has required a disclosure that substantially meets the objectives of this subsection, then the director may make a determination by rule that compliance with this federal disclosure requirement constitutes compliance with this subsection.

(4) In addition for all consumer loans made by the licensee that are secured by a lien on real property, the licensee must comply with RCW 19.144.020.

Sec. 28. RCW 31.04.105 and 2013 c 29 s 7 are each amended to read as follows:

Every licensee may:

(1) Lend money at a rate that does not exceed twenty-five percent per annum as determined by the simple interest method of calculating interest owed;

(2) In connection with the making of a loan, charge the borrower a nonrefundable, prepaid, loan origination fee not to exceed four percent of the first twenty thousand dollars and two percent thereafter of the principal amount of the loan advanced to or for the direct benefit of the borrower, which fee may be included in the principal balance of the loan;

(3) Agree with the borrower for the payment of fees to third parties other than the licensee who provide goods or services to the licensee in connection with the preparation of the borrower's loan, including, but not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, and escrow companies, when such fees are actually paid by the licensee to a third party for such services or purposes and may include such fees in the amount of the loan. However, no charge may be collected unless a loan is made, except for reasonable fees properly incurred for a credit report and in connection with the appraisal of property by a qualified, independent, professional, third-party appraiser selected by the borrower and approved by the lender or in the absence of borrower selection, selected by the lender;

(4) In connection with the making of a loan secured by real estate, when the borrower actually obtains a loan, agree with the borrower to pay a fee to a mortgage broker that is not owned by the licensee or under common ownership with the licensee and that performed services in connection with the origination of the loan. A licensee may not receive compensation as a mortgage broker in connection with any loan made by the licensee;

(5) Collect at the time of the loan closing up to but not exceeding forty-five days of prepaid interest;

(6) Charge and collect a penalty of not more than ten percent of any installment payment delinquent ten days or more;

(7) Collect from the debtor reasonable attorneys' fees, actual expenses, and costs incurred in connection with the collection of a delinquent debt, a repossession, or a foreclosure when a debt is referred for collection to an attorney who is not a salaried employee of the licensee;

(8) Make open-end loans as provided in this chapter;

(9) Charge and collect a fee for dishonored checks in an amount approved by the director; and

(10) In accordance with Title 48 RCW, sell insurance covering real and personal property, covering the life or disability or both of the borrower, and covering the involuntary unemployment of the borrower.

Sec. 29. RCW 31.04.145 and 2012 c 17 s 5 are each amended to read as follows:

(1) For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the director may at any time, either personally or by designees, investigate or examine the loans and business and, wherever located, the books, accounts, records, papers, documents, files, and other information used in the business of every licensee and of every person who is engaged in the business making or assisting in the making of loans at interest rates authorized by this chapter, whether the person acts or claims to act as principal or agent, or under or without the authority of this chapter. The director or designated representative:

(a) (~~shall~~) Must have free access to the employees, offices, and places of business, books, accounts, papers, documents, other information, records, files, safes, and vaults of all such persons during normal business hours;

(b) May require the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or the subject matter of any investigation, examination, or hearing and may require such person to produce books, accounts, papers, records, files, and any other information the director or designated persons deem relevant to the inquiry;

(c) May require by directive, subpoena, or any other lawful means the production of original books, accounts, papers, records, files, and other information; may require that such original books, accounts, papers, records, files, and other information be copied; or may make copies of such original books, accounts, papers, records, files, or other information;

(d) May issue a subpoena or subpoena duces tecum requiring attendance by any person identified in this section or compelling production of any books, accounts, papers, records, files, or other documents or information identified in this section.

(2) The director (~~shall~~) must make such periodic examinations of the affairs, business, office, and records of each licensee as determined by rule.

(3) Every licensee examined or investigated by the director or the director's designee (~~shall~~) must pay to the director the cost of the examination or investigation of each licensed place of business as determined by rule by the director.

(4) In order to carry out the purposes of this section, the director may:

(a) Retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(b) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this section;

(c) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to chapter 120, Laws of 2009;

(d) Accept and rely on examination or investigation reports made by other government officials, within or without this state;

(e) Accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to chapter 120, Laws of 2009 in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the director; or

(f) Assess the licensee, individual, or person subject to chapter 120, Laws of 2009 the cost of the services in (a) of this subsection.

Sec. 30. RCW 31.04.205 and 2001 c 81 s 16 are each amended to read as follows:

(1) The director or designated persons may, at his or her discretion, take such action as provided for in this chapter to enforce this chapter. If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action, then the person (~~(shall be)~~) is deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

(2) The director may recover the state's costs and expenses for prosecuting violations of this chapter including staff time spent preparing for and attending administrative hearings and reasonable attorneys' fees unless, after a hearing, the director determines no violation occurred.

Sec. 31. RCW 31.04.221 and 2013 c 29 s 9 are each amended to read as follows:

An individual defined as a mortgage loan originator (~~(shall)~~) must not engage in the business of a mortgage loan originator without first obtaining and maintaining annually a license under this chapter. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the nationwide (~~(multistate)~~) mortgage licensing system.

Sec. 32. RCW 31.04.224 and 2012 c 17 s 6 are each amended to read as follows:

The following are exempt from licensing as mortgage loan originators under this chapter:

(1) Registered mortgage loan originators, or any individual required to be registered while actively employed by a covered financial institution as defined in regulation G, 12 C.F.R. Part 1007.102;

(2) (~~(A licensed)~~) An attorney licensed in Washington who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of a lender, mortgage broker, or other mortgage loan originator;

(3) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member; or

(4) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence.

Sec. 33. RCW 31.04.247 and 2009 c 120 s 18 are each amended to read as follows:

(1) The director (~~shall~~) must issue and deliver a mortgage loan originator license if, after investigation, the director makes at a minimum the following findings:

(a) The applicant has paid the required license fees;

(b) The applicant has met the requirements of this chapter;

(c) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that, for the purposes of this subsection, a subsequent formal vacation of such revocation is not a revocation;

(d) The applicant has not been convicted of a gross misdemeanor involving dishonesty or financial misconduct or has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court (i) during the sevenyear period preceding the date of the application for licensing and registration; or (ii) at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering;

(e) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of chapter 120, Laws of 2009. For the purposes of this section, an applicant has not demonstrated financial responsibility when the applicant shows disregard in the management of his or her financial condition. A determination that an individual has shown disregard in the management of his or her financial condition may include, but is not limited to, an assessment of: Current outstanding judgments, except judgments solely as a result of medical expenses; current outstanding tax liens or other government liens and filings; foreclosures within the last three years; or a pattern of seriously delinquent accounts within the past three years;

(f) The applicant has completed the preclicensing education requirement as required by this chapter;

(g) The applicant has passed a written test that meets the test requirement as required by this chapter;

(h) The consumer loan licensee that the applicant works for has met the surety bond requirement as required by this chapter;

(i) The applicant has not been found to be in violation of this chapter or rules adopted under this chapter;

(j) The mortgage loan originator licensee has completed, during the calendar year preceding a licensee's annual license renewal date, continuing education as required by this chapter.

(2) If the director finds the conditions of this section have not been met, the director (~~shall~~) must not issue the mortgage loan originator license. The director (~~shall~~) must notify the applicant of the denial and return to the mortgage loan originator applicant any remaining portion of the license fee that exceeds the department's actual cost to investigate the license.

Sec. 34. RCW 31.04.277 and 2010 c 35 s 8 are each amended to read as follows:

Each consumer loan company licensee who makes, services, or brokers a loan secured by real property (~~shall~~) must submit (~~to~~) call reports through the nationwide mortgage licensing system and registry (~~reports of condition, which must be in the~~) in a form and (~~must contain~~) containing the information (~~as~~)

prescribed by the director or as deemed necessary by the nationwide mortgage licensing system and registry ((may require)).

Sec. 35. RCW 31.04.290 and 2013 c 29 s 10 are each amended to read as follows:

(1) A residential mortgage loan servicer must comply with the following requirements:

~~(a) ((The requirements of chapter 19.148 RCW;~~

~~(b)))~~ Any fee that is assessed by a servicer must be assessed within forty-five days of the date on which the fee was incurred and must be explained clearly and conspicuously in a statement mailed to the borrower at the borrower's last known address no more than thirty days after assessing the fee;

~~((e)))~~ (b) All amounts received by a servicer on a residential mortgage loan at the address where the borrower has been instructed to make payments must be accepted and credited, or treated as credited, within one business day of the date received, provided that the borrower has provided sufficient information to credit the account. If a servicer uses the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date must be credited no later than the due date. If any payment is received and not credited, or treated as credited, the borrower must be notified of the disposition of the payment within ten business days by mail at the borrower's last known address. The notification must identify the reason the payment was not credited or treated as credited to the account, as well as any actions the borrower must take to make the residential mortgage loan current;

~~((d)))~~ (c) Any servicer that exercises the authority to collect escrow amounts on a residential mortgage loan held for the borrower for payment of insurance, taxes, and other charges with respect to the property ~~((shall))~~ must collect and make all such payments from the escrow account and ensure that no late penalties are assessed or other negative consequences result for the borrower;

~~((e)))~~ (d) The servicer ~~((shall))~~ must make reasonable attempts to comply with a borrower's request for information about the residential mortgage loan account and to respond to any dispute initiated by the borrower about the loan account. The servicer:

(i) Must maintain written or electronic records of each written request for information regarding a dispute or error involving the borrower's account until the residential mortgage loan is paid in full, sold, or otherwise satisfied; and

(ii) Must provide a written statement to the borrower within fifteen business days of receipt of a written request from the borrower. The borrower's request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and sufficient detail regarding the information sought by the borrower to permit the servicer to comply. At a minimum, the servicer's response to the borrower's request must include the following information:

(A) Whether the account is current or, if the account is not current, an explanation of the default and the date the account went into default;

(B) The current balance due on the residential mortgage loan, including the principal due, the amount of funds, if any, held in a suspense account, the amount of the escrow balance known to the servicer, if any, and whether there are any escrow deficiencies or shortages known to the servicer;

(C) The identity, address, and other relevant information about the current holder, owner, or assignee of the residential mortgage loan; and

(D) The telephone number and mailing address of a servicer representative with the information and authority to answer questions and resolve disputes; and

((#)) (e) Promptly correct any errors and refund any fees assessed to the borrower resulting from the servicer's error.

(2) In addition to the statement in subsection (1)((e)) (d)(ii) of this section, a borrower may request more detailed information from a servicer, and the servicer must provide the information within fifteen business days of receipt of a written request from the borrower. The request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and provide sufficient detail to the servicer regarding information sought by the borrower. If requested by the borrower this statement must include:

(a) A copy of the original note, or if unavailable, an affidavit of lost note; and

(b) A statement that identifies and itemizes all fees and charges assessed under the loan transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the borrower, and other activity on the residential mortgage loan including escrow account activity and suspense account activity, if any. The period of the account history ((shall)) must cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the servicer has not serviced the residential mortgage loan for the entire two-year time period the servicer ((shall)) must provide the information going back to the date on which the servicer began servicing the home loan, and identify the previous servicer, if known. If the servicer claims that any delinquent or outstanding sums are owed on the home loan prior to the two-year period or the period during which the servicer has serviced the residential mortgage loan, the servicer ((shall)) must provide an account history beginning with the month that the servicer claims any outstanding sums are owed on the residential mortgage loan up to the date of the request for the information. The borrower may request annually one statement free of charge.

Sec. 36. RCW 31.04.520 and 2009 c 149 s 4 are each amended to read as follows:

The borrower in a proprietary reverse mortgage transaction has the same right to rescind the transaction as provided in the truth in lending act, Regulation Z, 12 C.F.R. ((Sec. 226)) Part 1026.

NEW SECTION. **Sec. 37.** The following acts or parts of acts are each repealed:

(1) RCW 19.146.290 (Licensee to provide director with annual report of mortgage broker activity) and 2006 c 19 s 18; and

(2) RCW 19.146.330 (Loan originator—Limit on applications taken) and 2006 c 19 s 22.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 230

[Senate Bill 5307]

COUNTY FERRY SYSTEMS--DEFICIT REIMBURSEMENT

AN ACT Relating to deficit reimbursement agreements with counties owning and operating ferry systems; and amending RCW 47.56.725.

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

Sec. 1. RCW 47.56.725 and 1999 c 269 s 12 are each amended to read as follows:

(1) The department is hereby authorized to enter into a continuing agreement with Pierce, Skagit, and Whatcom counties pursuant to which the department shall, from time to time, direct the distribution to each of the counties the amounts authorized in subsection (2) of this section in accordance with RCW 46.68.090.

(2) The department is authorized to include in each agreement a provision for the distribution of funds to each county to reimburse the county for fifty percent of the deficit incurred during each previous fiscal year in the operation and maintenance of the ferry system owned and operated by the county. The total amount to be reimbursed to Pierce, Skagit, and Whatcom counties collectively shall not exceed one million eight hundred thousand dollars in ~~((any))~~ the 2015-2017 biennium. For subsequent biennia, the amount authorized in this section must increase by the fiscal growth factor as defined in RCW 43.135.025. Each county agreement shall contain a requirement that the county shall maintain tolls on its ferries at least equal to ~~((tolls))~~ published fares in place on January 1, ~~((1990))~~ 2015, excluding surcharges.

(3) The annual fiscal year operating and maintenance deficit, if any, shall be determined by Pierce, Skagit, and Whatcom counties subject to review and approval of the department. The annual fiscal year operating and maintenance deficit is defined as the total of operations and maintenance expenditures less the sum of ferry toll revenues and that portion of fuel tax revenue distributions which are attributable to the county ferry as determined by the department. Distribution of the amounts authorized by subsection (2) of this section by the state treasurer shall be directed by the department upon the receipt of properly executed vouchers from each county.

(4) The county road administration board may evaluate requests by Pierce, Skagit, Wahkiakum, and Whatcom counties for county ferry capital improvement funds. The board shall evaluate the requests and, if approved by a majority of the board, submit the requests to the legislature for funding out of the amounts available under RCW 46.68.090~~((+)(j))~~ (2)(h). Any county making a request under this subsection shall first seek funding through the public works trust fund, or any other available revenue source, where appropriate.

Passed by the Senate April 16, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 231

[Senate Bill 5314]

LOCAL STORM WATER CHARGES--USE

AN ACT Relating to the use of local storm water charges paid by the department of transportation; amending RCW 90.03.525; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 90.03.525 and 2005 c 319 s 140 are each amended to read as follows:

(1) The rate charged by a local government utility to the department of transportation with respect to state highway rightofway or any section of state highway rightofway for the construction, operation, and maintenance of storm water control facilities under chapters 35.67, 35.92, 36.89, 36.94, 57.08, and 86.15 RCW, shall be thirty percent of the rate for comparable real property, except as otherwise provided in this section. The rate charged to the department with respect to state highway rightofway or any section of state highway rightofway within a local government utility's jurisdiction shall not, however, exceed the rate charged for comparable city street or county road rightofway within the same jurisdiction. The legislature finds that the aforesaid rates are presumptively fair and equitable because of the traditional and continuing expenditures of the department of transportation for the construction, operation, and maintenance of storm water control facilities designed to control surface water or storm water runoff from state highway rightsofway.

(2) Charges paid under subsection (1) of this section by the department of transportation, including charges paid prior to the effective date of this section, must be used solely for storm water control facilities that directly reduce ~~((state highway))~~ runoff impacts or implementation of best management practices that will reduce the need for such facilities. ~~((By January 1st of each year, beginning with calendar year 1997, the local government utility, in coordination with the department, shall develop a plan for the expenditure of the charges for that calendar year. The plan must be consistent with the objectives identified in RCW 90.78.010. In addition, beginning with the submittal for 1998, the utility shall provide a progress report on the use of charges assessed for the prior year. No charges may be paid until the plan and report have been submitted to the department.))~~

(3) The utility imposing the charge and the department of transportation may, however, agree to either higher or lower rates with respect to the construction, operation, or maintenance of any specific storm water control facilities ~~((based upon the annual plan prescribed in subsection (2) of this section))~~. If, after mediation, the local government utility and the department of transportation cannot agree upon the proper rate, either may commence an action in the superior court for the county in which the state highway rightofway is located to establish the proper rate. The court in establishing the proper rate shall take into account the extent and adequacy of storm water control facilities constructed by the department and the actual benefits to the sections of state highway rightsofway from storm water control facilities constructed, operated, and maintained by the local government utility. Control of surface water runoff and storm water runoff from state highway rightsofway shall be deemed an actual benefit to the state highway rightsofway. The rate for sections of state

highway rightofway as determined by the court shall be set forth in terms of the percentage of the rate for comparable real property, but shall in no event exceed the rate charged for comparable city street or county road rightofway within the same jurisdiction.

(4) The legislature finds that the federal clean water act (national pollutant discharge elimination system, 40 C.F.R. parts 122-124), the state water pollution control act, chapter 90.48 RCW, and the highway runoff program under chapter 90.71 RCW, mandate the treatment and control of storm water runoff from state highway rightsofway owned by the department of transportation. Appropriations made by the legislature to the department of transportation for the construction, operation, and maintenance of storm water control facilities are intended to address applicable federal and state mandates related to storm water control and treatment. This section is not intended to limit opportunities for sharing the costs of storm water improvements between cities, counties, and the state.

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 June 30, 2015.

Passed by the Senate March 3, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 232

[Substitute Senate Bill 5348]

INTERLOCAL COOPERATION--ARCHITECTURAL AND ENGINEERING SERVICES

AN ACT Relating to contracts providing for the joint utilization of architectural or engineering services; and amending RCW 39.34.030.

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

Sec. 1. RCW 39.34.030 and 2009 c 202 s 6 are each amended to read as follows:

(1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having the power or powers, privilege or authority, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this chapter upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this chapter, except that any such joint or cooperative action by public agencies which are educational service districts and/or school districts shall comply with the provisions of RCW 28A.320.080. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) Its duration;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created. Such entity may include a nonprofit corporation organized pursuant to chapter 24.03 or 24.06 RCW whose membership is limited solely to the participating public agencies or a partnership organized pursuant to chapter 25.04 or 25.05 RCW whose partners are limited solely to participating public agencies, or a limited liability company organized under chapter 25.15 RCW whose membership is limited solely to participating public agencies, and the funds of any such corporation, partnership, or limited liability company shall be subject to audit in the manner provided by law for the auditing of public funds;

(c) Its purpose or purposes;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; and

(f) Any other necessary and proper matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall contain, in addition to provisions specified in subsection (3)(a), (c), (d), (e), and (f) of this section, the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies that are party to the agreement shall be represented; and

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. Any joint board is authorized to establish a special fund with a state, county, city, or district treasurer servicing an involved public agency designated "Operating fund of joint board".

(5) No agreement made pursuant to this chapter relieves any public agency of any obligation or responsibility imposed upon it by law except that:

(a) To the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to this chapter, the performance may be offered in satisfaction of the obligation or responsibility; and

(b) With respect to one or more public agencies purchasing or otherwise contracting through a bid, proposal, or contract awarded by another public agency or by a group of public agencies, any statutory obligation to provide notice for bids or proposals that applies to the public agencies involved is satisfied if the public agency or group of public agencies that awarded the bid, proposal, or contract complied with its own statutory requirements and either (i) posted the bid or solicitation notice on a web site established and maintained by a public agency, purchasing cooperative, or similar service provider, for purposes of posting public notice of bid or proposal solicitations, or (ii) provided an access link on the state's web portal to the notice.

(6)(a) Any two or more public agencies may enter into a contract providing for the joint utilization of architectural or engineering services if:

(i) The agency contracting with the architectural or engineering firm complies with the requirements for contracting for such services under chapter 39.80 RCW; and

(ii) The services to be provided to the other agency or agencies are related to, and within the general scope of, the services the architectural or engineering firm was selected to perform.

(b) Any agreement providing for the joint utilization of architectural or engineering services under this subsection must be executed for a scope of work specifically detailed in the agreement and must be entered into prior to commencement of procurement of such services under chapter 39.80 RCW.

(7) Financing of joint projects by agreement shall be as provided by law.

Passed by the Senate March 2, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 233

[Substitute Senate Bill 5362]

PASSENGER CHARTER AND EXCURSION CARRIERS

AN ACT Relating to the regulation of passenger charter and excursion carriers; amending RCW 81.70.020, 81.70.030, 81.70.220, 81.70.260, 81.70.320, 81.70.350, and 81.70.360; adding new sections to chapter 81.70 RCW; and prescribing penalties.

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

Sec. 1. RCW 81.70.020 and 2007 c 234 s 55 are each amended to read as follows:

Unless the context otherwise requires, the definitions and general provisions in this section govern the construction of this chapter:

(1) "Commission" means the Washington utilities and transportation commission;

(2) "Person or persons" means an individual, a corporation, association, joint stock association, and partnership, their lessees, trustees, or receivers;

(3) "Public highway" includes every public street, road, or highway in this state;

(4) "Motor vehicle" means every self-propelled vehicle with seating capacity for seven or more persons, excluding the driver;

(5) Subject to the exclusions of RCW 81.70.030, "charter party carrier" means every person engaged in the transportation over any public highways in this state of a group of persons, who, pursuant to a common purpose and under a single contract, acquire the use of a motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after leaving the place of origin;

(6) Subject to the exclusion of RCW 81.70.030, "excursion service carrier" means every person engaged in the transportation of persons for compensation over any public highway in this state from points of origin within the incorporated limits of any city or town or area, to any other location within the state of Washington and returning to that origin. The service must not pick up or drop off passengers after leaving and before returning to the area of origin. The

excursions may be regularly scheduled. Compensation for the transportation offered or afforded must be computed, charged, or assessed by the excursion service company on an individual fare basis;

(7) "Customer" means a person, corporation, or other entity that prearranges for transportation services with a charter party carrier or purchases a ticket for transportation services aboard an excursion service carrier;

(8) "Double-decker bus" means a motor vehicle with more than one passenger deck. A person using a double-decker bus must comply with the maximum height vehicle requirements contained in RCW 46.44.020;

(9) Subject to the exclusions of RCW 81.70.030, "party bus" means any motor vehicle whose interior enables passengers to stand and circulate throughout the vehicle because seating is placed around the perimeter of the bus or is nonexistent and in which food, beverages, or entertainment may be provided. A motor vehicle configured in the traditional manner of forward-facing seating with a center aisle is not a party bus. A person engaged in the transportation of persons by party bus over any public highway in this state is considered engaging in the business of a charter party carrier or excursion service carrier;

(10) "Permit holder" means a holder of an appropriate special permit issued under chapter 66.20 RCW who is twenty-one years of age or older and who is responsible for compliance with the requirements of section 8 of this act and chapter 66.20 RCW during the provision of transportation services.

Sec. 2. RCW 81.70.030 and 2007 c 234 s 56 are each amended to read as follows:

This chapter does not apply to:

(1) ~~((Persons operating motor vehicles wholly within the limits of incorporated cities;~~

(2)) Persons or their lessees, receivers, or trustees insofar as they own, control, operate, or manage taxicabs, hotel buses, or school buses, when operated as such;

~~((3))~~ (2) Passenger vehicles carrying passengers on a noncommercial enterprise basis; or

~~((4))~~ (3) Limousine charter party carriers of passengers under chapter 46.72A RCW.

Sec. 3. RCW 81.70.220 and 2009 c 557 s 4 are each amended to read as follows:

(1) No person may engage in the business of a charter party carrier or excursion service carrier of ~~((persons))~~ passengers over any public highway without first having obtained a certificate from the commission to do so or having registered as an interstate carrier. For the purposes of this section, "engage in the business of a charter party carrier or excursion service carrier" includes advertising or soliciting, offering, or entering into an agreement to provide such service. Each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation under this chapter.

(2) Any person who engages in the business of a charter party carrier or excursion service carrier in violation of subsection (1) of this section is subject to a penalty of up to five thousand dollars per violation.

(3) An auto transportation company carrying passengers for compensation over any public highway in this state between fixed termini or over a regular route that is not required to hold an auto transportation certificate because of a commission finding under RCW 81.68.015 must obtain a certificate under this chapter.

Sec. 4. RCW 81.70.260 and 1989 c 163 s 9 are each amended to read as follows:

(1) After the cancellation or revocation of a certificate or interstate registration or during the period of its suspension, it is unlawful for a charter party carrier or excursion service carrier of passengers to conduct any operations as such a carrier. For the purposes of this section, "conduct any operations" includes advertising or soliciting, offering, or entering into an agreement to provide such service. Each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation under this chapter.

(2) Any person who conducts operations as a charter party carrier or excursion service carrier of passengers in violation of subsection (1) of this section is subject to a penalty of up to five thousand dollars per violation.

Sec. 5. RCW 81.70.320 and 2007 c 234 s 61 are each amended to read as follows:

(1) An application for a certificate, amendment of a certificate, or transfer of a certificate must be accompanied by a filing fee the commission may prescribe by rule. The fee must not exceed two hundred dollars.

(2) All fees paid to the commission under this chapter must be deposited in the state treasury to the credit of the public service revolving fund.

(3) It is the intent of the legislature that all fees collected under this chapter must reasonably approximate the cost of supervising and regulating charter party carriers and excursion service carriers subject thereto, and to that end the commission may decrease the schedule of fees provided for in RCW 81.70.350 by general order entered before ~~((November))~~ March 1st of any year in which the commission determines that the moneys, then in the charter party carrier and excursion service carrier account of the public service revolving fund, and the fees currently owed will exceed the reasonable cost of supervising and regulating such carriers during the succeeding calendar year. Whenever the cost accounting records of the commission indicate that the schedule of fees previously reduced should be increased, the increase, not to exceed the schedule set forth in this chapter, may be effected by a similar general order entered before ~~((November))~~ March 1st of any calendar year.

Sec. 6. RCW 81.70.350 and 1994 c 83 s 3 are each amended to read as follows:

(1) The commission shall collect from each charter party carrier and excursion service carrier holding a certificate issued pursuant to this chapter and from each interstate or foreign carrier subject to this chapter an annual regulatory fee, to be established by the commission but which in total shall not exceed the cost of supervising and regulating such carriers, for each bus used by such carrier.

(2) ~~((A))~~ The fee(s) prescribed ~~((by))~~ under this section ~~((shall be))~~ is due and payable on or before ~~((December 31))~~ May 1st of each year, to cover

operations during the ((ensuing)) calendar year ((beginning February 1)) in which the fee is paid.

(3) Any payment of the fee imposed by this section made after its due date shall include a late fee of two percent of the amount due. Delinquent fees shall accrue interest at the rate of one percent per month.

Sec. 7. RCW 81.70.360 and 1984 c 166 s 5 are each amended to read as follows:

No excursion service company may operate for the transportation of persons for compensation without first having obtained from the commission under the provisions of this chapter a certificate to do so. For the purposes of this section, "operate for the transportation of persons for compensation" includes advertising or soliciting, offering, or entering into an agreement to provide such service.

A certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able to properly perform the services proposed and conform to the provisions of this chapter and the rules of the commission adopted under this chapter, and that such operations will be consistent with the public interest. ~~((However, a certificate shall be granted when it appears to the satisfaction of the commission that the person, firm, or corporation was actually operating in good faith that type of service for which the certificate was sought on January 15, 1983.))~~ Any right, privilege, or certificate held, owned, or obtained by an excursion service company may be sold, assigned, leased, transferred, or inherited as other property only upon authorization by the commission. For good cause shown the commission may refuse to issue the certificate, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by the certificate such terms and conditions as, in its judgment, the public interest may require.

NEW SECTION. Sec. 8. A new section is added to chapter 81.70 RCW to read as follows:

(1)(a) A charter party carrier or excursion service carrier operating a party bus must determine whether alcoholic beverages will be served or consumed in the passenger compartment of the vehicle. If it is expected that alcoholic beverages will be served or consumed in the passenger compartment, the permit holder must have obtained the appropriate liquor permit, provided a copy of the permit to the charter party carrier or excursion service carrier in advance of the trip, and be on the vehicle or reasonably proximate and available to the vehicle during the transportation service. The company must maintain the copy of the permit required with the contract of carriage.

(b) If the charter party carrier or excursion service carrier operating a party bus is the permit holder, the carrier must have a person separate from the driver be responsible for the permit holder requirements in this section and either chapter 66.20 or 66.24 RCW.

(c) The permit holder must:

(i) Be on the party bus or reasonably proximate and available to the vehicle during the transportation service;

(ii) Monitor and control party activities in a manner to prevent the driver from being distracted by the party activities; and

(iii) Assume responsibility for compliance with the terms of the special permit, if a permit is required, including compliance with RCW 66.44.270 concerning the prohibition against furnishing liquor to minors.

(2) If at any time the charter party carrier or excursion service carrier operating a party bus believes that conditions aboard the vehicle are unsafe due to party activities involving alcohol, the carrier must remove all alcoholic beverages and lock them in the party bus trunk or other locked compartment. The carrier may cancel the trip and return the passengers to the place of origin.

(3) This section does not limit the right of a charter party carrier or excursion service carrier to prohibit the consumption of alcohol aboard the vehicle.

(4) This section does not limit the right of a permit holder to seek indemnity from any person, corporation, or other entity other than the charter party carrier or excursion service carrier.

(5) This section does not relieve a passenger of legal responsibility for his or her own conduct or the permit holder of legal responsibility for compliance with Title 66 RCW.

(6) Any charter party carrier or excursion service carrier in violation of this section is subject to a penalty of up to five thousand dollars per violation.

NEW SECTION. Sec. 9. A new section is added to chapter 81.70 RCW to read as follows:

(1) A charter party carrier or excursion service carrier may not knowingly allow any passenger to smoke aboard a motor vehicle regulated under this chapter.

(2) For the purposes of this section, "smoke" has the same meaning as defined in RCW 70.160.020.

Passed by the Senate April 16, 2015.

Passed by the House April 8, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 234

[Engrossed Substitute Senate Bill 5460]

EMERGENCY MEDICATIONS--PRESCRIPTION AND DISTRIBUTION

AN ACT Relating to pharmacy services in hospital emergency rooms and hospital clinics; amending RCW 18.64.043; reenacting and amending RCW 18.64.011; adding new sections to chapter 70.41 RCW; 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 70.41 RCW to read as follows:

(1) The legislature finds that high quality, safe, and compassionate health care services for patients of Washington state must be available at all times. The legislature further finds that there is a need for patients being released from hospital emergency departments to maintain access to emergency medications when community or hospital pharmacy services are not available. It is the intent of the legislature to accomplish this objective by allowing practitioners with prescriptive authority to prescribe limited amounts of prepackaged emergency

medications to patients being discharged from hospital emergency departments when access to community or outpatient hospital pharmacy services is not otherwise available.

(2) A hospital may allow a practitioner to prescribe prepackaged emergency medications and allow a practitioner or a registered nurse licensed under chapter 18.79 RCW to distribute prepackaged emergency medications to patients being discharged from a hospital emergency department during times when community or outpatient hospital pharmacy services are not available within fifteen miles by road or when, in the judgment of the practitioner and consistent with hospital policies and procedures, a patient has no reasonable ability to reach the local community or outpatient pharmacy. A hospital may only allow this practice if: The director of the hospital pharmacy, in collaboration with appropriate hospital medical staff, develops policies and procedures regarding the following:

(a) Development of a list, preapproved by the pharmacy director, of the types of emergency medications to be prepackaged and distributed;

(b) Assurances that emergency medications to be prepackaged pursuant to this section are prepared by a pharmacist or under the supervision of a pharmacist licensed under chapter 18.64 RCW;

(c) Development of specific criteria under which emergency prepackaged medications may be prescribed and distributed consistent with the limitations of this section;

(d) Assurances that any practitioner authorized to prescribe prepackaged emergency medication or any nurse authorized to distribute prepackaged emergency medication is trained on the types of medications available and the circumstances under which they may be distributed;

(e) Procedures to require practitioners intending to prescribe prepackaged emergency medications pursuant to this section to maintain a valid prescription either in writing or electronically in the patient's records prior to a medication being distributed to a patient;

(f) Establishment of a limit of no more than a forty-eight hour supply of emergency medication as the maximum to be dispensed to a patient, except when community or hospital pharmacy services will not be available within forty-eight hours. In no case may the policy allow a supply exceeding ninety-six hours be dispensed;

(g) Assurances that prepackaged emergency medications will be kept in a secure location in or near the emergency department in such a manner as to preclude the necessity for entry into the pharmacy; and

(h) Assurances that nurses or practitioners will distribute prepackaged emergency medications to patients only after a practitioner has counseled the patient on the medication.

(3) The delivery of a single dose of medication for immediate administration to the patient is not subject to the requirements of this section.

(4) For purposes of this section:

(a) "Emergency medication" means any medication commonly prescribed to emergency room patients, including those drugs, substances or immediate precursors listed in schedules II through V of the uniform controlled substances act, chapter 69.50 RCW, as now or hereafter amended.

(b) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(c) "Practitioner" means any person duly authorized by law or rule in the state of Washington to prescribe drugs as defined in RCW 18.64.011(24).

(d) "Nurse" means a registered nurse as defined in RCW 18.79.020.

NEW SECTION. Sec. 2. A new section is added to chapter 70.41 RCW to read as follows:

(1) The legislature recognizes that in order for hospitals to ensure drugs are accessible to patients and the public to meet hospital and community health care needs, certain transfers of drugs must be authorized between hospitals and their affiliated or related companies under common ownership and control of the corporate entity and for emergency medical reasons.

(2) A licensed hospital pharmacy is permitted, without a wholesaler license, to:

(a) Engage in intracompany sales, being defined as any transaction or transfer between any division, subsidiary, parent company, affiliated company, or related company under common ownership and control of the corporate entity, unless the transfer occurs between a wholesale distributor and a health care entity or practitioner; and

(b) Sell, purchase, or trade a drug or offer to sell, purchase, or trade a drug for emergency medical reasons. For the purposes of this subsection, "emergency medical reasons" includes transfers of prescription drugs to alleviate a temporary shortage, except that the gross dollar value of the transfers may not exceed five percent of the total prescription drug sale revenue of either the transferor or transferee pharmacy during any twelve consecutive month period.

Sec. 3. RCW 18.64.011 and 2013 c 146 s 1, 2013 c 144 s 13, and 2013 c 19 s 7 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) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(2) "Business licensing system" means the mechanism established by chapter 19.02 RCW by which business licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a business license application and a business license expiration date common to each renewable license endorsement.

(3) "Commission" means the pharmacy quality assurance commission.

(4) "Compounding" means the act of combining two or more ingredients in the preparation of a prescription.

(5) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(6) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(7) "Department" means the department of health.

(8) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or (b) to affect the structure or any function of the body of human beings or other animals.

(9) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(10) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(11) "Drug" and "devices" do not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes. "Drug" also does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than human beings.

(12) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of human beings or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(13) "Health care entity" means an organization that provides health care services in a setting that is not otherwise licensed by the state to acquire or possess legend drugs. Health care entity includes a freestanding outpatient surgery center ((✕)), a residential treatment facility, and a freestanding cardiac care center. ((#)) "Health care entity" does not include an individual practitioner's office or a multipractitioner clinic, regardless of ownership, unless the owner elects licensure as a health care entity. "Health care entity" also does not include an individual practitioner's office or multipractitioner clinic identified by a hospital on a pharmacy application or renewal pursuant to RCW 18.64.043.

(14) "Labeling" means the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(15) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(16) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the

packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, personally prepares, compounds, packages, or labels such substance or device. "Manufacture" includes the distribution of a licensed pharmacy compounded drug product to other state licensed persons or commercial entities for subsequent resale or distribution, unless a specific product item has approval of the ~~((board-[commission]))~~ commission. The term does not include:

(a) The activities of a licensed pharmacy that compounds a product on or in anticipation of an order of a licensed practitioner for use in the course of their professional practice to administer to patients, either personally or under their direct supervision;

(b) The practice of a licensed pharmacy when repackaging commercially available medication in small, reasonable quantities for a practitioner legally authorized to prescribe the medication for office use only;

(c) The distribution of a drug product that has been compounded by a licensed pharmacy to other appropriately licensed entities under common ownership or control of the facility in which the compounding takes place; or

(d) The delivery of finished and appropriately labeled compounded products dispensed pursuant to a valid prescription to alternate delivery locations, other than the patient's residence, when requested by the patient, or the prescriber to administer to the patient, or to another licensed pharmacy to dispense to the patient.

(17) "Manufacturer" means a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(18) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(19) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(20) "Pharmacist" means a person duly licensed by the commission to engage in the practice of pharmacy.

(21) "Pharmacy" means every place properly licensed by the commission where the practice of pharmacy is conducted.

(22) "Poison" does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(23) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not

limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(24) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(25) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(26) "Secretary" means the secretary of health or the secretary's designee.

(27) "Wholesaler" means a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

Sec. 4. RCW 18.64.043 and 1996 c 191 s 43 are each amended to read as follows:

(1) The owner of each pharmacy shall pay an original license fee to be determined by the secretary, and annually thereafter, on or before a date to be determined by the secretary, a fee to be determined by the secretary, for which he or she shall receive a license of location, which shall entitle the owner to operate such pharmacy at the location specified, or such other temporary location as the secretary may approve, for the period ending on a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, and each such owner shall at the time of filing proof of payment of such fee as provided in RCW 18.64.045 as now or hereafter amended, file with the department on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of ownership of the pharmacy mentioned therein. For a hospital licensed under chapter 70.41 RCW, the license of location provided under this section may include any individual practitioner's office or multipractitioner clinic owned and operated by a hospital, and identified by the hospital on the pharmacy application or renewal. A hospital that elects to include one or more offices or clinics under this subsection on its pharmacy application must maintain the office or clinic under its pharmacy license through at least one pharmacy inspection or twenty-four months. However, the department may, in its discretion, allow a change in licensure at an earlier time. The secretary may adopt rules to establish an additional reasonable fee for any such office or clinic.

(2) It shall be the duty of the owner to immediately notify the department of any change of location or ownership and to keep the license of location or the renewal thereof properly exhibited in said pharmacy.

(3) Failure to comply with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense.

(4) In the event such license fee remains unpaid on the date due, no renewal or new license shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

NEW SECTION. Sec. 5. Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the

state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 16, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 235

[Substitute Senate Bill 5501]

CIVIL INFRACTIONS--CRIMES--ANIMAL CRUELTY

AN ACT Relating to the prevention of animal cruelty; amending RCW 16.52.117, 16.52.320, 9.08.070, 16.52.205, and 16.52.185; reenacting and amending RCW 16.52.011; adding a new section to chapter 16.52 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 16.52 RCW to read as follows:

(1) It is a class 2 civil infraction under RCW 7.80.120 to leave or confine any animal unattended in a motor vehicle or enclosed space if the animal could be harmed or killed by exposure to excessive heat, cold, lack of ventilation, or lack of necessary water.

(2) To protect the health and safety of an animal, an animal control officer or law enforcement officer who reasonably believes that an animal is suffering or is likely to suffer harm from exposure to excessive heat, cold, lack of ventilation, or lack of necessary water is authorized to enter a vehicle or enclosed space to remove an animal by any means reasonable under the circumstances if no other person is present in the immediate area who has access to the vehicle or enclosed space and who will immediately remove the animal. An animal control officer, law enforcement officer, or the department or agency employing such an officer is not liable for any damage to property resulting from actions taken under this section.

(3) Nothing in this section prevents the person who has confined the animal in the vehicle or enclosed space from being convicted of separate offenses for animal cruelty under RCW 16.52.205 or 16.52.207.

Sec. 2. RCW 16.52.011 and 2011 c 172 s 1 and 2011 c 67 s 3 are each reenacted and amended to read as follows:

(1) Principles of liability as defined in chapter 9A.08 RCW apply to this chapter.

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

(a) "Abandons" means the knowing or reckless desertion of an animal by its owner or the causing of the animal to be deserted by its owner, in any place, without making provisions for the animal's adequate care.

(b) "Animal" means any nonhuman mammal, bird, reptile, or amphibian.

(c) "Animal care and control agency" means any city or county animal control agency or authority authorized to enforce city or county municipal ordinances regulating the care, control, licensing, or treatment of animals within the city or county, and any corporation organized under RCW 16.52.020 that

contracts with a city or county to enforce the city or county ordinances governing animal care and control.

(d) "Animal control officer" means any individual employed, contracted, or appointed pursuant to RCW 16.52.025 by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals. For purposes of this chapter, the term "animal control officer" shall be interpreted to include "humane officer" as defined in (g) of this subsection and RCW 16.52.025.

(e) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.

(f) "Food" means food or feed appropriate to the species for which it is intended.

(g) "Humane officer" means any individual employed, contracted, or appointed by an animal care and control agency or humane society as authorized under RCW 16.52.025.

(h) "Law enforcement agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(i) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, and bison.

(j) "Necessary food" means the provision at suitable intervals of wholesome foodstuff suitable for the animal's age (~~(and)~~), species, and condition, and that is sufficient to provide a reasonable level of nutrition for the animal and is easily accessible to the animal or as directed by a veterinarian for medical reasons.

(k) "Necessary water" means water that is in sufficient quantity and of appropriate quality for the species for which it is intended and that is accessible to the animal or as directed by a veterinarian for medical reasons.

(l) "Owner" means a person who has a right, claim, title, legal share, or right of possession to an animal or a person having lawful control, custody, or possession of an animal.

(m) "Person" means individuals, corporations, partnerships, associations, or other legal entities, and agents of those entities.

(n) "Similar animal" means: (i) For a mammal, another animal that is in the same taxonomic order; or (ii) for an animal that is not a mammal, another animal that is in the same taxonomic class.

(o) "Substantial bodily harm" means substantial bodily harm as defined in RCW 9A.04.110.

(p) "Malice" has the same meaning as provided in RCW 9A.04.110, but applied to acts against animals.

Sec. 3. RCW 16.52.117 and 2006 c 287 s 1 are each amended to read as follows:

(1) A person commits the crime of animal fighting if the person knowingly does any of the following or causes a minor to do any of the following:

(a) Owns, possesses, keeps, breeds, trains, buys, sells, or advertises or offers for sale any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal;

(b) (~~Knowingly~~) Promotes, organizes, conducts, participates in, is a spectator of, advertises, prepares, or performs any service in the furtherance of,

an exhibition of animal fighting, transports spectators to an animal fight, or provides or serves as a stakeholder for any money wagered on an animal fight ~~((at any place or building))~~;

(c) Keeps or uses any place for the purpose of animal fighting, or manages or accepts payment of admission to any place kept or used for the purpose of animal fighting;

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept, or used for the purpose of an exhibition of animal fighting; or

(e) Takes, leads away, possesses, confines, sells, transfers, or receives ~~((a stray animal or a pet animal, with the intent to deprive the owner of the pet animal, and))~~ an animal with the intent of using the ~~((stray))~~ animal ~~((or pet animal))~~ for animal fighting, or for training or baiting for the purpose of animal fighting.

(2) A person who violates this section is guilty of a class C felony punishable under RCW 9A.20.021.

(3) Nothing in this section prohibits the following:

(a) The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

(b) The use of dogs in hunting as permitted by law; or

(c) The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

~~((4) For the purposes of this section, "animal" means dogs or male chickens.))~~

Sec. 4. RCW 16.52.320 and 2011 c 67 s 1 are each amended to read as follows:

(1) It is unlawful for a person to, with malice, kill or cause substantial bodily harm to livestock belonging to another person.

(2) A violation of this section constitutes a class C felony.

~~((3) For the purposes of this section, "malice" has the same meaning as provided in RCW 9A.04.110, but applied to acts against livestock.))~~

Sec. 5. RCW 9.08.070 and 2003 c 53 s 9 are each amended to read as follows:

(1) Any person who, with intent to deprive or defraud the owner thereof, does any of the following shall be guilty of a gross misdemeanor punishable according to chapter 9A.20 RCW and by a mandatory fine of not less than five hundred dollars per pet animal, except as provided by subsection (2) of this section:

(a) Takes, leads away, confines, secretes or converts any pet animal, except in cases in which the value of the pet animal exceeds ~~((two))~~ seven hundred fifty dollars;

(b) Conceals the identity of any pet animal or its owner by obscuring, altering, or removing from the pet animal any collar, tag, license, tattoo, or other identifying device or mark;

(c) Willfully or recklessly kills or injures any pet animal, unless excused by law.

(2) Nothing in this section shall prohibit a person from also being convicted of separate offenses under RCW 9A.56.030, 9A.56.040, or 9A.56.050 for theft ((~~or~~)), under RCW 9A.56.150, 9A.56.160, or 9A.56.170 for possession of stolen property, or under chapter 16.52 RCW for animal cruelty.

Sec. 6. RCW 16.52.205 and 2006 c 191 s 1 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering or while manifesting an extreme indifference to life, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) A person is guilty of animal cruelty in the first degree when he or she:

(a) Knowingly engages in any sexual conduct or sexual contact with an animal;

(b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;

(d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or

(e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.

(5) In addition to the penalty imposed in subsection (4) of this section, the court may order that the convicted person do any of the following:

(a) Not harbor or own animals or reside in any household where animals are present;

(b) Participate in appropriate counseling at the defendant's expense;

(c) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (3) of this section.

(6) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(7) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(8) For purposes of this section:

(a) "Animal" means every creature, either alive or dead, other than a human being.

(b) "Sexual conduct" means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

(c) "Sexual contact" means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person.

(d) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.

**Sec. 7. RCW 16.52.185 and 1994 c 261 s 22 are each amended to read as follows:*

Nothing in this chapter applies to accepted husbandry practices used in the commercial or noncommercial raising or slaughtering of livestock or poultry, or products thereof or to the use of animals in the normal and usual course of rodeo events or to the customary use or exhibiting of animals in normal and usual events at fairs as defined in RCW 15.76.120.

Sec. 7 was vetoed. See message at end of chapter.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 11, 2015, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 12, 2015.

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

"I am returning herewith, without my approval as to Section 7, Substitute Senate Bill No. 5501 entitled:

"AN ACT Relating to the prevention of animal cruelty."

Section 7, by expanding the exceptions for "accepted husbandry practices" used in commercial farming to noncommercial farming, could potentially leave livestock and other animals subject to neglect or cruelty. Contrary to the purpose of this bill, animal control officers and prosecutors will have more difficulty enforcing animal cruelty laws in cases involving backyard farming and hobby farms.

For these reasons I have vetoed Section 7 of Substitute Senate Bill No. 5501.

With the exception of Section 7, Substitute Senate Bill No. 5501 is approved."

CHAPTER 236

[Engrossed Substitute Senate Bill 5550]

AUTOMOBILE INSURANCE--COMMERCIAL TRANSPORTATION SERVICES

AN ACT Relating to providers of commercial transportation services; amending RCW 51.12.020, 51.12.185, 48.22.030, 48.22.085, and 48.22.095; adding a new section to chapter 46.72

RCW; adding a new section to chapter 46.29 RCW; adding a new chapter to Title 48 RCW; and repealing RCW 46.72.073, 46.72A.053, 51.12.180, 51.12.183, 51.16.240, and 81.72.230.

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

NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Personal vehicle" means a vehicle that is used by a commercial transportation services provider driver in connection with providing services for a commercial transportation services provider and that is authorized by the commercial transportation services provider.

(2) "Prearranged ride" means a route of travel between points chosen by the passenger and arranged with a driver through the use of a commercial transportation services provider's digital network or software application. The ride begins when a driver accepts a requested ride through a digital network or software application, continues while the driver transports the passenger in a personal vehicle, and ends when the passenger departs from the personal vehicle.

(3) "Commercial transportation services provider" means a corporation, partnership, sole proprietorship, or other entity, operating in Washington, that uses a digital network or software application to connect passengers to drivers for the purpose of providing a prearranged ride. However, a commercial transportation services provider is not a taxicab company under chapter 81.72 RCW, a charter party or excursion service carrier under chapter 81.70 RCW, an auto transportation company under chapter 81.68 RCW, a private, nonprofit transportation provider under chapter 81.66 RCW, or a limousine carrier under chapter 46.72A RCW. A commercial transportation services provider is not deemed to own, control, operate, or manage the personal vehicles used by commercial transportation services providers. A commercial transportation services provider does not include a political subdivision or other entity exempt from federal income tax under 26 U.S.C. Sec. 115 of the federal internal revenue code.

(4) "Commercial transportation services provider driver" or "driver" means an individual who uses a personal vehicle to provide services for passengers matched through a commercial transportation services provider's digital network or software application.

(5) "Commercial transportation services provider passenger" or "passenger" means a passenger in a personal vehicle for whom transport is provided, including:

(a) An individual who uses a commercial transportation services provider's digital network or software application to connect with a driver to obtain services in the driver's vehicle for the individual and anyone in the individual's party; or

(b) Anyone for whom another individual uses a commercial transportation services provider's digital network or software application to connect with a driver to obtain services in the driver's vehicle.

(6) "Commercial transportation services" or "services" means all times the driver is logged in to a commercial transportation services provider's digital network or software application or until the passenger has left the personal vehicle, whichever is later. The term does not include services provided either directly or under contract with a political subdivision or other entity exempt

from federal income tax under 26 U.S.C. Sec. 115 of the federal internal revenue code.

NEW SECTION. Sec. 2. (1)(a) Before being used to provide commercial transportation services, every personal vehicle must be covered by a primary automobile insurance policy that specifically covers commercial transportation services. However, the insurance coverage requirements of this section are alternatively satisfied by securing coverage pursuant to chapter 46.72 or 46.72A RCW that covers the personal vehicle being used to provide commercial transportation services and that is in effect twenty-four hours per day, seven days per week. Except as provided in subsection (2) of this section, a commercial transportation services provider must secure this policy for every personal vehicle used to provide commercial transportation services. For purposes of this section, a "primary automobile insurance policy" is not a private passenger automobile insurance policy.

(b) The primary automobile insurance policy required under this section must provide coverage, as specified in this subsection (1)(b), at all times the driver is logged in to a commercial transportation services provider's digital network or software application and at all times a passenger is in the vehicle as part of a prearranged ride.

(i) The primary automobile insurance policy required under this subsection must provide the following coverage during commercial transportation services applicable during the period before a driver accepts a requested ride through a digital network or software application:

(A) Liability coverage in an amount no less than fifty thousand dollars per person for bodily injury, one hundred thousand dollars per accident for bodily injury of all persons, and thirty thousand dollars for damage to property;

(B) Underinsured motorist coverage to the extent required under RCW 48.22.030; and

(C) Personal injury protection coverage to the extent required under RCW 48.22.085 and 48.22.095.

(ii) The primary automobile insurance policy required under this subsection must provide the following coverage, applicable during the period of a prearranged ride:

(A) Combined single limit liability coverage in the amount of one million dollars for death, personal injury, and property damage;

(B) Underinsured motorist coverage in the amount of one million dollars; and

(C) Personal injury protection coverage to the extent required under RCW 48.22.085 and 48.22.095.

(2)(a) As an alternative to the provisions of subsection (1) of this section, if the office of the insurance commissioner approves the offering of an insurance policy that recognizes that a person is acting as a driver for a commercial transportation services provider and using a personal vehicle to provide commercial transportation services, a driver may secure a primary automobile insurance policy covering a personal vehicle and providing the same coverage as required in subsection (1) of this section. The policy coverage may be in the form of a rider to, or endorsement of, the driver's private passenger automobile insurance policy only if approved as such by the office of the insurance commissioner.

(b) If the primary automobile insurance policy maintained by a driver to meet the obligation of this section does not provide coverage for any reason, including that the policy lapsed or did not exist, the commercial transportation services provider must provide the coverage required under this section beginning with the first dollar of a claim.

(c) The primary automobile insurance policy required under this subsection and subsection (1) of this section may be secured by any of the following:

(i) The commercial transportation services provider as provided under subsection (1) of this section;

(ii) The driver as provided under (a) of this subsection; or

(iii) A combination of both the commercial transportation services provider and the driver.

(3) The insurer or insurers providing coverage under subsections (1) and (2) of this section are the only insurers having the duty to defend any liability claim from an accident occurring while commercial transportation services are being provided.

(4) In addition to the requirements in subsections (1) and (2) of this section, before allowing a person to provide commercial transportation services as a driver, a commercial transportation services provider must provide written proof to the driver that the driver is covered by a primary automobile insurance policy that meets the requirements of this section. Alternatively, if a driver purchases a primary automobile insurance policy as allowed under subsection (2) of this section, the commercial transportation services provider must verify that the driver has done so.

(5) A primary automobile insurance policy required under subsection (1) or (2) of this section may be placed with an insurer licensed under this title to provide insurance in the state of Washington or as an eligible surplus line insurance policy as described in RCW 48.15.040.

(6) Insurers that write automobile insurance in Washington may exclude any and all coverage afforded under a private passenger automobile insurance policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver for a commercial transportation services provider is logged in to a commercial transportation services provider's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in a private passenger automobile insurance policy including, but not limited to:

(a) Liability coverage for bodily injury and property damage;

(b) Personal injury protection coverage;

(c) Underinsured motorist coverage;

(d) Medical payments coverage;

(e) Comprehensive physical damage coverage; and

(f) Collision physical damage coverage.

(7) Nothing in this section shall be construed to require a private passenger automobile insurance policy to provide primary or excess coverage or a duty to defend for the period of time in which a driver is logged in to a commercial transportation services provider's digital network or software application or while the driver is engaged in a prearranged ride or the driver otherwise uses a vehicle to transport passengers for compensation.

(8) Insurers that exclude coverage under subsection (6) of this section have no duty to defend or indemnify any claim expressly excluded under subsection (6) of this section. Nothing in this section shall be deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in Washington state before the effective date of this section that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(9) An exclusion exercised by an insurer in subsection (6) of this section applies to any coverage selected or rejected by a named insured under RCW 48.22.030 and 48.22.085. The purchase of a rider or endorsement by a driver under subsection (2)(a) of this section does not require a separate coverage rejection under RCW 48.22.030 or 48.22.085.

(10) If more than one insurance policy provides valid and collectible coverage for a loss arising out of an occurrence involving a motor vehicle operated by a driver, the responsibility for the claim must be divided as follows:

(a) Except as provided otherwise under subsection (2)(c) of this section, if the driver has been matched with a passenger and is traveling to pick up the passenger, or the driver is providing services to a passenger, the commercial transportation services provider that matched the driver and passenger must provide insurance coverage; or

(b) If the driver is logged in to the digital network or software application of more than one commercial transportation services provider but has not been matched with a passenger, the liability must be divided equally among all of the applicable insurance policies that specifically provide coverage for commercial transportation services.

(11) In an accident or claims coverage investigation, a commercial transportation services provider or its insurer must cooperate with a private passenger automobile insurance policy insurer and other insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of (a) dates and times at which an accident occurred that involved a participating driver and (b) within ten business days after receiving a request, a copy of the provider's electronic record showing the precise times that the participating driver logged on and off the provider's digital network or software application on the day the accident or other loss occurred. The commercial transportation services provider or its insurer must retain all data, communications, or documents related to insurance coverage or accident details for a period of not less than the applicable statutes of limitation, plus two years from the date of an accident to which those records pertain.

(12) This section does not modify or abrogate any otherwise applicable insurance requirement set forth in this title.

(13) After July 1, 2016, an insurance company regulated under this title may not deny an otherwise covered claim arising exclusively out of the personal use of the private passenger automobile solely on the basis that the insured, at other times, used the private passenger automobile covered by the policy to provide commercial transportation services.

(14) If an insurer for a commercial transportation services provider makes a payment for a claim covered under comprehensive coverage or collision coverage, the commercial transportation services provider must cause its insurer

to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle.

(15)(a) To be eligible for securing a primary automobile insurance policy under this section, a commercial transportation services provider must make the following disclosures to a prospective driver in the prospective driver's terms of service:

WHILE OPERATING ON THE DIGITAL NETWORK OR SOFTWARE APPLICATION OF THE COMMERCIAL TRANSPORTATION SERVICES PROVIDER, YOUR PRIVATE PASSENGER AUTOMOBILE INSURANCE POLICY MIGHT NOT AFFORD LIABILITY, UNDERINSURED MOTORIST, PERSONAL INJURY PROTECTION, COMPREHENSIVE, OR COLLISION COVERAGE, DEPENDING ON THE TERMS OF THE POLICY.

IF THE VEHICLE THAT YOU PLAN TO USE TO PROVIDE COMMERCIAL TRANSPORTATION SERVICES FOR OUR COMPANY HAS A LIEN AGAINST IT, YOU MUST NOTIFY THE LIENHOLDER THAT YOU WILL BE USING THE VEHICLE FOR COMMERCIAL TRANSPORTATION SERVICES THAT MAY VIOLATE THE TERMS OF YOUR CONTRACT WITH THE LIENHOLDER.

(b) The prospective driver must acknowledge the terms of service electronically or by signature.

NEW SECTION. Sec. 3. A new section is added to chapter 46.72 RCW to read as follows:

RCW 46.72.040 and 46.72.050 do not apply to personal vehicles under chapter 48.--- RCW (the new chapter created in section 11 of this act).

Sec. 4. RCW 51.12.020 and 2013 c 141 s 3 are each amended to read as follows:

The following are the only employments which shall not be included within the mandatory coverage of this title:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed forty or more hours a week in such employment.

(2) Any person employed to do gardening, maintenance, or repair, in or about the private home of the employer. For the purposes of this subsection, "maintenance" means the work of keeping in proper condition, "repair" means to restore to sound condition after damage, and "private home" means a person's place of residence.

(3) A person whose employment is not in the course of the trade, business, or profession of his or her employer and is not in or about the private home of the employer.

(4) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(5) Sole proprietors or partners.

(6) Any child under eighteen years of age employed by his or her parent or parents in agricultural activities on the family farm.

(7) Jockeys while participating in or preparing horses for race meets licensed by the Washington horse racing commission pursuant to chapter 67.16 RCW.

(8)(a) Except as otherwise provided in (b) of this subsection, any bona fide officer of a corporation voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation, who at all times during the period involved is also a bona fide director, and who is also a shareholder of the corporation. Only such officers who exercise substantial control in the daily management of the corporation and whose primary responsibilities do not include the performance of manual labor are included within this subsection.

(b) Alternatively, a corporation that is not a "public company" as defined in RCW 23B.01.400 may exempt eight or fewer bona fide officers, who are voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation and who exercise substantial control in the daily management of the corporation, from coverage under this title without regard to the officers' performance of manual labor if the exempted officer is a shareholder of the corporation, or may exempt any number of officers if all the exempted officers are related by blood within the third degree or marriage. If a corporation that is not a "public company" elects to be covered under subsection (8)(a) of this section, the corporation's election must be made on a form prescribed by the department and under such reasonable rules as the department may adopt.

(c) Determinations respecting the status of persons performing services for a corporation shall be made, in part, by reference to Title 23B RCW and to compliance by the corporation with its own articles of incorporation and bylaws. For the purpose of determining coverage under this title, substance shall control over form, and mandatory coverage under this title shall extend to all workers of this state, regardless of honorary titles conferred upon those actually serving as workers.

(d) A corporation may elect to cover officers who are exempted by this subsection in the manner provided by RCW 51.12.110.

(9) Services rendered by a musician or entertainer under a contract with a purchaser of the services, for a specific engagement or engagements when such musician or entertainer performs no other duties for the purchaser and is not regularly and continuously employed by the purchaser. A purchaser does not include the leader of a group or recognized entity who employs other than on a casual basis musicians or entertainers.

(10) Services performed by a newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published.

(11) Services performed by an insurance producer, as defined in RCW 48.17.010, or a surplus line broker licensed under chapter 48.15 RCW.

(12) Services performed by a booth renter. However, a person exempted under this subsection may elect coverage under RCW 51.32.030.

(13) Members of a limited liability company, if either:

(a) Management of the company is vested in its members, and the members for whom exemption is sought would qualify for exemption under subsection (5) of this section were the company a sole proprietorship or partnership; or

(b) Management of the company is vested in one or more managers, and the members for whom the exemption is sought are managers who would qualify for exemption under subsection (8) of this section were the company a corporation.

(14) A driver providing commercial transportation services as defined in section 1 of this act. The driver may elect coverage in the manner provided by RCW 51.32.030.

(15) For hire vehicle operators under chapter 46.72 RCW who own or lease the for hire vehicle, chauffeurs under chapter 46.72A RCW who own or lease the limousine, and operators of taxicabs under chapter 81.72 RCW who own or lease the taxicab. An owner or lessee may elect coverage in the manner provided by RCW 51.32.030.

Sec. 5. RCW 51.12.185 and 2011 c 190 s 4 are each amended to read as follows:

(1) ~~((In order to assist the department with controlling costs related to the self-monitoring of industrial insurance claims by independent owner-operated for hire vehicle, limousine, and taxicab businesses;))~~ The department may appoint a panel of individuals with for hire vehicle, limousine, or taxicab transportation industry experience and expertise to advise the department.

(2) The owner or lessee of any for hire, limousine, or taxicab vehicle ~~((subject to mandatory industrial insurance pursuant to RCW 51.12.183))~~ is eligible for inclusion in a retrospective rating program authorized and established pursuant to chapter 51.18 RCW.

NEW SECTION. **Sec. 6.** A new section is added to chapter 46.29 RCW to read as follows:

This chapter does not apply to the coverage exclusions under section 2(6) of this act.

Sec. 7. RCW 48.22.030 and 2009 c 549 s 7106 are each amended to read as follows:

(1) "Underinsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance, or use of which either no bodily injury or property damage liability bond or insurance policy applies at the time of an accident, or with respect to which the sum of the limits of liability under all bodily injury or property damage liability bonds and insurance policies applicable to a covered person after an accident is less than the applicable damages which the covered person is legally entitled to recover.

(2) No new policy or renewal of an existing policy insuring against loss resulting from liability imposed by law for bodily injury, death, or property damage, suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall be issued with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of underinsured motor vehicles, hit-and-run motor vehicles, and phantom vehicles because of bodily injury, death, or property damage, resulting therefrom, except while operating or occupying a motorcycle or motor-driven cycle, and except while operating or occupying a motor vehicle owned or available for the regular use by the named insured or any family member, and which is not insured under the liability coverage of the policy. The coverage required to be offered under this

chapter is not applicable to general liability policies, commonly known as umbrella policies, or other policies which apply only as excess to the insurance directly applicable to the vehicle insured.

(3) Except as to property damage, coverage required under subsection (2) of this section shall be in the same amount as the insured's third party liability coverage unless the insured rejects all or part of the coverage as provided in subsection (4) of this section. Coverage for property damage need only be issued in conjunction with coverage for bodily injury or death. Property damage coverage required under subsection (2) of this section shall mean physical damage to the insured motor vehicle unless the policy specifically provides coverage for the contents thereof or other forms of property damage.

(4) A named insured or spouse may reject, in writing, underinsured coverage for bodily injury or death, or property damage, and the requirements of subsections (2) and (3) of this section shall not apply. If a named insured or spouse has rejected underinsured coverage, such coverage shall not be included in any supplemental or renewal policy unless a named insured or spouse subsequently requests such coverage in writing. The requirement of a written rejection under this subsection shall apply only to the original issuance of policies issued after July 24, 1983, and not to any renewal or replacement policy. When a named insured or spouse chooses a property damage coverage that is less than the insured's third party liability coverage for property damage, a written rejection is not required.

(5) The limit of liability under the policy coverage may be defined as the maximum limits of liability for all damages resulting from any one accident regardless of the number of covered persons, claims made, or vehicles or premiums shown on the policy, or premiums paid, or vehicles involved in an accident.

(6) The policy may provide that if an injured person has other similar insurance available to him or her under other policies, the total limits of liability of all coverages shall not exceed the higher of the applicable limits of the respective coverages.

(7)(a) The policy may provide for a deductible of not more than three hundred dollars for payment for property damage when the damage is caused by a hit-and-run driver or a phantom vehicle.

(b) In all other cases of underinsured property damage coverage, the policy may provide for a deductible of not more than one hundred dollars.

(8) For the purposes of this chapter, a "phantom vehicle" shall mean a motor vehicle which causes bodily injury, death, or property damage to an insured and has no physical contact with the insured or the vehicle which the insured is occupying at the time of the accident if:

(a) The facts of the accident can be corroborated by competent evidence other than the testimony of the insured or any person having an underinsured motorist claim resulting from the accident; and

(b) The accident has been reported to the appropriate law enforcement agency within seventy-two hours of the accident.

(9) An insurer who elects to write motorcycle or motor-driven cycle insurance in this state must provide information to prospective insureds about the coverage.

(10) An insurer who elects to write motorcycle or motor-driven cycle insurance in this state must provide an opportunity for named insureds, who have purchased liability coverage for a motorcycle or motor-driven cycle, to reject underinsured coverage for that motorcycle or motor-driven cycle in writing.

(11) If the covered person seeking underinsured motorist coverage under this section was the intended victim of the tortfeasor, the incident must be reported to the appropriate law enforcement agency and the covered person must cooperate with any related law enforcement investigation.

(12) The purpose of this section is to protect innocent victims of motorists of underinsured motor vehicles. Covered persons are entitled to coverage without regard to whether an incident was intentionally caused. However, a person is not entitled to coverage if the insurer can demonstrate that the covered person intended to cause the event for which a claim is made under the coverage described in this section. As used in this section, and in the section of policies providing the underinsured motorist coverage described in this section, "accident" means an occurrence that is unexpected and unintended from the standpoint of the covered person.

(13) The coverage under this section may be excluded as provided for under section 2(6) of this act.

(14) "Underinsured coverage," for the purposes of this section, means coverage for "underinsured motor vehicles," as defined in subsection (1) of this section.

Sec. 8. RCW 48.22.085 and 2003 c 115 s 2 are each amended to read as follows:

(1) No new automobile liability insurance policy or renewal of such an existing policy may be issued unless personal injury protection coverage is offered as an optional coverage.

(2) A named insured may reject, in writing, personal injury protection coverage and the requirements of subsection (1) of this section shall not apply. If a named insured rejects personal injury protection coverage:

(a) That rejection is valid and binding as to all levels of coverage and on all persons who might have otherwise been insured under such coverage; and

(b) The insurer is not required to include personal injury protection coverage in any supplemental, renewal, or replacement policy unless a named insured subsequently requests such coverage in writing.

(3) The coverage under this section may be excluded as provided for under section 2(6) of this act.

Sec. 9. RCW 48.22.095 and 2003 c 115 s 4 are each amended to read as follows:

(1) Insurers providing automobile insurance policies must offer minimum personal injury protection coverage for each insured with benefit limits as follows:

~~((+))~~ (a) Medical and hospital benefits of ten thousand dollars;

~~((2))~~ (b) A funeral expense benefit of two thousand dollars;

~~((3))~~ (c) Income continuation benefits of ten thousand dollars, subject to a limit of two hundred dollars per week; and

((4)) (d) Loss of services benefits of five thousand dollars, subject to a limit of two hundred dollars per week.

(2) The coverage under this section may be excluded as provided for under section 2(6) of this act.

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

(1) RCW 46.72.073 (Certificate suspension or revocation—Failure to pay industrial insurance premiums—Rules—Cooperative agreements) and 2011 c 190 s 5;

(2) RCW 46.72A.053 (Certificate suspension or revocation—Failure to pay industrial insurance premiums—Rules—Cooperative agreements) and 2011 c 190 s 6;

(3) RCW 51.12.180 (For hire vehicle businesses and operators—Findings—Declaration) and 2011 c 190 s 1;

(4) RCW 51.12.183 (For hire vehicle businesses and operators—Mandatory coverage—Definitions) and 2011 c 190 s 2;

(5) RCW 51.16.240 (For hire vehicle businesses and operators—Basis for premiums—Rules) and 2011 c 190 s 3; and

(6) RCW 81.72.230 (License suspension or revocation—Failure to pay industrial insurance premiums—Rules—Cooperative agreements) and 2011 c 190 s 7.

NEW SECTION. Sec. 11. Sections 1 and 2 of this act constitute a new chapter in Title 48 RCW.

Passed by the Senate April 16, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 237

[Engrossed Substitute Senate Bill 5557]

HEALTH CARRIERS--SERVICES PROVIDED BY A PHARMACIST

AN ACT Relating to services provided by pharmacists; amending RCW 48.43.045; adding a new section to chapter 48.43 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. A new section is added to chapter 48.43 RCW to read as follows:

(1) For health plans issued or renewed on or after January 1, 2017:

(a) Benefits shall not be denied for any health care service performed by a pharmacist licensed under chapter 18.64 RCW if:

(i) The service performed was within the lawful scope of such person's license;

(ii) The plan would have provided benefits if the service had been performed by a physician licensed under chapter 18.71 or 18.57 RCW, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician's assistant licensed under chapter 18.71A or 18.57A RCW; and

(iii) The pharmacist is included in the plan's network of participating providers; and

(b) The health plan must include an adequate number of pharmacists in its network of participating medical providers.

(2) The participation of pharmacies in the plan network's drug benefit does not satisfy the requirement that plans include pharmacists in their networks of participating medical providers.

(3) For health benefit plans issued or renewed on or after January 1, 2016, but before January 1, 2017, health plans that delegate credentialing agreements to contracted health care facilities must accept credentialing for pharmacists employed or contracted by those facilities. Health plans must reimburse facilities for covered services provided by network pharmacists within the pharmacists' scope of practice per negotiations with the facility.

(4) This section does not supersede the requirements of RCW 48.43.045.

Sec. 2. RCW 48.43.045 and 2007 c 253 s 12 are each amended to read as follows:

(1) Every health plan delivered, issued for delivery, or renewed by a health carrier on and after January 1, 1996, shall:

(a) Permit every category of health care provider to provide health services or care (~~(for conditions)~~) included in the basic (~~(health plan services)~~) essential health benefits benchmark plan established by the commissioner consistent with RCW 48.43.715, to the extent that:

(i) The provision of such health services or care is within the health care providers' permitted scope of practice; (~~and~~)

(ii) The providers agree to abide by standards related to:

(A) Provision, utilization review, and cost containment of health services;

(B) Management and administrative procedures; and

(C) Provision of cost-effective and clinically efficacious health services; and

(iii) The plan covers such services or care in the essential health benefits benchmark plan. The reference to the essential health benefits does not create a mandate to cover a service that is otherwise not a covered benefit.

(b) Annually report the names and addresses of all officers, directors, or trustees of the health carrier during the preceding year, and the amount of wages, expense reimbursements, or other payments to such individuals, unless substantially similar information is filed with the commissioner or the national association of insurance commissioners. This requirement does not apply to a foreign or alien insurer regulated under chapter 48.20 or 48.21 RCW that files a supplemental compensation exhibit in its annual statement as required by law.

(2) The requirements of subsection (1)(a) of this section do not apply to a licensed health care profession regulated under Title 18 RCW when the licensing statute for the profession states that such requirements do not apply.

NEW SECTION. Sec. 3. (1) The insurance commissioner shall designate a lead organization to establish and facilitate an advisory committee to implement the provisions of section 1 of this act. The lead organization and advisory committee shall develop best practice recommendations on standards for credentialing, privileging, billing, and payment processes to ensure pharmacists are adequately included and appropriately utilized in participating provider networks of health plans. In developing these standards, the committee shall also discuss topics as they relate to implementation including current credentialing requirements for health care providers consistent with chapter 18.64 RCW,

existing processes of similarly situated health care providers, pharmacist training, care coordination, and the role of pharmacist prescriptive authority agreements pursuant to WAC 246-863-100.

(2) The lead organization shall create an advisory committee including, but not limited to, representatives of the following stakeholders:

- (a) The insurance commissioner or designee;
- (b) The secretary of health or designee;
- (c) An organization representing pharmacists;
- (d) An organization representing physicians;
- (e) An organization representing hospitals;
- (f) A hospital conducting internal credentialing of pharmacists;
- (g) A clinic with pharmacists providing medical services;
- (h) A community pharmacy with pharmacists providing medical services;
- (i) The two largest health carriers in Washington based upon enrollment;
- (j) A health care system that coordinates care and coverage;
- (k) A school or college of pharmacy in Washington;
- (l) A representative from a pharmacy benefit manager or organization that represents pharmacy benefit managers; and
- (m) Other representatives appointed by the insurance commissioner.

(3) No later than December 1, 2015, the advisory committee shall present initial best practice recommendations to the insurance commissioner and the department of health. If necessary, the insurance commissioner or department of health may adopt rules to implement the standards developed by the lead organization and advisory committee. The advisory committee will remain intact to assist the insurance commissioner or department of health in rule making. The rules adopted by the insurance commissioner or the department of health must be consistent with the recommendations developed by the advisory committee.

(4) For purposes of this section, "lead organization" means a private sector organization or organizations designated by the insurance commissioner to lead development of processes, guidelines, and standards to streamline health care administration to be adopted by payors and providers of health care services operating in the state.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 238

[Senate Bill 5650]

INMATE FUNDS--MEDICAL EXPENSES

AN ACT Relating to inmate funds subject to deductions; and amending RCW 72.09.480.

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

Sec. 1. RCW 72.09.480 and 2011 c 282 s 3 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections (4) and (8) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order;

(e) Twenty percent to the department to contribute to the cost of incarceration; and

(f) Twenty percent for payment of any civil judgment for assault for all inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(3) When an inmate, except as provided in subsection ~~((8))~~ (9) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) and (f) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment of education or vocational programs or postsecondary education degree programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

~~(8) ((When an))~~ The deductions required under subsection (2) of this section do not apply to any money received by the department on behalf of an inmate from family or other outside sources for the payment of certain medical expenses. Money received under this subsection may only be used for the payment of medical expenses associated with the purchase of eyeglasses, over-the-counter medications, and offender copayments. Funds received specifically for these purposes may not be transferred to any other account or purpose. Money that remains unused in the inmate's medical fund at the time of release is subject to deductions under subsection (2) of this section.

(9) Inmates sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

~~((9))~~ (10) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

~~((10))~~ (11) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

~~((11))~~ (12) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 239

[Substitute Senate Bill 5719]

HIGHER EDUCATION--TASK FORCE ON CAMPUS SEXUAL VIOLENCE PREVENTION

AN ACT Relating to creating a task force on campus sexual violence prevention; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The Washington student achievement council, the state board for community and technical colleges, the council of presidents, the institutions of higher education, the private independent higher education

institutions, state law enforcement, and the Washington attorney general's office shall collaborate to carry out the following goals:

(a) Develop a set of best practices that institutions of higher education and private independent higher education institutions may employ to promote the awareness of campus sexual violence, reduce the occurrence of campus sexual violence, and enhance student safety;

(b) Develop recommendations for institutions of higher education and private independent higher education institutions for improving institutional campus sexual violence policies and procedures; and

(c) Develop recommendations for improving collaboration on campus sexual violence issues among institutions of higher education and between institutions of higher education and law enforcement.

(2) The task force on preventing campus sexual violence is established.

(a) The task force includes the following members:

(i) One representative from the student achievement council;

(ii) One representative from the state board for community and technical colleges;

(iii) One representative from the council of presidents;

(iv) One representative from each of the state universities, the regional universities, and the state college, who is the Title IX coordinator or who has expertise with Title IX and sexual violence prevention efforts;

(v) One representative from the Washington association of sheriffs and police chiefs;

(vi) One representative from the independent colleges of Washington;

(vii) One representative from the nonprofit community who is an advocate for sexual assault victims;

(viii) One representative from the Washington state attorney general's office; and

(ix) One representative from the Washington association of prosecuting attorneys.

(b) The task force shall select a coordinator to facilitate its progress.

(c) The purpose of the task force is to coordinate and implement the goals in subsection (1) of this section.

(3) The task force shall report to the legislature and the institutions of higher education on its goals and recommendations annually by December 31st.

(4) For the purposes of this section, "institutions of higher education" has the same meaning as in RCW 28B.10.016.

(5) To select the representative from the nonprofit community, as required by subsection (2)(a)(vii) of this section, the student achievement council shall issue a request for interest to nonprofit communities that are sexual assault victim advocates, asking who wishes to participate on the task force as a volunteer. The names and resumes, including experience participating in similar efforts, of proposed task force members must be submitted to the student achievement council. The student achievement council shall give this information to the task force and the task force chairs must select the representative from this pool of candidates.

(6) This section expires July 1, 2017.

Passed by the Senate April 16, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 11, 2015.
 Filed in Office of Secretary of State May 12, 2015.

CHAPTER 240

[Substitute Senate Bill 5740]

EXTENDED FOSTER CARE SERVICES--ELIGIBILITY--DOCUMENTED MEDICAL CONDITION

AN ACT Relating to extended foster care services; amending RCW 13.34.267 and 74.13.031; reenacting and amending RCW 74.13.020; adding a new section to chapter 74.13 RCW; creating a new section; and providing an effective date.

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

Sec. 1. RCW 13.34.267 and 2014 c 122 s 1 are each amended to read as follows:

(1) In order to facilitate the delivery of extended foster care services, the court, upon the agreement of the youth to participate in the extended foster care program, shall maintain the dependency proceeding for any youth who is dependent in foster care at the age of eighteen years and who, at the time of his or her eighteenth birthday, is:

(a) Enrolled in a secondary education program or a secondary education equivalency program;

(b) Enrolled and participating in a postsecondary academic or postsecondary vocational program, or has applied for and can demonstrate that he or she intends to timely enroll in a postsecondary academic or postsecondary vocational program;

(c) Participating in a program or activity designed to promote employment or remove barriers to employment; ~~((or))~~

(d) ~~((Within amounts appropriated specifically for this purpose,))~~ Engaged in employment for eighty hours or more per month; or

(e) Not able to engage in any of the activities described in (a) through (d) of this subsection due to a documented medical condition.

(2) If the court maintains the dependency proceeding of a youth pursuant to subsection (1) of this section, the youth is eligible to receive extended foster care services pursuant to RCW 74.13.031, subject to the youth's continuing eligibility and agreement to participate.

(3) A dependent youth receiving extended foster care services is a party to the dependency proceeding. The youth's parent or guardian must be dismissed from the dependency proceeding when the youth reaches the age of eighteen.

(4) The court shall dismiss the dependency proceeding for any youth who is a dependent in foster care and who, at the age of eighteen years, does not meet any of the criteria described in subsection (1)(a) through ~~((d))~~ (e) of this section or does not agree to participate in the program.

(5) The court shall order a youth participating in extended foster care services to be under the placement and care authority of the department, subject to the youth's continuing agreement to participate in extended foster care services. The department may establish foster care rates appropriate to the needs of the youth participating in extended foster care services. The department's placement and care authority over a youth receiving extended foster care services is solely for the purpose of providing services and does not create a

legal responsibility for the actions of the youth receiving extended foster care services.

(6) The court shall appoint counsel to represent a youth, as defined in RCW 13.34.030(2)(b), in dependency proceedings under this section.

(7) The case plan for and delivery of services to a youth receiving extended foster care services is subject to the review requirements set forth in RCW 13.34.138 and 13.34.145, and should be applied in a developmentally appropriate manner, as they relate to youth age eighteen to twenty-one years. Additionally, the court shall consider:

(a) Whether the youth is safe in his or her placement;

(b) Whether the youth continues to be eligible for extended foster care services;

(c) Whether the current placement is developmentally appropriate for the youth;

(d) The youth's development of independent living skills; and

(e) The youth's overall progress toward transitioning to full independence and the projected date for achieving such transition.

(8) Prior to the review hearing, the youth's attorney shall indicate whether there are any contested issues and may provide additional information necessary for the court's review.

Sec. 2. RCW 74.13.020 and 2013 c 332 s 8 and 2013 c 162 s 5 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Case management" means convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan, coordinating and monitoring services needed by the child and family, caseworker-child visits, family visits, 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) A person less than eighteen years of age; or

(b) A person age eighteen to twenty-one years who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(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) "Extended foster care services" means residential and other support services the department is authorized to provide to foster children. These services include, but are not limited to, placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(8) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

(9) "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.

(10) "Medical condition" means, for the purposes of qualifying for extended foster care services, a physical or mental health condition as documented by any licensed health care provider regulated by a disciplining authority under RCW 18.130.040.

(11) "Nonminor dependent" means any individual age eighteen to twenty-one years who is participating in extended foster care services authorized under RCW 74.13.031.

~~((+1))~~ (12) "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.

~~((+2))~~ (13) "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.

~~((+3))~~ (14) "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.

~~((+4))~~ (15) "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.

~~((45))~~ (16) "Supervised independent living" includes, but is not limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. Supervised independent living settings must be approved by the children's administration or the court.

~~((46))~~ (17) "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 this section. This definition is applicable on or after December 30, 2015.

~~((47))~~ (18) "Unsupervised" has the same meaning as in RCW 43.43.830.

~~((48))~~ (19) "Voluntary placement agreement" means, for the purposes of extended foster care services, a written voluntary agreement between a nonminor dependent who agrees to submit to the care and authority of the department for the purposes of participating in the extended foster care program.

Sec. 3. RCW 74.13.031 and 2014 c 122 s 2 are each amended to read as follows:

(1) The department and supervising agencies shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department and supervising agencies shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's and supervising agency's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) As provided in RCW 26.44.030(11), the department may respond to a report of child abuse or neglect by using the family assessment response.

(5) The department or supervising agencies shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(6) The department or supervising agencies shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department and the supervising agencies shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced faceto face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department and supervising agencies are encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department or supervising agencies shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

(7) The department and supervising agencies shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(8) The department and supervising agency shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(9) The department and supervising agency shall have authority to purchase care for children.

(10) The department shall establish a children's services advisory committee with sufficient members representing supervising agencies which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(11)(a) The department and supervising agencies shall provide continued extended foster care services to nonminor dependents who are:

(i) Enrolled in a secondary education program or a secondary education equivalency program;

(ii) Enrolled and participating in a postsecondary academic or postsecondary vocational education program;

(iii) Participating in a program or activity designed to promote employment or remove barriers to employment; ((b))

(iv) ~~((Within amounts appropriated specifically for this purpose,))~~ Engaged in employment for eighty hours or more per month; or

(v) Not able to engage in any of the activities described in (a)(i) through (iv) of this subsection due to a documented medical condition.

(b) To be eligible for extended foster care services, the nonminor dependent must have been dependent and in foster care at the time that he or she reached age eighteen years. If the dependency case of the nonminor dependent was dismissed pursuant to RCW 13.34.267, he or she may receive extended foster care services pursuant to a voluntary placement agreement under RCW 74.13.336 or pursuant to an order of dependency issued by the court under RCW 13.34.268. A nonminor dependent whose dependency case was dismissed by the court must have requested extended foster care services before reaching age nineteen years.

(c) The department shall develop and implement rules regarding youth eligibility requirements.

(d) The department shall make efforts to ensure that extended foster care services maximize medicaid reimbursements. This must include the department ensuring that health and mental health extended foster care providers participate in medicaid, unless the condition of the extended foster care youth requires specialty care that is not available among participating medicaid providers or there are no participating medicaid providers in the area. The department shall coordinate other services to maximize federal resources and the most cost-efficient delivery of services to extended foster care youth.

(12) The department shall have authority to provide adoption support benefits, or relative guardianship subsidies on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a relative guardianship at age sixteen or older and who meet the criteria described in subsection (11) of this section.

(13) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(14) The department and supervising agencies shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order. The purchase of such care is exempt from the requirements of chapter 74.13B RCW and may be purchased from the federally recognized Indian tribe or tribally licensed child-placing agency, and shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department under subsections (4), (7), and (8) of this section, subject to the limitations of these subsections, may be provided by any program

offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(15) Within amounts appropriated for this specific purpose, the supervising agency or department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(16) The department and supervising agencies shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(17) The department and supervising agencies shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department and supervising agencies are performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(18)(a) The department shall, within current funding levels, place on its public web site a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

NEW SECTION. Sec. 4. A new section is added to chapter 74.13 RCW to read as follows:

With respect to youth who will be aging out of foster care, the children's administration shall invite representatives from the division of behavioral health and recovery, the disability services administration, the economic services administration, and the juvenile justice and rehabilitation administration to the youth's shared planning meeting that occurs between age seventeen and seventeen and one-half that is used to develop a transition plan. It is the responsibility of the children's administration to include these agencies in the shared planning meeting. If foster youth who are the subject of this meeting may qualify for developmental disability services pursuant to Title 71A RCW, the children's administration shall direct these youth to apply for these services and provide assistance in the application process.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2015, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 6.** This act takes effect July 1, 2016.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 241

[Engrossed Senate Bill 5923]

SINGLE-FAMILY DETACHED AND ATTACHED RESIDENTIAL CONSTRUCTION-- DEFERRED IMPACT FEES

AN ACT Relating to promoting economic recovery in the construction industry; amending RCW 82.02.050 and 36.70A.070; adding a new section to chapter 44.28 RCW; adding a new section to chapter 43.31 RCW; and providing an effective date.

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

Sec. 1. RCW 82.02.050 and 1994 c 257 s 24 are each amended to read as follows:

(1) It is the intent of the legislature:

(a) To ensure that adequate facilities are available to serve new growth and development;

(b) To promote orderly growth and development by establishing standards by which counties, cities, and towns may require, by ordinance, that new growth and development pay a proportionate share of the cost of new facilities needed to serve new growth and development; and

(c) To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact.

(2) Counties, cities, and towns that are required or choose to plan under RCW 36.70A.040 are authorized to impose impact fees on development activity as part of the financing for public facilities, provided that the financing for system improvements to serve new development must provide for a balance between impact fees and other sources of public funds and cannot rely solely on impact fees.

(3)(a)(i) Counties, cities, and towns collecting impact fees must, by September 1, 2016, adopt and maintain a system for the deferred collection of impact fees for single-family detached and attached residential construction. The deferral system must include a process by which an applicant for a building permit for a single-family detached or attached residence may request a deferral of the full impact fee payment. The deferral system offered by a county, city, or town under this subsection (3) must include one or more of the following options:

(A) Deferring collection of the impact fee payment until final inspection;

(B) Deferring collection of the impact fee payment until certificate of occupancy or equivalent certification; or

(C) Deferring collection of the impact fee payment until the time of closing of the first sale of the property occurring after the issuance of the applicable building permit.

(ii) Counties, cities, and towns utilizing the deferral process required by this subsection (3)(a) may withhold certification of final inspection, certificate of occupancy, or equivalent certification until the impact fees have been paid in full.

(iii) The amount of impact fees that may be deferred under this subsection (3) must be determined by the fees in effect at the time the applicant applies for a deferral.

(iv) Unless an agreement to the contrary is reached between the buyer and seller, the payment of impact fees due at closing of a sale must be made from the seller's proceeds. In the absence of an agreement to the contrary, the seller bears strict liability for the payment of the impact fees.

(b) The term of an impact fee deferral under this subsection (3) may not exceed eighteen months from the date of building permit issuance.

(c) Except as may otherwise be authorized in accordance with (f) of this subsection (3), an applicant seeking a deferral under this subsection (3) must grant and record a deferred impact fee lien against the property in favor of the county, city, or town in the amount of the deferred impact fee. The deferred impact fee lien, which must include the legal description, tax account number, and address of the property, must also be:

(i) In a form approved by the county, city, or town;

(ii) Signed by all owners of the property, with all signatures acknowledged as required for a deed, and recorded in the county where the property is located;

(iii) Binding on all successors in title after the recordation; and

(iv) Junior and subordinate to one mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees.

(d)(i) If impact fees are not paid in accordance with a deferral authorized by this subsection (3), and in accordance with the term provisions established in (b) of this subsection (3), the county, city, or town may institute foreclosure proceedings in accordance with chapter 61.12 RCW.

(ii) If the county, city, or town does not institute foreclosure proceedings for unpaid school impact fees within forty-five days after receiving notice from a school district requesting that it do so, the district may institute foreclosure proceedings with respect to the unpaid impact fees.

(e)(i) Upon receipt of final payment of all deferred impact fees for a property, the county, city, or town must execute a release of deferred impact fee lien for the property. The property owner at the time of the release, at his or her expense, is responsible for recording the lien release.

(ii) The extinguishment of a deferred impact fee lien by the foreclosure of a lien having priority does not affect the obligation to pay the impact fees as a condition of final inspection, certificate of occupancy, or equivalent certification, or at the time of closing of the first sale.

(f) A county, city, or town with an impact fee deferral process on or before April 1, 2015, is exempt from the requirements of this subsection (3) if the deferral process delays all impact fees and remains in effect after September 1, 2016.

(g)(i) Each applicant for a single-family residential construction permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals under this subsection (3) for the first twenty single-family residential construction building permits per county, city, or town. A county, city, or town, however, may elect, by ordinance, to defer more than twenty single-family residential construction building permits for an applicant. If the county, city, or town collects impact fees on behalf of one or more school districts for which the collection of impact fees could be delayed, the county, city, or town must consult with the district or districts about the additional deferrals. A county, city, or town considering additional deferrals must give substantial weight to recommendations of each applicable school district regarding the number of additional deferrals. If the county, city, or town disagrees with the recommendations of one or more school districts, the county, city, or town must provide the district or districts with a written rationale for its decision.

(ii) For purposes of this subsection (3)(g), an "applicant" includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.

(h) Counties, cities, and towns may collect reasonable administrative fees to implement this subsection (3) from permit applicants who are seeking to delay the payment of impact fees under this subsection (3).

(i) In accordance with sections 3 and 4 of this act, counties, cities, and towns must cooperate with and provide requested data, materials, and assistance to the department of commerce and the joint legislative audit and review committee.

(4) The impact fees:

(a) Shall only be imposed for system improvements that are reasonably related to the new development;

(b) Shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development; and

(c) Shall be used for system improvements that will reasonably benefit the new development.

~~((4))~~ (5)(a) Impact fees may be collected and spent only for the public facilities defined in RCW 82.02.090 which are addressed by a capital facilities plan element of a comprehensive land use plan adopted pursuant to the provisions of RCW 36.70A.070 or the provisions for comprehensive plan adoption contained in chapter 36.70, 35.63, or 35A.63 RCW. After the date a county, city, or town is required to adopt its development regulations under chapter 36.70A RCW, continued authorization to collect and expend impact fees ~~((shall be))~~ is contingent on the county, city, or town adopting or revising a comprehensive plan in compliance with RCW 36.70A.070, and on the capital facilities plan identifying:

~~((a))~~ (i) Deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time;

~~((b))~~ (ii) Additional demands placed on existing public facilities by new development; and

~~((c))~~ (iii) Additional public facility improvements required to serve new development.

(b) If the capital facilities plan of the county, city, or town is complete other than for the inclusion of those elements which are the responsibility of a special district, the county, city, or town may impose impact fees to address those public facility needs for which the county, city, or town is responsible.

Sec. 2. RCW 36.70A.070 and 2010 1st sp.s. c 26 s 6 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~~) are subject to the requirements of (d)(iv) of this subsection, but (~~shall~~) are 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(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(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 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 ten-year investment program developed by the 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" 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. If the collection of impact fees is delayed under RCW 82.02.050(3), the six-year period required by this subsection (6)(b) must begin after full payment of all impact fees is due to the county or city.

(c) The transportation element described in this subsection (6), 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.

NEW SECTION. Sec. 3. A new section is added to chapter 44.28 RCW to read as follows:

(1) The joint legislative audit and review committee must review the impact fee deferral requirements of RCW 82.02.050(3). The review must consist of an examination of issued impact fee deferrals, including: (a) The number of deferrals requested of and issued by counties, cities, and towns; (b) the type of impact fee deferred; (c) the monetary amount of deferrals, by jurisdiction; (d) whether the deferral process was efficiently administered; (e) the number of deferrals that were not fully and timely paid; and (f) the costs to counties, cities, and towns for collecting timely and delinquent fees. The review must also include an evaluation of whether the impact fee deferral process required by RCW 82.02.050(3) was effective in providing a locally administered process for the deferral and full payment of impact fees.

(2) The review required by this section must, in accordance with RCW 43.01.036, be submitted to the appropriate committees of the house of representatives and the senate on or before September 1, 2021.

(3) In complying with this section, and in accordance with section 4 of this act, the joint legislative audit and review committee must make its collected data and associated materials available, upon request, to the department of commerce.

(4) This section expires January 1, 2022.

NEW SECTION. Sec. 4. A new section is added to chapter 43.31 RCW to read as follows:

(1) Beginning December 1, 2018, and each year thereafter, the department of commerce must prepare an annual report on the impact fee deferral process established in RCW 82.02.050(3). The report must include: (a) The number of deferrals requested of and issued by counties, cities, and towns; (b) the number of deferrals that were not fully and timely paid; and (c) other information as deemed appropriate.

(2) The report required by this section must, in accordance with RCW 43.01.036, be submitted to the appropriate committees of the house of representatives and the senate.

NEW SECTION. Sec. 5. This act takes effect September 1, 2016.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 242

[Engrossed Senate Bill 5935]

PRESCRIPTION DRUGS--BIOLOGICAL PRODUCTS

AN ACT Relating to biological products; amending RCW 69.41.110, 69.41.120, 69.41.150, and 69.41.160; adding new sections to chapter 69.41 RCW; and providing expiration dates.

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

Sec. 1. RCW 69.41.110 and 1979 c 110 s 1 are each amended to read as follows:

As used in RCW 69.41.100 through 69.41.180, the following words shall have the following meanings:

(1) "Brand name" means the proprietary or trade name selected by the manufacturer and placed upon a drug, its container, label, or wrapping at the time of packaging;

(2) "Generic name" means the official title of a drug or drug ingredients published in the latest edition of a nationally recognized pharmacopoeia or formulary;

(3) "Substitute" means to dispense, with the practitioner's authorization, a "therapeutically equivalent" drug product ~~((of the identical base or salt as the specific drug product prescribed: PROVIDED, That with the practitioner's prior consent, therapeutically equivalent drugs other than the identical base or salt may be dispensed))~~ or "interchangeable biological" drug product;

(4) "Therapeutically equivalent" means a drug product of the identical base or salt as the specific drug product prescribed with essentially the same efficacy and toxicity when administered to an individual in the same dosage regimen; ~~((and))~~

(5) "Practitioner" means a physician, osteopathic physician and surgeon, dentist, veterinarian, or any other person authorized to prescribe drugs under the laws of this state;

(6) "Biological product" means any of the following, when applied to the prevention, treatment, or cure of a disease or condition of human beings: (a) A virus; (b) a therapeutic serum; (c) a toxin; (d) an antitoxin; (e) a vaccine; (f) blood, blood component, or derivative; (g) an allergenic product; (h) a protein, other than a chemically synthesized polypeptide, or an analogous product; or (i) arsphenamine, a derivative of arsphenamine, or any trivalent organic arsenic compound; and

(7) "Interchangeable" means a biological product:

(a) Licensed by the federal food and drug administration and determined to meet the safety standards for interchangeability pursuant to 42 U.S.C. Sec. 262(k)(4); or

(b) Approved based on an application filed under section 505(b) of the federal food, drug, and cosmetic act that is determined by the federal food and drug administration to be therapeutically equivalent to an approved 505(b)

biological product and is included in the 505(b) list maintained by the pharmacy quality assurance commission pursuant to section 5 of this act.

Sec. 2. RCW 69.41.120 and 2000 c 8 s 3 are each amended to read as follows:

(1) Every drug prescription shall contain an instruction on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted in its place, unless substitution is permitted under a prior-consent authorization.

If a written prescription is involved, the prescription must be legible and the form shall have two signature lines at opposite ends on the bottom of the form. Under the line at the right side shall be clearly printed the words "DISPENSE AS WRITTEN". Under the line at the left side shall be clearly printed the words "SUBSTITUTION PERMITTED". The practitioner shall communicate the instructions to the pharmacist by signing the appropriate line. No prescription shall be valid without the signature of the practitioner on one of these lines. In the case of a prescription issued by a practitioner in another state that uses a one-line prescription form or variation thereof, the pharmacist may substitute a therapeutically equivalent generic drug or interchangeable biological product unless otherwise instructed by the practitioner through the use of the words "dispense as written", words of similar meaning, or some other indication.

(2) If an oral prescription is involved, the practitioner or the practitioner's agent shall instruct the pharmacist as to whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted in its place. The pharmacist shall note the instructions on the file copy of the prescription.

(3) The pharmacist shall note the manufacturer of the drug dispensed on the file copy of a written or oral prescription.

(4) The pharmacist shall retain the file copy of a written or oral prescription for the same period of time specified in RCW 18.64.245 for retention of prescription records.

NEW SECTION. Sec. 3. A new section is added to chapter 69.41 RCW to read as follows:

Unless the prescribed biological product is requested by the patient or the patient's representative, if "substitution permitted" is marked on the prescription as provided in RCW 69.41.120, the pharmacist must substitute an interchangeable biological product that he or she has in stock for the biological product prescribed if the wholesale price for the interchangeable biological product to the pharmacist is less than the wholesale price for the biological product prescribed.

NEW SECTION. Sec. 4. A new section is added to chapter 69.41 RCW to read as follows:

(1) Within five business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee must make an entry of the specific product provided to the patient, including either the name of the product and the manufacturer or the federal food and drug administration's national drug code, provided that the name of the product and the name of the manufacturer are accessible to a practitioner in an electronic records system that can be electronically accessed by the patient's practitioner through:

- (a) An interoperable electronic medical records system;
- (b) An electronic prescribing technology;
- (c) A pharmacy benefit management system; or
- (d) A pharmacy record.

(2) Entry into an electronic records system, as described in subsection (1) of this section, is presumed to provide notice to the practitioner. Otherwise, the pharmacist must communicate to the practitioner the specific product provided to the patient, including the name of the product and manufacturer, using facsimile, telephone, electronic transmission, or other prevailing means.

(3) No entry or communication pursuant to this section is required if:

(a) There is no interchangeable biological product for the product prescribed;

(b) A refill prescription is not changed from the product dispensed on the prior filling of the prescription; or

(c) The pharmacist or the pharmacist's designee and the practitioner communicated before dispensing and the communication included confirmation of the specific product to be provided to the patient, including the name of the product and the manufacturer.

(4) This section expires August 1, 2020.

NEW SECTION. **Sec. 5.** A new section is added to chapter 69.41 RCW to read as follows:

The pharmacy quality assurance commission shall maintain a link on its web site to the current list of all biological products determined by the federal food and drug administration as interchangeable. The commission shall maintain a list of all biological products approved as therapeutically equivalent by the federal food and drug administration through the approval process specified in 505(b) of the federal food, drug, and cosmetic act. The commission shall make the 505(b) list accessible to pharmacies.

Sec. 6. RCW 69.41.150 and 2003 1st sp.s. c 29 s 6 are each amended to read as follows:

(1) A practitioner who authorizes a prescribed drug shall not be liable for any side effects or adverse reactions caused by the manner or method by which a substituted drug product is selected or dispensed.

(2) A pharmacist who substitutes ~~((am))~~ a therapeutically equivalent drug product pursuant to RCW 69.41.100 through 69.41.180 as now or hereafter amended assumes no greater liability for selecting the dispensed drug product than would be incurred in filling a prescription for a drug product prescribed by its established name.

(3) A pharmacist who substitutes a preferred drug for a nonpreferred drug pursuant to RCW 69.41.190 assumes no greater liability for substituting the preferred drug than would be incurred in filling a prescription for the preferred drug when prescribed by name.

(4) A pharmacist who selects an interchangeable biological product to be dispensed pursuant to RCW 69.41.100 through 69.41.180, and the pharmacy for which the pharmacist is providing service, assumes no greater liability for selecting the interchangeable biological product than would be incurred in filling a prescription for the interchangeable biological product when prescribed by name. The prescribing practitioner is not liable for a pharmacist's act or omission

in selecting, preparing, or dispensing an interchangeable biological product under this section.

Sec. 7. RCW 69.41.160 and 1979 c 110 s 6 are each amended to read as follows:

Every pharmacy shall post a sign in a location at the prescription counter that is readily visible to patrons stating, "Under Washington law, ~~((an equivalent but))~~ a less expensive interchangeable biological product or equivalent drug may in some cases be substituted for the drug prescribed by your doctor. Such substitution, however, may only be made with the consent of your doctor. Please consult your pharmacist or physician for more information."

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 243

[Substitute Senate Bill 5957]

WASHINGTON TRAFFIC SAFETY COMMISSION--PEDESTRIAN SAFETY ADVISORY COUNCIL

AN ACT Relating to the pedestrian safety advisory council; adding a new section to chapter 43.59 RCW; 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 43.59 RCW to read as follows:

(1) Within amounts appropriated to the traffic safety commission, the commission must convene a pedestrian safety advisory council comprised of stakeholders who have a unique interest or expertise in pedestrian and road safety.

(2) The purpose of the council is to review and analyze data related to pedestrian fatalities and serious injuries to identify points at which the transportation system can be improved and to identify patterns in pedestrian fatalities and serious injuries.

(3)(a) The council may include, but is not limited to:

(i) A representative from the commission;

(ii) A coroner from the county in which the most pedestrian deaths have occurred;

(iii) A representative from the Washington association of sheriffs and police chiefs;

(iv) Multiple members of law enforcement who have investigated pedestrian fatalities;

(v) A traffic engineer;

(vi) A representative from the department of transportation;

(vii) A representative of cities, and up to two stakeholders, chosen by the council, who represent municipalities in which at least one pedestrian fatality has occurred in the previous three years; and

(viii) A representative from a pedestrian advocacy group.

(b) The commission may invite other representatives of stakeholder groups to participate in the council as deemed appropriate by the commission. Additionally, the commission may invite a victim or family member of a victim to participate in the council.

(4) The council must meet at least quarterly. By December 31st of each year, the council must issue an annual report detailing any findings and recommendations to the governor and the transportation committees of the legislature. The commission must provide the annual report electronically to all municipal governments and state agencies that participated in the council during that calendar year. Additionally, the council must report any budgetary or fiscal recommendations to the office of financial management and the legislature by August 1st on a biennial basis.

(5) As part of the review of pedestrian fatalities and serious injuries that occur in Washington, the council may review any available information, including accident information maintained in existing databases; statutes, rules, policies, or ordinances governing pedestrians and traffic related to the incidents; and any other relevant information. The council may make recommendations regarding changes in statutes, ordinances, rules, and policies that could improve pedestrian safety. Additionally, the council may make recommendations on how to improve traffic fatality and serious injury data quality.

(6)(a) Documents prepared by or for the council are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in a review by the council, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by the council. For confidential information, such as personally identifiable information and medical records, which are obtained by the council, neither the commission nor the council may publicly disclose such confidential information. No person who was in attendance at a meeting of the council or who participated in the creation, retention, collection, or maintenance of information or documents specifically for the commission or the council shall be permitted to testify in any civil action as to the content of such proceedings or of the documents and information prepared specifically as part of the activities of the council. However, recommendations from the council and the commission generally may be disclosed without personal identifiers.

(b) The council may review, only to the extent otherwise permitted by law or court rule when determined to be relevant and necessary: Any law enforcement incident documentation, such as incident reports, dispatch records, and victim, witness, and suspect statements; any supplemental reports, probable cause statements, and 911 call taker's reports; and any other information determined to be relevant to the review. The commission and the council must maintain the confidentiality of such information to the extent required by any applicable law.

(7) If acting in good faith, without malice, and within the parameters of and protocols established under this chapter, representatives of the commission and the council are immune from civil liability for an activity related to reviews of particular fatalities and serious injuries.

(8) This section must not be construed to provide a private civil cause of action.

(9)(a) The council may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the council and spend the gifts, grants, or endowments from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560.

(b) Subject to the appropriation of funds for this specific purpose, the council may provide grants targeted at improving pedestrian safety in accordance with recommendations made by the council.

(10) By December 1, 2018, the council must report to the transportation committees of the legislature on the strategies that have been deployed to improve pedestrian safety by the council and make a recommendation as to whether the council should be continued and if there are any improvements the legislature can make to improve the council.

(11) For purposes of this section:

(a) "Council" means the pedestrian safety advisory council.

(b) "Pedestrian fatality" means any death of a pedestrian resulting from a collision with a vehicle, whether on a roadway, at an intersection, along an adjacent sidewalk, or on a path that is contiguous with a roadway.

(c) "Serious injury" means any injury other than a fatal injury that prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing before the injury occurred.

(12) This section expires June 30, 2019.

Passed by the Senate April 16, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 244

[Second Substitute Senate Bill 5851]

HIGHER EDUCATION--COLLEGE BOUND SCHOLARSHIP PROGRAM WORK GROUP

AN ACT Relating to recommendations of the college bound scholarship program work group; amending RCW 28B.77.100 and 28B.118.040; reenacting and amending RCW 28B.118.010; adding new sections to chapter 28B.118 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. The legislature finds that the college bound scholarship program has demonstrated that an early promise of financial aid results in increased high school graduation rates for low-income students. The promise of state financial aid to students from low-income families who work to graduate with sufficient grades and no felony convictions provides them with a path toward greater educational attainment and upward mobility. The scholarship program has the potential to move Washington toward its long-term goal of a better trained and educated workforce. Among the first two cohorts, college bound enrollees were fifteen percent and nineteen percent more likely to graduate from high school in 2012 and 2013 compared to low-income peers who were not part of the program.

The legislature also finds that a comprehensive review of the college bound scholarship program in 2014 resulted in unanimous recommendations to

improve and enhance certain components of the program, including data collection, outreach, and program outcomes.

Sec. 2. RCW 28B.77.100 and 2012 c 229 s 302 are each amended to read as follows:

(1)(a) In consultation with the education data center, institutions of higher education, and state education agencies, the council shall identify the data needed to carry out its responsibilities for policy analysis and public information. The primary goals of the council's data collection and research are to describe how students and other beneficiaries of higher education are being served; to compare and contrast the state of Washington's higher education system with the rest of the nation; and to assist state policymakers and institutions in making policy decisions.

(b) For the council, assistance to state policymakers and institutions of higher education in making policy decisions includes but is not limited to annual reporting of a national comparison of tuition and fees.

(2) One of the goals of the education data center's data collection and research for higher education is to support higher education accountability. For the education data center, assistance to state policymakers and institutions of higher education in making policy decisions includes but is not limited to regular completion of:

(a) Educational cost study reports as provided in RCW 43.41.415 and information on state support received by students as provided in RCW 43.41.410; and

(b) Per-student funding at similar public institutions of higher education in the global challenge states.

(3) The education data center shall be considered an authorized representative of the council and the office under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

Sec. 3. RCW 28B.118.010 and 2012 c 229 s 402 and 2012 c 163 s 8 are each reenacted and amended to read as follows:

The office of student financial assistance shall design the Washington college bound scholarship program in accordance with this section and in alignment with the state need grant program in chapter 28B.92 RCW unless otherwise provided in this section.

(1) "Eligible students" are those students who:

(a) Qualify for free or reduced-price lunches. If a student qualifies in the seventh grade, the student remains eligible even if the student does not receive free or reduced-price lunches thereafter; or

(b) Are dependent pursuant to chapter 13.34 RCW and:

(i) In grade seven through twelve; or

(ii) Are between the ages of eighteen and twenty-one and have not graduated from high school.

(2) Eligible students shall be notified of their eligibility for the Washington college bound scholarship program beginning in their seventh grade year. Students shall also be notified of the requirements for award of the scholarship.

(3)(a) To be eligible for a Washington college bound scholarship, a student eligible under subsection (1)(a) of this section must sign a pledge during seventh

or eighth grade that includes a commitment to graduate from high school with at least a C average and with no felony convictions. The pledge must be witnessed by a parent or guardian and forwarded to the office of student financial assistance by mail or electronically, as indicated on the pledge form.

(b) A student eligible under subsection (1)(b) of this section shall be automatically enrolled, with no action necessary by the student or the student's family, and the enrollment form must be forwarded by the department of social and health services to the higher education coordinating board or its successor by mail or electronically, as indicated on the form.

(4)(a) Scholarships shall be awarded to eligible students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, or who received home-based instruction under chapter 28A.200 RCW.

(b)(i) To receive the Washington college bound scholarship, a student must graduate with at least a "C" average from a public high school or an approved private high school under chapter 28A.195 RCW in Washington or have received home-based instruction under chapter 28A.200 RCW, must have no felony convictions, and must be a resident student as defined in RCW 28B.15.012(2) (a) through (d).

(ii) For a student who does not meet the "C" average requirement, and who completes fewer than two quarters in the running start program, under chapter 28A.600 RCW, the student's first quarter of running start course grades must be excluded from the student's overall grade point average for purposes of determining their eligibility to receive the scholarship.

(5) A student's family income will be assessed upon graduation before awarding the scholarship.

(6) If at graduation from high school the student's family income does not exceed sixty-five percent of the state median family income, scholarship award amounts shall be as provided in this section.

(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, the value of the award shall be (i) the difference between the student's tuition and required fees, less the value of any state-funded grant, scholarship, or waiver assistance the student receives; (ii) plus five hundred dollars for books and materials.

(b) For students attending private four-year institutions of higher education in Washington, the award amount shall be the representative average of awards granted to students in public research universities in Washington.

(c) For students attending private vocational schools in Washington, the award amount shall be the representative average of awards granted to students in public community and technical colleges in Washington.

(7) Recipients may receive no more than four full-time years' worth of scholarship awards.

(8) Institutions of higher education shall award the student all need-based and merit-based financial aid for which the student would otherwise qualify. The Washington college bound scholarship is intended to replace unmet need, loans, and, at the student's option, work-study award before any other grants or scholarships are reduced.

(9) The first scholarships shall be awarded to students graduating in 2012.

(10) The state of Washington retains legal ownership of tuition units awarded as scholarships under this chapter until the tuition units are redeemed.

These tuition units shall remain separately held from any tuition units owned under chapter 28B.95 RCW by a Washington college bound scholarship recipient.

(11) The scholarship award must be used within five years of receipt. Any unused scholarship tuition units revert to the Washington college bound scholarship account.

(12) Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the scholarship tuition units shall revert to the Washington college bound scholarship account.

Sec. 4. RCW 28B.118.040 and 2011 1st sp.s. c 11 s 228 are each amended to read as follows:

The office of student financial assistance shall:

(1) With the assistance of the office of the superintendent of public instruction, implement and administer the Washington college bound scholarship program;

(2) Develop and distribute, to all schools with students enrolled in grade seven or eight, a pledge form that can be completed and returned electronically or by mail by the student or the school to the office of student financial assistance;

(3) Develop and implement a student application, selection, and notification process for scholarships, which includes working with other state agencies, law enforcement, or the court system to verify that eligible students do not have felony convictions;

(4) Annually in March, with the assistance of the office of the superintendent of public instruction, distribute to tenth grade college bound scholarship students and their families: (a) Notification that, to qualify for the scholarship, a student's family income may not exceed sixty-five percent of the state median family income at graduation from high school; (b) the current year's value for sixty-five percent of the state median family income; and (c) a statement that a student should consult their school counselor if their family makes, or is projected to make, more than this value before the student graduates;

(5) Develop comprehensive social media outreach with grade-level specific information designed to keep students on track to graduate and leverage current tools such as the high school and beyond plan required by the state board of education and the ready set grad web site maintained by the student achievement council;

(6) Track scholarship recipients to ensure continued eligibility and determine student compliance for awarding of scholarships;

~~((5))~~ (7) Within existing resources, collaborate with college access providers and K-12, postsecondary, and youth-serving organizations to map and coordinate mentoring and advising resources across the state;

(8) Subject to appropriation, deposit funds into the state educational trust fund;

~~((6))~~ (9) Purchase tuition units under the advanced college tuition payment program in chapter 28B.95 RCW to be owned and held in trust by the board, for the purpose of scholarship awards as provided for in this section; and

~~((7))~~ (10) Distribute scholarship funds, in the form of tuition units purchased under the advanced college tuition payment program in chapter

28B.95 RCW or through direct payments from the state educational trust fund, to institutions of higher education on behalf of scholarship recipients identified by the office, as long as recipients maintain satisfactory academic progress.

NEW SECTION. Sec. 5. A new section is added to chapter 28B.118 RCW to read as follows:

Each institution of higher education is encouraged to tailor advising resources for any enrolled student who is the recipient of a college bound scholarship. The institutions of higher education should identify campus officials, resources, programs, and other college bound scholarship students available to work with college bound scholarship recipients.

NEW SECTION. Sec. 6. A new section is added to chapter 28B.118 RCW to read as follows:

(1) Beginning January 1, 2015, and at a minimum every year thereafter, the student achievement council and all institutions of higher education eligible to participate in the college bound scholarship program shall ensure data needed to analyze and evaluate the effectiveness of the college bound scholarship program is promptly transmitted to the education data center created in RCW 43.41.400 so that it is available and easily accessible. The data to be reported should include but not be limited to:

(a) The number of students who sign up for the college bound scholarship program in seventh or eighth grade;

(b) The number of college bound scholarship students who graduate from high school;

(c) The number of college bound scholarship students who enroll in postsecondary education;

(d) Persistence and completion rates of college bound scholarship recipients disaggregated by institutions of higher education;

(e) College bound scholarship recipient grade point averages;

(f) The number of college bound scholarship recipients who did not remain eligible and reasons for ineligibility;

(g) College bound scholarship program costs; and

(h) Impacts to the state need grant program.

(2) Beginning the effective date of this section, and at a minimum every December 1st thereafter, the student achievement council shall submit student unit record data for the college bound scholarship program applicants and recipients to the education data center.

NEW SECTION. Sec. 7. A new section is added to chapter 28B.118 RCW to read as follows:

(1) The Washington state institute for public policy shall complete an evaluation of the college bound scholarship program and submit a report to the appropriate committees of the legislature by December 1, 2018. The report shall complement studies on the college bound scholarship program conducted at the University of Washington or elsewhere. To the extent it is not duplicative of other studies, the report shall evaluate educational outcomes emphasizing degree completion rates at both secondary and postsecondary levels. The report shall study certain aspects of the college bound scholarship program, including but not limited to:

(a) College bound scholarship recipient grade point average and its relationship to positive outcomes;

(b) Variance in remediation needed between college bound scholarship recipient and their peers;

(c) Differentials in persistence between college bound scholarship recipients and their peers; and

(d) The impact of ineligibility for the college bound scholarship program, for reasons such as moving into the state after middle school or change in family income.

(2) This section expires August 1, 2019.

NEW SECTION. Sec. 8. Section 6 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 16, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 12, 2015.

Filed in Office of Secretary of State May 12, 2015.

CHAPTER 245

[Engrossed Substitute Senate Bill 5843]

OUTDOOR RECREATION

AN ACT Relating to outdoor recreation; amending RCW 79A.05.351; and adding a new section to chapter 43.06 RCW.

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

Sec. 1. RCW 79A.05.351 and 2007 c 176 s 2 are each amended to read as follows:

(1) The outdoor education and recreation grant program is hereby created, subject to the availability of funds in the outdoor education and recreation account. The commission shall establish and implement the program by rule to provide opportunities for public agencies, private nonprofit organizations, formal school programs, nonformal after-school programs, and community-based programs to receive grants from the account. Programs that provide outdoor education opportunities to schools shall be fully aligned with the state's essential academic learning requirements.

(2) The program shall be phased in beginning with the schools and students with the greatest needs in suburban, rural, and urban areas of the state. The program shall focus on students who qualify for free and reduced-price lunch, who are most likely to fail academically, or who have the greatest potential to drop out of school.

(3) The director shall set priorities and develop criteria for the awarding of grants to outdoor environmental, ecological, agricultural, or other natural resource-based education and recreation programs considering at least the following:

(a) Programs that contribute to the reduction of academic failure and dropout rates;

(b) Programs that make use of research-based, effective environmental, ecological, agricultural, or other natural resource-based education curriculum;

(c) Programs that contribute to healthy life styles through outdoor recreation and sound nutrition;

(d) Various Washington state parks as venues and use of the commission's personnel as a resource;

(e) Programs that maximize the number of participants that can be served;

(f) Programs that will commit matching and in-kind resources;

(g) Programs that create partnerships with public and private entities;

(h) Programs that provide students with opportunities to directly experience and understand nature and the natural world; ~~(and)~~

(i) Programs that include ongoing program evaluation, assessment, and reporting of their effectiveness; and

(j) Programs that utilize veterans for at least fifty percent of program implementation or administration.

(4) The director shall create an advisory committee to assist and advise the commission in the development and administration of the outdoor education and recreation program. The director should solicit representation on the committee from the office of the superintendent of public instruction, the department of fish and wildlife, the business community, outdoor organizations with an interest in education, and any others the commission deems sufficient to ensure a cross section of stakeholders. When the director creates such an advisory committee, its members shall be reimbursed from the outdoor education and recreation program account for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The outdoor education and recreation program account is created in the custody of the state treasurer. Funds deposited in the outdoor education and recreation program account shall be transferred only to the commission to be used solely for the commission's outdoor education and recreation program purposes identified in this section including the administration of the program. The director may accept gifts, grants, donations, or moneys from any source for deposit in the outdoor education and recreation program account. Any public agency in this state may develop and implement outdoor education and recreation programs. The director may make grants to public agencies and contract with any public or private agency or person to develop and implement outdoor education and recreation programs. The outdoor education and recreation program account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 2. A new section is added to chapter 43.06 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the governor must maintain a senior policy advisor to the governor to serve as a state lead on economic development issues relating to the outdoor recreation sector of the state's economy. The advisor must focus on promoting, increasing participation in, and increasing opportunities for outdoor recreation in Washington, with a particular focus on achieving economic development and job growth through outdoor recreation.

(2) The success of the advisor must be based on measurable results relating to economic development strategies that more deliberately grow employment and outdoor recreation businesses, including:

(a) Strategies for increasing the number of new jobs directly or indirectly related to outdoor recreation, with a short-term goal of increasing employment in the sector by ten percent above the one hundred ninety-nine thousand jobs estimated to be connected to outdoor recreation as of 2015; and

(b) Strategies for increasing the twenty-one billion dollars of consumer spending in Washington, and the four and one-half billion dollars of spending from out-of-state visitors, estimated to be connected to outdoor recreation as of 2015.

Passed by the Senate April 22, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 13, 2015.

Filed in Office of Secretary of State May 13, 2015.

CHAPTER 246

[Engrossed Substitute Senate Bill 5084]

ALL-PAYER HEALTH CARE CLAIMS DATABASE

AN ACT Relating to modifying the all payer claims database to improve health care quality and cost transparency by changing provisions related to definitions regarding data, reporting and pricing of products, responsibilities of the office of financial management and the lead organization, submission to the database, and parameters for release of information; amending RCW 43.371.010, 43.371.020, 43.371.030, 43.371.040, 43.371.050, 43.371.060, and 43.371.070; and adding a new section to chapter 43.371 RCW.

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

Sec. 1. RCW 43.371.010 and 2014 c 223 s 8 are each amended to read as follows:

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

(1) "Authority" means the health care authority.

(2) "Carrier" and "health carrier" have the same meaning as in RCW 48.43.005.

(3) "Claims data" means the data required by RCW 43.371.030 to be submitted to the database, including billed, allowed and paid amounts, and such additional information as defined by the director in rule. (~~"Claims data" includes: (a) Claims data related to health care coverage and services funded, in whole or in part, in the omnibus appropriations act, including coverage and services funded by appropriated and nonappropriated state and federal moneys, for medicaid programs and the public employees benefits board program; and (b) claims data voluntarily provided by other data suppliers, including carriers and self-funded employers.~~)

(4) "Database" means the statewide all-payer health care claims database established in RCW 43.371.020.

(5) "Data vendor" means an entity contracted to perform data collection, processing, aggregation, extracts, analytics, and reporting.

(6) "Director" means the director of financial management.

~~((6))~~ (7) "Lead organization" means the organization selected under RCW 43.371.020.

~~((7))~~ (8) "Office" means the office of financial management.

(9) "Data supplier" means: (a) A carrier, third-party administrator, or a public program identified in RCW 43.371.030 that provides claims data; and (b) a carrier or any other entity that provides claims data to the database at the request of an employer-sponsored self-funded health plan or Taft-Hartley trust health plan pursuant to RCW 43.371.030(1).

(10) "Direct patient identifier" means a data variable that directly identifies an individual, including: Names; telephone numbers; fax numbers; social security number; medical record numbers; health plan beneficiary numbers; account numbers; certificate or license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; web universal resource locators; internet protocol address numbers; biometric identifiers, including finger and voice prints; and full face photographic images and any comparable images.

(11) "Indirect patient identifier" means a data variable that may identify an individual when combined with other information.

(12) "Proprietary financial information" means claims data or reports that disclose or would allow the determination of specific terms of contracts, discounts, or fixed reimbursement arrangements or other specific reimbursement arrangements between an individual health care facility or health care provider, as those terms are defined in RCW 48.43.005, and a specific payer, or internal fee schedule or other internal pricing mechanism of integrated delivery systems owned by a carrier.

(13) "Unique identifier" means an obfuscated identifier assigned to an individual represented in the database to establish a basis for following the individual longitudinally throughout different payers and encounters in the data without revealing the individual's identity.

Sec. 2. RCW 43.371.020 and 2014 c 223 s 10 are each amended to read as follows:

(1) The office shall establish a statewide all-payer health care claims database to support transparent public reporting of health care information. The database must improve transparency to: Assist patients, providers, and hospitals to make informed choices about care; enable providers, hospitals, and communities to improve by benchmarking their performance against that of others by focusing on best practices; enable purchasers to identify value, build expectations into their purchasing strategy, and reward improvements over time; and promote competition based on quality and cost. The database must systematically collect all medical claims and pharmacy claims from private and public payers, with data from all settings of care that permit the systematic analysis of health care delivery.

(2) The ~~((director shall select a lead organization))~~ office shall use a competitive procurement process, in accordance with chapter 39.26 RCW, to select a lead organization from among the best potential bidders to coordinate and manage the database.

(a) Due to the complexities of the all payer claims database and the unique privacy, quality, and financial objectives, the office must award extra points in the scoring evaluation for the following elements: (i) The bidder's degree of

experience in health care data collection, analysis, analytics, and security; (ii) whether the bidder has a long-term self-sustainable financial model; (iii) the bidder's experience in convening and effectively engaging stakeholders to develop reports; (iv) the bidder's experience in meeting budget and timelines for report generations; and (v) the bidder's ability to combine cost and quality data.

(b) By December 31, 2017, the successful lead organization must apply to be certified as a qualified entity pursuant to 42 C.F.R. Sec. 401.703(a) by the centers for medicare and medicaid services.

(3) As part of the competitive procurement process in subsection (2) of this section, the lead organization shall enter into a contract with a data vendor to perform data collection, processing, aggregation, extracts, and analytics. The data vendor must:

(a) Establish a secure data submission process with data suppliers;

(b) Review data submitters' files according to standards established by the office;

(c) Assess each record's alignment with established format, frequency, and consistency criteria;

(d) Maintain responsibility for quality assurance, including, but not limited to: (i) The accuracy and validity of data suppliers' data; (ii) accuracy of dates of service spans; (iii) maintaining consistency of record layout and counts; and (iv) identifying duplicate records;

(e) Assign unique identifiers, as defined in RCW 43.371.010, to individuals represented in the database;

(f) Ensure that direct patient identifiers, indirect patient identifiers, and proprietary financial information are released only in compliance with the terms of this chapter;

(g) Demonstrate internal controls and affiliations with separate organizations as appropriate to ensure safe data collection, security of the data with state of the art encryption methods, actuarial support, and data review for accuracy and quality assurance;

(h) Store data on secure servers that are compliant with the federal health insurance portability and accountability act and regulations, with access to the data strictly controlled and limited to staff with appropriate training, clearance, and background checks; and

(i) Maintain state of the art security standards for transferring data to approved data requestors.

(4) The lead organization and data vendor must submit detailed descriptions to the office of the chief information officer to ensure robust security methods are in place. The office of the chief information officer must report its findings to the office and the appropriate committees of the legislature.

(5) The lead organization is responsible for internal governance, management, funding, and operations of the database. At the direction of the office, the lead organization shall work with the data vendor to:

(a) Collect claims data from data suppliers as provided in RCW 43.371.030;

(b) Design data collection mechanisms with consideration for the time and cost (~~involved~~) incurred by data suppliers and others in submission and collection and the benefits that measurement would achieve, ensuring the data submitted meet quality standards and are reviewed for quality assurance;

(c) Ensure protection of collected data and store and use any data (~~with patient-specific information~~) in a manner that protects patient privacy and complies with this section. All patient-specific information must be deidentified with an up-to-date industry standard encryption algorithm;

(d) Consistent with the requirements of this chapter, make information from the database available as a resource for public and private entities, including carriers, employers, providers, hospitals, and purchasers of health care;

(e) Report performance on cost and quality pursuant to RCW 43.371.060 using, but not limited to, the performance measures developed under RCW 41.05.690;

(f) Develop protocols and policies, including prerelease peer review by data suppliers, to ensure the quality of data releases and reports;

(g) Develop a plan for the financial sustainability of the database as self-sustaining and charge fees (~~not to exceed five thousand dollars unless otherwise negotiated~~) for reports and data files as needed to fund the database. Any fees must be approved by the office and (~~must~~) should be comparable, accounting for relevant differences across data (requesters and users) requests and uses. The lead organization may not charge providers or data suppliers fees other than fees directly related to requested reports; and

(h) Convene advisory committees with the approval and participation of the office, including: (i) A committee on data policy development; and (ii) a committee to establish a data release process consistent with the requirements of this chapter and to provide advice regarding formal data release requests. The advisory committees must include in-state representation from key provider, hospital, (~~payer,~~) public health, health maintenance organization, large and small private purchasers, (~~and~~) consumer organizations, and the two largest carriers supplying claims data to the database.

~~((3))~~ (6) The lead organization governance structure and advisory committees for this database must include representation of the third-party administrator of the uniform medical plan. A payer, health maintenance organization, or third-party administrator must be a data supplier to the all-payer health care claims database to be represented on the lead organization governance structure or advisory committees.

Sec. 3. RCW 43.371.030 and 2014 c 223 s 11 are each amended to read as follows:

(1) (~~Data suppliers must~~) The state medicaid program, public employees' benefits board programs, all health carriers operating in this state, all third-party administrators paying claims on behalf of health plans in this state, and the state labor and industries program must submit claims data to the database within the time frames established by the director in rule and in accordance with procedures established by the lead organization. The director may expand this requirement by rule to include any health plans or health benefit plans defined in RCW 48.43.005(26) (a) through (i) to accomplish the goals of this chapter set forth in RCW 43.371.020(1). Employer-sponsored self-funded health plans and Taft-Hartley trust health plans may voluntarily provide claims data to the database within the time frames and in accordance with procedures established by the lead organization.

(2) (~~An entity that is not a data supplier but that chooses to participate in the database shall require any third-party administrator utilized by the entity's~~

~~plan to release any claims data related to persons receiving health coverage from the plan.))~~ Any data supplier used by an entity that voluntarily participates in the database must provide claims data to the data vendor upon request of the entity.

~~(3) ((Each data supplier)) The lead organization shall submit an annual status report to the office regarding ((its)) compliance with this section. ((The report to the legislature required by section 2 of this act must include a summary of these status reports.))~~

Sec. 4. RCW 43.371.040 and 2014 c 223 s 12 are each amended to read as follows:

(1) The claims data provided to the database, the database itself, including the data compilation, and any raw data received from the database are not public records and are exempt from public disclosure under chapter 42.56 RCW.

(2) Claims data obtained, distributed, or reported in the course of activities undertaken pursuant to or supported under this chapter are not subject to subpoena or similar compulsory process in any civil or criminal, judicial, or administrative proceeding, nor may any individual or organization with lawful access to data under this chapter be compelled to provide such information pursuant to subpoena or testify with regard to such data, except that data pertaining to a party in litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of such individual to enforce any liability arising under this chapter.

Sec. 5. RCW 43.371.050 and 2014 c 223 s 13 are each amended to read as follows:

(1) Except as otherwise required by law, claims or other data from the database shall only be available for retrieval in ~~((original or))~~ processed form to public and private requesters pursuant to this section and shall be made available within a reasonable time after the request. Each request for claims data must include, at a minimum, the following information:

(a) The identity of any entities that will analyze the data in connection with the request;

(b) The stated purpose of the request and an explanation of how the request supports the goals of this chapter set forth in RCW 43.371.020(1);

(c) A description of the proposed methodology;

(d) The specific variables requested and an explanation of how the data is necessary to achieve the stated purpose described pursuant to (b) of this subsection;

(e) How the requester will ensure all requested data is handled in accordance with the privacy and confidentiality protections required under this chapter and any other applicable law;

(f) The method by which the data will be stored, destroyed, or returned to the lead organization at the conclusion of the data use agreement;

(g) The protections that will be utilized to keep the data from being used for any purposes not authorized by the requester's approved application; and

(h) Consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

(2) The lead organization may decline a request that does not include the information set forth in subsection (1) of this section that does not meet the

criteria established by the lead organization's data release advisory committee, or for reasons established by rule.

(3) Except as otherwise required by law, the office shall direct the lead organization and the data vendor to maintain the confidentiality of claims or other data it collects for the database that include ~~((direct and))~~ proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof. Any ~~((agency, researcher, or other person))~~ entity that receives claims or other data ~~((under this section containing direct or indirect patient identifiers))~~ must also maintain confidentiality and may ~~((not))~~ only release such claims ~~((or other data except as consistent with this section. The office shall oversee the lead organization's release of data as follows))~~ data or any part of the claims data if:

(a) The claims data does not contain proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof; and

(b) The release is described and approved as part of the request in subsection (1) of this section.

(4) The lead organization shall, in conjunction with the office and the data vendor, create and implement a process to govern levels of access to and use of data from the database consistent with the following:

(a) Claims or other data that include ~~((direct or))~~ proprietary financial information, direct patient identifiers, indirect patient identifiers, ~~((as specifically defined in rule.))~~ unique identifiers, or any combination thereof may be released only to the extent such information is necessary to achieve the goals of this chapter set forth in RCW 43.371.020(1) to:(=

(i) Federal, state, and local government agencies upon receipt of a signed data use agreement with the office and the lead organization; and

(ii)) researchers with approval of an institutional review board upon receipt of a signed data use and confidentiality agreement with ~~((the office and))~~ the lead organization. A researcher or research organization that obtains claims data pursuant to this subsection must agree in writing not to disclose such data or parts of the data set to any other party, including affiliated entities, and must consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

(b) Claims or other data that do not contain direct patient identifiers, but that may contain proprietary financial information, indirect patient identifiers, unique identifiers, or any combination thereof may be released to:

(i) Federal, state, and local government agencies upon receipt of a signed data use agreement with the office and the lead organization. Federal, state, and local government agencies that obtain claims data pursuant to this subsection are prohibited from using such data in the purchase or procurement of health benefits for their employees; and

(ii) Any entity when functioning as the lead organization under the terms of this chapter.

(c) Claims or other data that do not contain proprietary financial information, direct patient identifiers, or any combination thereof, but that may contain indirect patient identifiers, unique identifiers, or a combination thereof may be released to agencies, researchers, and other ~~((persons))~~ entities as

approved by the lead organization upon receipt of a signed data use agreement with the lead organization.

~~((e))~~ (d) Claims or other data that do not contain direct ~~((e))~~ patient identifiers, indirect patient identifiers, proprietary financial information, or any combination thereof may be released upon request.

~~((3))~~ (5) Reports utilizing data obtained under this section may not contain proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof. Nothing in this subsection (5) may be construed to prohibit the use of geographic areas with a sufficient population size or aggregate gender, age, medical condition, or other characteristics in the generation of reports, so long as they cannot lead to the identification of an individual.

(6) Reports issued by the lead organization at the request of providers, facilities, employers, health plans, and other entities as approved by the lead organization may utilize proprietary financial information to calculate aggregate cost data for display in such reports. The office shall approve by rule a format for the calculation and display of aggregate cost data consistent with this chapter that will prevent the disclosure or determination of proprietary financial information. In developing the rule, the office shall solicit feedback from the stakeholders, including those listed in RCW 43.371.020(5)(h), and must consider, at a minimum, data presented as proportions, ranges, averages, and medians, as well as the differences in types of data gathered and submitted by data suppliers.

(7) Recipients of claims or other data under subsection ~~((2)(a) or (b))~~ (4) of this section must agree in a data use agreement or a confidentiality agreement to, at a minimum:

(a) Take steps to protect data containing direct ~~((and))~~ patient identifiers, indirect patient ~~((identifying))~~ identifiers, proprietary financial information, or any combination thereof as described in the agreement; ~~((and))~~

(b) Not redisclose the claims data except ~~((as authorized in the agreement consistent with the purpose of the agreement or as otherwise required by law.~~

~~(4) Recipients of the claims or other data under subsection (2)(b) of this section must not attempt to determine the identity of persons whose information is included in the data set or use the claims or other data in any manner that identifies the individuals or their families.~~

~~(5) For purposes of this section, the following definitions apply unless the context clearly requires otherwise:~~

~~(a) "Direct patient identifier" means information that identifies a patient.~~

~~(b) "Indirect patient identifier" means information that may identify a patient when combined with other information)) pursuant to subsection (3) of this section;~~

(c) Not attempt to determine the identity of any person whose information is included in the data set or use the claims or other data in any manner that identifies any individual or their family or attempt to locate information associated with a specific individual;

(d) Destroy or return claims data to the lead organization at the conclusion of the data use agreement; and

(e) Consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

Sec. 6. RCW 43.371.060 and 2014 c 223 s 14 are each amended to read as follows:

(1)~~(a)~~ Under the supervision of and through contract with the office, the lead organization shall prepare health care data reports using the database and the statewide health performance and quality measure set(, including only those measures that can be completed with readily available claims data). Prior to the lead organization releasing any health care data reports that use claims data, the lead organization must submit the reports to the office for review (~~and approval~~).

(b) By October 31st of each year, the lead organization shall submit to the director a list of reports it anticipates producing during the following calendar year. The director may establish a public comment period not to exceed thirty days, and shall submit the list and any comment to the appropriate committees of the legislature for review.

(2)~~(a)~~ Health care data reports that use claims data prepared by the lead organization ((that use claims data must assist)) for the legislature and the public ((with)) should promote awareness and ((promotion of)) transparency in the health care market by reporting on:

(i) Whether providers and health systems deliver efficient, high quality care; and

(ii) Geographic and other variations in medical care and costs as demonstrated by data available to the lead organization.

(b) Measures in the health care data reports should be stratified by demography, income, language, health status, and geography when feasible with available data to identify disparities in care and successful efforts to reduce disparities.

(c) Comparisons of costs among providers and health care systems must account for differences in (~~equity~~) the case mix and severity of illness of patients and populations, as appropriate and feasible, and must take into consideration the cost impact of subsidization for uninsured and (~~governmental~~) government-sponsored patients, as well as teaching expenses, when feasible with available data.

(3) The lead organization may not publish any data or health care data reports that:

(a) Directly or indirectly identify individual patients;

(b) (~~Disclose specific terms of contracts, discounts, or fixed reimbursement arrangements or other specific reimbursement arrangements between an individual provider and a specific payer~~) Disclose a carrier's proprietary financial information; or

(c) Compare(~~s~~) performance in a report generated for the general public that includes any provider in a practice with fewer than (~~five~~) four providers.

(4) The lead organization may not release a report that compares and identifies providers, hospitals, or data suppliers unless (~~it~~):

(a) It allows the data supplier, the hospital, or the provider to verify the accuracy of the information submitted to the ((lead organization)) data vendor, comment on the reasonableness of conclusions reached, and submit to the lead

organization and data vendor any corrections of errors with supporting evidence and comments within ~~((forty-five))~~ thirty days of receipt of the report; ~~((and))~~

(b) It corrects data found to be in error within a reasonable amount of time;
and

(c) The report otherwise complies with this chapter.

(5) The office and the lead organization may use claims data to identify and make available information on payers, providers, and facilities, but may not use claims data to recommend or incentivize direct contracting between providers and employers.

~~(6)(a) The lead organization shall ((ensure that no individual data supplier comprises more than twenty-five percent of the claims data used in any report or other analysis generated from the database. For purposes of this subsection, a "data supplier" means a carrier and any self-insured employer that uses the carrier's provider contracts)) distinguish in advance to the office when it is operating in its capacity as the lead organization and when it is operating in its capacity as a private entity. Where the lead organization acts in its capacity as a private entity, it may only access data pursuant to RCW 43.371.050(4) (c) or (d).~~

(b) Except as provided in RCW 43.371.050(4), claims or other data that contain direct patient identifiers or proprietary financial information must remain exclusively in the custody of the data vendor and may not be accessed by the lead organization.

Sec. 7. RCW 43.371.070 and 2014 c 223 s 15 are each amended to read as follows:

(1) The director shall adopt any rules necessary to implement this chapter, including:

(a) Definitions of claim and data files that data suppliers must submit to the database, including: Files for covered medical services, pharmacy claims, and dental claims; member eligibility and enrollment data; and provider data with necessary identifiers;

(b) Deadlines for submission of claim files;

(c) Penalties for failure to submit claim files as required;

(d) Procedures for ensuring that all data received from data suppliers are securely collected and stored in compliance with state and federal law; ~~((and))~~

(e) Procedures for ensuring compliance with state and federal privacy laws;

(f) Procedures for establishing appropriate fees;

(g) Procedures for data release; and

(h) Penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, and proprietary financial information.

(2) The director may not adopt rules, policies, or procedures beyond the authority granted in this chapter.

NEW SECTION, Sec. 8. A new section is added to chapter 43.371 RCW to read as follows:

(1) By December 1st of 2016 and 2017, the office shall report to the appropriate committees of the legislature regarding the development and implementation of the database, including but not limited to budget and cost detail, technical progress, and work plan metrics.

(2) Every two years commencing two years following the year in which the first report is issued or the first release of data is provided from the database, the office shall report to the appropriate committees of the legislature regarding the cost, performance, and effectiveness of the database and the performance of the lead organization under its contract with the office. Using independent economic expertise, subject to appropriation, the report must evaluate whether the database has advanced the goals set forth in RCW 43.371.020(1), as well as the performance of the lead organization. The report must also make recommendations regarding but not limited to how the database can be improved, whether the contract for the lead organization should be modified, renewed, or terminated, and the impact the database has had on competition between and among providers, purchasers, and payers.

(3) Beginning July 1, 2015, and every six months thereafter, the office shall report to the appropriate committees of the legislature regarding any additional grants received or extended.

NEW SECTION. Sec. 9. 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 April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 247

[Substitute House Bill 1068]

SEXUAL ASSAULT--EXAMINATION KITS

AN ACT Relating to sexual assault examination kits; adding a new section to chapter 70.125 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 70.125 RCW to read as follows:

(1) When a law enforcement agency receives a sexual assault examination kit, the law enforcement agency must, within thirty days of its receipt, submit a request for laboratory examination to the Washington state patrol crime laboratory for prioritization for testing by it or another accredited laboratory that holds an outsourcing agreement with the Washington state patrol if:

(a) Consent has been given by the victim; or

(b) The victim is a person under the age of eighteen who is not emancipated pursuant to chapter 13.64 RCW.

(2) Subject to available funding, the Washington state patrol crime laboratory must give priority to the laboratory examination of sexual assault examination kits at the request of a local law enforcement agency for:

(a) Active investigations and cases with impending court dates;

(b) Active investigations where public safety is an immediate concern;

(c) Violent crimes investigations, including active sexual assault investigations;

(d) Postconviction cases; and

(e) Other crimes' investigations and nonactive investigations, such as previously unsubmitted older sexual assault kits or recently collected sexual assault kits that the submitting agency has determined to be lower priority based on their initial investigation.

(3) The failure of a law enforcement agency to submit a request for laboratory examination within the time prescribed under this section does not constitute grounds in any criminal proceeding for challenging the validity of a DNA evidence association, and any evidence obtained from the sexual assault examination kit may not be excluded by a court on those grounds.

(4) A person accused or convicted of committing a crime against a victim has no standing to object to any failure to comply with the requirements of this section, and the failure to comply with the requirements of this section is not grounds for setting aside the conviction or sentence.

(5) Nothing in this section may be construed to create a private right of action or claim on the part of any individual, entity, or agency against any law enforcement agency or any contractor of any law enforcement agency.

(6) This section applies prospectively only and not retroactively. It only applies to sexual assault examinations performed on or after the effective date of this section.

(7)(a) Until June 30, 2018, the Washington state patrol shall compile the following information related to the sexual assault examination kits identified in this section:

(i) The number of requests for laboratory examination made for sexual assault examination kits and the law enforcement agencies that submitted the requests; and

(ii) The progress made towards testing the sexual assault examination kits, including the status of requests for laboratory examination made by each law enforcement agency.

(b) The Washington state patrol shall make recommendations for increasing the progress on testing any untested sexual assault examination kits.

(c) Beginning in 2015, the Washington state patrol shall report its findings and recommendations annually to the appropriate committees of the legislature and the governor by December 1st of each year.

NEW SECTION. Sec. 2. (1)(a) A legislative task force is established to review best practice models for managing all aspects of sexual assault examinations and for reducing the number of untested sexual assault examination kits in Washington state that were collected prior to the effective date of this section.

(i) The caucus leaders from the senate shall appoint one member from each of the two largest caucuses of the senate.

(ii) The caucus leaders from the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(iii) The president of the senate and the speaker of the house of representatives shall jointly appoint:

(A) One member representing each of the following:

(I) The Washington state patrol;

(II) The Washington association of sheriffs and police chiefs;

(III) The Washington association of prosecuting attorneys;

(IV) The Washington defender association or the Washington association of criminal defense lawyers;

(V) The Washington association of cities;

(VI) The Washington association of county officials;

(VII) The Washington coalition of sexual assault programs;

(VIII) The office of crime victims advocacy;

(IX) The Washington state hospital association;

(X) The Washington state forensic investigations council;

(XI) A public institution of higher education as defined in RCW 28B.10.016; and

(XII) A private higher education institution as defined in RCW 28B.07.020; and

(B) Two members representing survivors of sexual assault.

(b) The task force shall choose two cochairs from among its legislative membership. The legislative membership shall convene the initial meeting of the task force.

(2) The duties of the task force include, but are not limited to:

(a) Researching and determining the number of untested sexual assault examination kits in Washington state;

(b) Researching the locations where the untested sexual assault examination kits are stored;

(c) Researching, reviewing, and making recommendations regarding legislative policy options for reducing the number of untested sexual assault examination kits;

(d) Researching the best practice models both in state and from other states for collaborative responses to victims of sexual assault from the point the sexual assault examination kit is collected to the conclusion of the investigation and providing recommendations regarding any existing gaps in Washington and resources that may be necessary to address those gaps; and

(e) Researching, identifying, and making recommendations for securing nonstate funding for testing the sexual assault examination kits, and reporting on progress made toward securing such funding.

(3) Staff support for the task force must be provided by the senate committee services and the house of representatives office of program research.

(4) Legislative members of the task force must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) The expenses of the task force must be paid jointly by the senate and the house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(6) The first meeting of the task force must occur prior to October 1, 2015. The task force shall submit a preliminary report regarding its initial findings and recommendations to the appropriate committees of the legislature and the governor no later than December 1, 2015.

(7) The task force must meet no less than twice annually.

(8) The task force shall report its findings and recommendations to the appropriate committees of the legislature and the governor by September 30, 2016, and by September 30th of each subsequent year.

(9) This section expires June 30, 2018.

Passed by the House April 21, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 248

[Substitute House Bill 1316]

TEMPORARY PROTECTION ORDERS--VIOLATIONS

AN ACT Relating to violations of a temporary protection order; and amending RCW 26.50.110.

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

Sec. 1. RCW 26.50.110 and 2013 c 84 s 31 are each amended to read as follows:

(1)(a) Whenever an order is granted under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, any temporary order for protection granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;

(ii) A provision excluding the person from a residence, workplace, school, or day care;

(iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;

(iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent; or

(v) A provision of a foreign protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall 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 convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09,

26.10, 26.26, or 74.34 RCW, any temporary order for protection granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

Passed by the House March 2, 2015.

Passed by the Senate April 21, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 249

[Engrossed Substitute House Bill 1424]

HEALTH PROFESSIONS--TRAINING--SUICIDE PREVENTION

AN ACT Relating to suicide prevention; and amending RCW 43.70.442.

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

Sec. 1. RCW 43.70.442 and 2014 c 71 s 2 are each amended to read as follows:

(1)(a) Each of the following professionals certified or licensed under Title 18 RCW shall, at least once every six years, complete training in suicide assessment, treatment, and management that is approved, in rule, by the relevant disciplining authority:

- (i) An adviser or counselor certified under chapter 18.19 RCW;
- (ii) A chemical dependency professional licensed under chapter 18.205 RCW;
- (iii) A marriage and family therapist licensed under chapter 18.225 RCW;
- (iv) A mental health counselor licensed under chapter 18.225 RCW;
- (v) An occupational therapy practitioner licensed under chapter 18.59 RCW;
- (vi) A psychologist licensed under chapter 18.83 RCW;
- (vii) An advanced social worker or independent clinical social worker licensed under chapter 18.225 RCW; and
- (viii) A social worker associate—advanced or social worker associate— independent clinical licensed under chapter 18.225 RCW.

(b) The requirements in (a) of this subsection apply to a person holding a retired active license for one of the professions in (a) of this subsection.

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has determined, under subsection (9)(b) of this section, that training that includes only screening and referral elements is appropriate for the profession in question, in which case the training must be at least three hours in length.

(d) Beginning July 1, 2017, the training required by this subsection must be on the model list developed under subsection (6) of this section. Nothing in this subsection (1)(d) affects the validity of training completed prior to July 1, 2017.

(2)(a) Except as provided in (b) of this subsection, a professional listed in subsection (1)(a) of this section must complete the first training required by this section (~~during~~) by the end of the first full continuing education reporting period after January 1, 2014, or during the first full continuing education reporting period after initial licensure or certification, whichever occurs later.

(b) A professional listed in subsection (1)(a) of this section applying for initial licensure may delay completion of the first training required by this section for six years after initial licensure if he or she can demonstrate successful completion of the training required in subsection (1) of this section no more than six years prior to the application for initial licensure.

(3) The hours spent completing training in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education or continuing competency requirements for each profession.

(4)(a) A disciplining authority may, by rule, specify minimum training and experience that is sufficient to exempt ~~((a))~~ an individual professional from the training requirements in subsections (1) and (5) of this section. Nothing in this subsection (4)(a) allows a disciplining authority to provide blanket exemptions to broad categories or specialties within a profession.

(b) A disciplining authority may exempt a professional from the training requirements of subsections (1) and (5) of this section if the professional has only brief or limited patient contact.

(5)(a) Beginning January 1, 2016, each of the following professionals credentialed under Title 18 RCW shall complete a one-time training in suicide assessment, treatment, and management that is approved by the relevant disciplining authority:

(i) A chiropractor licensed under chapter 18.25 RCW;

(ii) A naturopath licensed under chapter 18.36A RCW;

(iii) A licensed practical nurse, registered nurse, or advanced registered nurse practitioner, other than a certified registered nurse anesthetist, licensed under chapter 18.79 RCW;

(iv) An osteopathic physician and surgeon licensed under chapter 18.57 RCW, other than a holder of a postgraduate osteopathic medicine and surgery license issued under RCW 18.57.035;

(v) An osteopathic physician assistant licensed under chapter 18.57A RCW;

(vi) A physical therapist or physical therapist assistant licensed under chapter 18.74 RCW;

(vii) A physician licensed under chapter 18.71 RCW, other than a resident holding a limited license issued under RCW 18.71.095(3);

(viii) A physician assistant licensed under chapter 18.71A RCW; and

(ix) A person holding a retired active license for one of the professions listed in (a)(i) through (viii) of this subsection.

(b) A professional listed in (a) of this subsection must complete the one-time training (~~((during))~~ by the end of the first full continuing education reporting period after ((June 12, 2014)) January 1, 2016, or during the first full continuing education reporting period after initial licensure, whichever is later. Training completed between June 12, 2014, and January 1, 2016, that meets the requirements of this section, other than the timing requirements of this subsection (5)(b), must be accepted by the disciplining authority as meeting the one-time training requirement of this subsection (5).

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has determined, under subsection (9)(b) of this section, that training that includes only screening and referral elements is appropriate for the profession in question, in which case the training must be at least three hours in length.

(d) Beginning July 1, 2017, the training required by this subsection must be on the model list developed under subsection (6) of this section. Nothing in this subsection (5)(d) affects the validity of training completed prior to July 1, 2017.

(6)(a) The secretary and the disciplining authorities shall work collaboratively to develop a model list of training programs in suicide assessment, treatment, and management.

(b) ~~((When developing the model list, the secretary and the disciplining authorities shall:~~

~~(i) Consider suicide assessment, treatment, and management training programs of at least six hours in length listed on the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center; and~~

~~(ii) Consult with public and private institutions of higher education, experts in suicide assessment, treatment, and management, and affected professional associations.~~

~~(e) The secretary and the disciplining authorities shall report the model list of training programs to the appropriate committees of the legislature no later than December 15, 2013.~~

~~(d)) The secretary and the disciplining authorities shall update the list at least once every two years. ((When updating the list, the secretary and the disciplining authorities shall, to the extent practicable, endeavor to include training on the model list that includes content specific to veterans. When identifying veteran-specific content under this subsection, the secretary and the disciplining authorities shall consult with the Washington department of veterans affairs.))~~

(c) By June 30, 2016, the department shall adopt rules establishing minimum standards for the training programs included on the model list. The minimum standards must require that six-hour trainings include content specific to veterans and the assessment of issues related to imminent harm via lethal means or self-injurious behaviors. When adopting the rules required under this subsection (6)(c), the department shall:

(i) Consult with the affected disciplining authorities, public and private institutions of higher education, educators, experts in suicide assessment, treatment, and management, the Washington department of veterans affairs, and affected professional associations; and

(ii) Consider standards related to the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center.

(d) Beginning January 1, 2017:

(i) The model list must include only trainings that meet the minimum standards established in the rules adopted under (c) of this subsection and any three-hour trainings that met the requirements of this section on or before the effective date of this section.

(ii) The model list must include six-hour trainings in suicide assessment, treatment, and management, and three-hour trainings that include only screening and referral elements; and

(iii) A person or entity providing the training required in this section may petition the department for inclusion on the model list. The department shall add the training to the list only if the department determines that the training meets the minimum standards established in the rules adopted under (c) of this subsection.

(7) The department shall provide the health profession training standards created in this section to the professional education standards board as a model in meeting the requirements of RCW 28A.410.226 and provide technical assistance, as requested, in the review and evaluation of educator training programs. The educator training programs approved by the professional educator standards board may be included in the department's model list.

(8) Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under chapter 18.130 RCW.

~~((8))~~ (9) The secretary and the disciplining authorities affected by this section shall adopt any rules necessary to implement this section.

~~((9))~~ (10) For purposes of this section:

(a) "Disciplining authority" has the same meaning as in RCW 18.130.020.

(b) "Training in suicide assessment, treatment, and management" means empirically supported training approved by the appropriate disciplining authority that contains the following elements: Suicide assessment, including screening and referral, suicide treatment, and suicide management. However, the disciplining authority may approve training that includes only screening and referral elements if appropriate for the profession in question based on the profession's scope of practice. The board of occupational therapy may also approve training that includes only screening and referral elements if appropriate for occupational therapy practitioners based on practice setting.

~~((+))~~ (11) A state or local government employee is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

~~((+))~~ (12) An employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

Passed by the House April 16, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 250

[Engrossed Second Substitute House Bill 1450]

INVOLUNTARY OUTPATIENT MENTAL HEALTH TREATMENT

AN ACT Relating to involuntary outpatient mental health treatment; amending RCW 71.05.150, 71.05.156, 71.05.212, 71.05.230, 71.05.240, 71.05.245, 71.05.280, 71.05.290, 71.05.320, 71.05.340, 71.05.730, 71.05.730, 71.24.330, 71.24.330, and 71.05.210; amending 2009 c 323 s 1 (unmodified); reenacting and amending RCW 71.05.020 and 71.05.020; adding new sections to chapter 71.05 RCW; creating a new section; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 71.05.020 and 2011 c 148 s 1 and 2011 c 89 s 14 are each reenacted and amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(3) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(4) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(5) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(6) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(7) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(8) "Department" means the department of social and health services;

(9) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;

(10) "Designated crisis responder" means a mental health professional appointed by the county or the regional support network to perform the duties specified in this chapter;

(11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter;

(12) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(13) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(14) "Developmental disability" means that condition defined in RCW 71A.10.020~~((3))~~ (5);

(15) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(17) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(18) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(19) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

(20) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(22) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(23) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(24) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health service providers under RCW 71.05.130;

(25) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(26) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(27) "Mental health professional" means a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(28) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community mental health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, and correctional facilities operated by state and local governments;

(29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(30) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

(31) "Professional person" means a mental health professional and shall also mean a physician, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(32) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(34) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(35) "Public agency" means any evaluation and treatment facility or institution, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

(36) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

(37) "Release" means legal termination of the commitment under the provisions of this chapter;

(38) "Resource management services" has the meaning given in chapter 71.24 RCW;

(39) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(40) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(41) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(42) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(43) "Triage facility" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(44) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others;

(45) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

(46) "In need of assisted outpatient mental health treatment" means that a person, as a result of a mental disorder: (a) Has been committed by a court to detention for involuntary mental health treatment at least twice during the preceding thirty-six months, or, if the person is currently committed for

involuntary mental health treatment, the person has been committed to detention for involuntary mental health treatment at least once during the thirty-six months preceding the date of initial detention of the current commitment cycle; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, in view of the person's treatment history or current behavior; (c) is unlikely to survive safely in the community without supervision; (d) is likely to benefit from less restrictive alternative treatment; and (e) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time. For purposes of (a) of this subsection, time spent in a mental health facility or in confinement as a result of a criminal conviction is excluded from the thirty-six month calculation.

(47) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting that includes the services described in section 16 of this act.

Sec. 2. RCW 71.05.020 and 2014 c 225 s 79 are each reenacted and amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(3) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(4) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(5) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(6) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(7) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(8) "Department" means the department of social and health services;

(9) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;

(10) "Designated crisis responder" means a mental health professional appointed by the county or the behavioral health organization to perform the duties specified in this chapter;

(11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter;

(12) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(13) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(14) "Developmental disability" means that condition defined in RCW 71A.10.020(~~(4)~~) (5);

(15) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(17) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(18) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(19) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

(20) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(22) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(23) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(24) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health service providers under RCW 71.05.130;

(25) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(26) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(27) "Mental health professional" means a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(28) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community mental health programs as defined in RCW

71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, and correctional facilities operated by state and local governments;

(29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(30) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

(31) "Professional person" means a mental health professional and shall also mean a physician, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(32) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(34) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(35) "Public agency" means any evaluation and treatment facility or institution, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

(36) "Registration records" include all the records of the department, behavioral health organizations, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

(37) "Release" means legal termination of the commitment under the provisions of this chapter;

(38) "Resource management services" has the meaning given in chapter 71.24 RCW;

(39) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(40) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(41) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(42) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually

diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(43) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health organizations, or a treatment facility if the notes or records are not available to others;

(44) "Triage facility" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(45) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

(46) "In need of assisted outpatient mental health treatment" means that a person, as a result of a mental disorder: (a) Has been committed by a court to detention for involuntary mental health treatment at least twice during the preceding thirty-six months, or, if the person is currently committed for involuntary mental health treatment, the person has been committed to detention for involuntary mental health treatment at least once during the thirty-six months preceding the date of initial detention of the current commitment cycle; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, in view of the person's treatment history or current behavior; (c) is unlikely to survive safely in the community without supervision; (d) is likely to benefit from less restrictive alternative treatment; and (e) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time. For purposes of (a) of this subsection, time spent in a mental health facility or in confinement as a result of a criminal conviction is excluded from the thirty-six month calculation.

(47) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in section 16 of this act.

Sec. 3. RCW 71.05.150 and 2011 c 148 s 5 are each amended to read as follows:

(1)(a) When a designated mental health professional receives information alleging that a person, as a result of a mental disorder: (i) Presents a likelihood of serious harm; ~~((or))~~ (ii) is gravely disabled; or (iii) is in need of assisted outpatient mental health treatment; the designated mental health professional may, after investigation and evaluation of the specific facts alleged and of the

reliability and credibility of any person providing information to initiate detention or involuntary outpatient evaluation, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention or involuntary outpatient evaluation. If the petition is filed solely on the grounds that the person is in need of assisted outpatient mental health treatment, the petition may only be for an involuntary outpatient evaluation. An involuntary outpatient evaluation may be conducted by any combination of licensed professionals authorized to petition for involuntary commitment under RCW 71.05.230 and must include involvement or consultation with the agency or facility which will provide monitoring or services under the proposed less restrictive alternative treatment order. If the petition is for an involuntary outpatient evaluation and the person is being held in a hospital emergency department, the person may be released once the hospital has satisfied federal and state legal requirements for appropriate screening and stabilization of patients.

(b) Before filing the petition, the designated mental health professional must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, or triage facility.

(2)(a) An order to detain to a designated evaluation and treatment facility for not more than a seventy-two-hour evaluation and treatment period, or an order for an involuntary outpatient evaluation, may be issued by a judge of the superior court upon request of a designated mental health professional, whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; and

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention or involuntary outpatient evaluation, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated mental health professional shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention or involuntary outpatient evaluation. After service on such person the designated mental health professional shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility and the designated attorney. The designated mental health professional shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual

accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated mental health professional may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

Sec. 4. RCW 71.05.156 and 2013 c 334 s 2 are each amended to read as follows:

A designated mental health professional who conducts an evaluation for imminent likelihood of serious harm or imminent danger because of being gravely disabled under RCW 71.05.153 must also evaluate the person under RCW 71.05.150 for likelihood of serious harm or grave disability that does not meet the imminent standard for emergency detention, and to determine whether the person is in need of assisted outpatient mental health treatment.

Sec. 5. RCW 71.05.212 and 2010 c 280 s 2 are each amended to read as follows:

(1) Whenever a 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:

(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;

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

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

(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, or a finding that the person is in need of assisted outpatient mental health treatment, 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.

(4) When conducting an evaluation for offenders identified under RCW 72.09.370, the 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. 6. RCW 71.05.230 and 2011 c 343 s 9 are each amended to read as follows:

A person detained or committed for seventy-two hour evaluation and treatment or for an outpatient evaluation for the purpose of filing a petition for a less restrictive alternative treatment order may be ~~((detained))~~ committed for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative to involuntary intensive treatment. A petition may only be filed if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by mental disorder and ~~((either))~~ results in a likelihood of serious harm, ~~((or))~~ results in the ~~((detained))~~ person being gravely disabled, or results in the person being in need of assisted outpatient mental health treatment, and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The agency or facility providing intensive treatment or which proposes to supervise the less restrictive alternative is certified to provide such treatment by the department; and

(4) The professional staff of the agency or facility or the designated mental health professional has filed a petition with the court for a fourteen day involuntary detention or a ninety day less restrictive alternative ~~((with the court))~~. The petition must be signed either by:

(a) Two physicians;

(b) One physician and a mental health professional;

(c) Two psychiatric advanced registered nurse practitioners;

(d) One psychiatric advanced registered nurse practitioner and a mental health professional; or

(e) A physician and a psychiatric advanced registered nurse practitioner. The persons signing the petition must have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, ~~((or))~~ is gravely disabled, or is in need of assisted outpatient mental health treatment, and shall set forth a plan for the less restrictive alternative treatment proposed by the facility in accordance with section 16 of this act; and

(5) A copy of the petition has been served on the detained or committed person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The petition reflects that the person was informed of the loss of firearm rights if involuntarily committed; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the designated mental health professional may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide ~~((outpatient))~~ less restrictive alternative treatment is other than the facility providing involuntary treatment, the outpatient facility so designated to provide less restrictive alternative treatment has agreed to assume such responsibility.

Sec. 7. RCW 71.05.240 and 2009 c 293 s 4 are each amended to read as follows:

(1) If a petition is filed for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing within seventy-two hours of the initial detention or involuntary outpatient evaluation of such person as determined in RCW 71.05.180. If requested by the ~~((detained))~~ person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may also be continued subject to the conditions set forth in RCW 71.05.210 or subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours.

(2) The court at the time of the probable cause hearing and before an order of commitment is entered shall inform the person both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.05.230 will result in the loss of his or her firearm rights if the person is subsequently detained for involuntary treatment under this section.

(3) At the conclusion of the probable cause hearing ~~((, if the court finds by a preponderance of the evidence that))~~:

(a) If the court finds by a preponderance of the evidence that such person, as the result of mental disorder, presents a likelihood of serious harm, or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility certified to provide treatment by the department. If the court finds that such person, as the result of a mental disorder, presents a likelihood of serious harm, or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive alternative course of treatment for not to exceed ninety days;

(b) If the court finds by a preponderance of the evidence that such person, as the result of a mental disorder, is in need of assisted outpatient mental health treatment, and that the person does not present a likelihood of serious harm or grave disability, the court shall order an appropriate less restrictive alternative course of treatment not to exceed ninety days, and may not order inpatient treatment.

(c) An order for less restrictive alternative treatment must identify the services the person will receive, in accordance with section 16 of this act. The court may order additional evaluation of the person if necessary to identify appropriate services.

(4) The court shall specifically state to such person and give such person notice in writing that if involuntary treatment beyond the fourteen day period or beyond the ninety days of less restrictive treatment is to be sought, such person will have the right to a full hearing or jury trial as required by RCW 71.05.310. The court shall also state to the person and provide written notice that the person is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

Sec. 8. RCW 71.05.245 and 2010 c 280 s 3 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, or is in need of assisted outpatient mental health treatment 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, or a finding that the person is in need of assisted outpatient mental health treatment, 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: (a) A recent history of one or more violent acts; or (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 subsection "recent" refers to the period of time not exceeding three years prior to the current hearing.

Sec. 9. RCW 71.05.280 and 2013 c 289 s 4 are each amended to read as follows:

At the expiration of the fourteen-day period of intensive treatment, a person may be (~~((confined))~~) committed for further treatment pursuant to RCW 71.05.320 if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property

of another, and (b) as a result of mental disorder presents a likelihood of serious harm; or

(2) Such person was taken into custody as a result of conduct in which he or she attempted or inflicted physical harm upon the person of another or himself or herself, or substantial damage upon the property of others, and continues to present, as a result of mental disorder, a likelihood of serious harm; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW 10.77.086(4), and has committed acts constituting a felony, and as a result of a mental disorder, presents a substantial likelihood of repeating similar acts.

(a) In any proceeding pursuant to this subsection it shall not be necessary to show intent, willfulness, or state of mind as an element of the crime;

(b) For any person subject to commitment under this subsection where the charge underlying the finding of incompetence is for a felony classified as violent under RCW 9.94A.030, the court shall determine whether the acts the person committed constitute a violent offense under RCW 9.94A.030; or

(4) Such person is gravely disabled; or

(5) Such person is in need of assisted outpatient mental health treatment.

Sec. 10. RCW 71.05.290 and 2009 c 217 s 3 are each amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated mental health professional may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further (~~confinement~~) commitment and shall be supported by affidavits signed by:

(a) Two examining physicians;

(b) One examining physician and examining mental health professional;

(c) Two psychiatric advanced registered nurse practitioners;

(d) One psychiatric advanced registered nurse practitioner and a mental health professional; or

(e) An examining physician and an examining psychiatric advanced registered nurse practitioner. The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter. If less restrictive alternative treatment is sought, the petition shall set forth a proposed plan for less restrictive alternative treatment in accordance with section 16 of this act.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.086(4), then the professional person in charge of the treatment facility or his or her professional designee or the designated mental health professional may directly file a petition for one hundred eighty day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

Sec. 11. RCW 71.05.320 and 2013 c 289 s 5 are each amended to read as follows:

(1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment in a facility certified for one hundred eighty day treatment by the department.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court or jury finds that the grounds set forth in RCW 71.05.280(5) have been proven, and provide the only basis for commitment, the court must enter an order for less restrictive alternative treatment for up to ninety days from the date of judgment and may not order inpatient treatment.

(3) An order for less restrictive alternative treatment entered under subsection (2) of this section must identify the services the person will receive, in accordance with section 16 of this act. The court may order additional evaluation of the person if necessary to identify appropriate services.

(4) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated mental health professional, files a new petition for involuntary treatment on the grounds that the committed person:

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of mental disorder or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder or developmental disability a likelihood of serious harm; or

(c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result of mental disorder or developmental disability continues to present a substantial likelihood of repeating acts similar to the charged criminal behavior, when considering the person's life history, progress in treatment, and the public safety.

(ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty day period whenever the petition presents

prima facie evidence that the person continues to suffer from a mental disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the mental disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior. The initial or additional commitment period may include transfer to a specialized program of intensive support and treatment, which may be initiated prior to or after discharge from the state hospital; or

(d) Continues to be gravely disabled; or

(e) Is in need of assisted outpatient mental health treatment.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to prove such conduct again.

~~((4) For a person committed under subsection (2) of this section who has been remanded to a period of less restrictive treatment, in addition to the grounds specified in subsection (3) of this section, the designated mental health professional may file a new petition for continued less restrictive treatment if:~~

~~(a) The person was previously committed by a court to detention for involuntary mental health treatment during the thirty-six months that preceded the person's initial detention date during the current involuntary commitment cycle, excluding any time spent in a mental health facility or in confinement as a result of a criminal conviction;~~

~~(b) In view of the person's treatment history or current behavior, the person is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive treatment; and~~

~~(c) Outpatient treatment that would be provided under a less restrictive treatment order is necessary to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time.)~~ If less restrictive alternative treatment is sought, the petition shall set forth a proposed plan for less restrictive alternative services in accordance with section 16 of this act.

(5) A new petition for involuntary treatment filed under subsection ~~((3) or)~~ (4) of this section shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

~~(6)~~(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment, except as provided in subsection (7) of this section. If the court's order is based solely on the grounds identified in subsection (4)(e) of this section, the court may enter an order for less restrictive alternative treatment not to exceed one hundred eighty days from the date of judgment, and may not enter an order for inpatient treatment. An order for less restrictive alternative treatment must identify the services the person will receive, in accordance with

section 16 of this act. The court may order additional evaluation of the person if necessary to identify appropriate services.

(b) At the end of the one hundred eighty day period of commitment, or one-year period of commitment if subsection (7) of this section applies, the committed person shall be released unless a petition for ((another)) an additional one hundred eighty day period of continued treatment is filed and heard in the same manner as provided in this section. Successive one hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment. ((However, a commitment is not permissible under subsection (4) of this section if thirty six months have passed since the last date of discharge from detention for inpatient treatment that preceded the current less restrictive alternative order, nor shall a commitment under subsection (4) of this section be permissible if the likelihood of serious harm in subsection (4)(c) of this section is based solely on harm to the property of others.))

(7) An order for less restrictive treatment entered under subsection (6) of this section may be for up to one year when the person's previous commitment term was for intensive inpatient treatment in a state hospital.

(8) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length except as provided in subsection (7) of this section.

Sec. 12. RCW 71.05.340 and 2009 c 322 s 1 are each amended to read as follows:

(1)(a) When, in the opinion of the superintendent or the professional person in charge of the hospital or facility providing involuntary treatment, the committed person can be appropriately served by outpatient treatment prior to or at the expiration of the period of commitment, then such outpatient care may be required as a term of conditional release for a period which, when added to the inpatient treatment period, shall not exceed the period of commitment. If the ((hospital or)) facility or agency designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated must agree in writing to assume such responsibility. A copy of the terms of conditional release shall be given to the patient, the designated mental health professional in the county in which the patient is to receive outpatient treatment, and to the court of original commitment.

(b) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320(((3))) (4)(c) is conditionally released under (a) of this subsection, the superintendent or professional person in charge of the hospital or facility providing involuntary treatment shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision to conditionally release the person. Notice and a copy of the terms of conditional release shall be provided at least thirty days before the person is released from inpatient care. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county that issued the commitment order to hold a hearing to determine whether the person may be conditionally released and the terms of the conditional release. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility

providing involuntary treatment, the attorney, if any, and guardian or conservator of the committed person, and the court of original commitment. If the county in which the committed person is to receive outpatient treatment is the same county in which the criminal charges against the committed person were dismissed, then the court shall, upon the motion of the prosecuting attorney, transfer the proceeding to the court in that county. The court shall conduct a hearing on the petition within ten days of the filing of the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be conditionally released without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security. If the court disapproves of the conditional release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the conditional release of the person shall be approved by the court on the same or modified conditions or the person shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter.

(2) The (~~hospital or~~) facility or agency designated to provide outpatient care or the secretary may modify the conditions for continued release when such modification is in the best interest of the person. Notification of such changes shall be sent to all persons receiving a copy of the original conditions. Enforcement or revocation proceedings related to a conditional release order may occur as provided under section 13 of this act.

~~((3)(a) If the hospital or facility designated to provide outpatient care, the designated mental health professional, or the secretary determines that:~~

~~(i) A conditionally released person is failing to adhere to the terms and conditions of his or her release;~~

~~(ii) Substantial deterioration in a conditionally released person's functioning has occurred;~~

~~(iii) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or~~

~~(iv) The person poses a likelihood of serious harm.~~

~~Upon notification by the hospital or facility designated to provide outpatient care, or on his or her own motion, the designated mental health professional or the secretary may order that the conditionally released person be apprehended and taken into custody and temporarily detained in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment.~~

~~(b) The hospital or facility designated to provide outpatient treatment shall notify the secretary or designated mental health professional when a conditionally released person fails to adhere to terms and conditions of his or her conditional release or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm. The designated mental health professional or secretary shall order the person apprehended and temporarily detained in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment.~~

~~(c) A person detained under this subsection (3) shall be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been conditionally released. The designated mental health professional or the secretary may modify or rescind such order at any time prior to commencement of the court hearing.~~

~~(d) The court that originally ordered commitment shall be notified within two judicial days of a person's detention under the provisions of this section, and the designated mental health professional or the secretary shall file his or her petition and order of apprehension and detention with the court that originally ordered commitment or with the court in the county in which the person is detained and serve them upon the person detained. His or her attorney, if any, and his or her guardian or conservator, if any, shall receive a copy of such papers as soon as possible. Such person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as specifically set forth in this section and except that there shall be no right to jury trial. The venue for proceedings regarding a petition for modification or revocation of an order for conditional release shall be in the county in which the petition was filed. The issues to be determined shall be: (i) Whether the conditionally released person did or did not adhere to the terms and conditions of his or her conditional release; (ii) that substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the conditions listed in this subsection (3)(d) have occurred, whether the terms of conditional release should be modified or the person should be returned to the facility.~~

~~(e) Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he or she was committed for involuntary treatment, or otherwise in accordance with the provisions of this chapter. Such hearing may be waived by the person and his or her counsel and his or her guardian or conservator, if any, but shall not be waivable unless all such persons agree to waive, and upon such waiver the person may be returned for involuntary treatment or continued on conditional release on the same or modified conditions.~~

~~(4) The proceedings set forth in subsection (3) of this section may be initiated by the designated mental health professional or the secretary on the same basis set forth therein without requiring or ordering the apprehension and detention of the conditionally released person, in which case the court hearing shall take place in not less than five days from the date of service of the petition upon the conditionally released person. The petition may be filed in the court that originally ordered commitment or with the court in the county in which the person is present. The venue for the proceedings regarding the petition for modification or revocation of an order for conditional release shall be in the county in which the petition was filed.~~

~~Upon expiration of the period of commitment, or when the person is released from outpatient care, notice in writing to the court which committed the person for treatment shall be provided:~~

~~(5) The grounds and procedures for revocation of less restrictive alternative treatment shall be the same as those set forth in this section for conditional releases.~~

~~(6) In the event of a revocation of a conditional release, the subsequent treatment period may be for no longer than the actual period authorized in the original court order.)~~

NEW SECTION. Sec. 13. A new section is added to chapter 71.05 RCW to read as follows:

(1) An agency or facility designated to monitor or provide services under a less restrictive alternative or conditional release order or a designated mental health professional may take action to enforce, modify, or revoke a less restrictive alternative or conditional release order if the agency, facility, or designated mental health professional determines that:

(a) The person is failing to adhere to the terms and conditions of the court order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel, advise, or admonish the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) To request a court hearing for review and modification of the court order. The request must be made to the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d) To cause the person to be transported by a peace officer, designated mental health professional, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, or evaluation and treatment facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and

appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated mental health professional or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation procedures under subsection (4) of this section in appropriate circumstances; and

(e) To initiate revocation procedures under subsection (4) of this section.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary or designated mental health professional when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) A designated mental health professional or the secretary may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this section to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment, or initiate proceedings under this subsection (4) without ordering the apprehension and detention of the person.

(b) A person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated mental health professional or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated mental health professional or secretary shall notify the court that originally ordered commitment within two judicial days of a person's detention and file a revocation petition and order of apprehension and detention with the court and serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings regarding a petition for modification or revocation must be in the county in which the petition was filed.

(d) The issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the

treatment period may be for no longer than the period authorized in the original court order.

(e) Revocation proceedings under this subsection (4) are not allowable if the current commitment is solely based on the person being in need of assisted outpatient mental health treatment. In order to obtain a court order for detention for inpatient treatment under this circumstance, a petition must be filed under RCW 71.05.150 or 71.05.153.

(5) In determining whether or not to take action under this section the designated mental health professional, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

Sec. 14. RCW 71.05.730 and 2011 c 343 s 2 are each amended to read as follows:

(1) A county may apply to its regional support network on a quarterly basis for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter and chapter 71.34 RCW. The regional support network shall in turn be entitled to reimbursement from the regional support network that serves the county of residence of the individual who is the subject of the civil commitment case. Reimbursements under this section shall be paid out of the regional support network's nonmedicaid appropriation.

(2) Reimbursement for judicial services shall be provided per civil commitment case at a rate to be determined based on an independent assessment of the county's actual direct costs. This assessment must be based on an average of the expenditures for judicial services within the county over the past three years. In the event that a baseline cannot be established because there is no significant history of similar cases within the county, the reimbursement rate shall be equal to eighty percent of the median reimbursement rate of counties included in the independent assessment.

(3) For the purposes of this section:

(a) "Civil commitment case" includes all judicial hearings related to a single episode of hospitalization(,) or less restrictive alternative (~~detention in lieu of hospitalization~~) treatment, except that the filing of a petition for a one hundred eighty-day commitment under this chapter or a petition for a successive one hundred eighty-day commitment under chapter 71.34 RCW shall be considered to be a new case regardless of whether there has been a break in detention. "Civil commitment case" does not include the filing of a petition for a one hundred eighty-day commitment under this chapter on behalf of a patient at a state psychiatric hospital.

(b) "Judicial services" means a county's reasonable direct costs in providing prosecutor services, assigned counsel and defense services, court services, and court clerk services for civil commitment cases under this chapter and chapter 71.34 RCW.

(4) To the extent that resources have shared purpose, the regional support network may only reimburse counties to the extent such resources are necessary for and devoted to judicial services as described in this section.

(5) No filing fee may be charged or collected for any civil commitment case subject to reimbursement under this section.

Sec. 15. RCW 71.05.730 and 2014 c 225 s 87 are each amended to read as follows:

(1) A county may apply to its behavioral health organization on a quarterly basis for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter and chapter 71.34 RCW. The behavioral health organization shall in turn be entitled to reimbursement from the behavioral health organization that serves the county of residence of the individual who is the subject of the civil commitment case. Reimbursements under this section shall be paid out of the behavioral health organization's nonmedicaid appropriation.

(2) Reimbursement for judicial services shall be provided per civil commitment case at a rate to be determined based on an independent assessment of the county's actual direct costs. This assessment must be based on an average of the expenditures for judicial services within the county over the past three years. In the event that a baseline cannot be established because there is no significant history of similar cases within the county, the reimbursement rate shall be equal to eighty percent of the median reimbursement rate of counties included in the independent assessment.

(3) For the purposes of this section:

(a) "Civil commitment case" includes all judicial hearings related to a single episode of hospitalization(()) or less restrictive alternative (~~(detention in lieu of hospitalization)~~) treatment, except that the filing of a petition for a one hundred eighty-day commitment under this chapter or a petition for a successive one hundred eighty-day commitment under chapter 71.34 RCW shall be considered to be a new case regardless of whether there has been a break in detention. "Civil commitment case" does not include the filing of a petition for a one hundred eighty-day commitment under this chapter on behalf of a patient at a state psychiatric hospital.

(b) "Judicial services" means a county's reasonable direct costs in providing prosecutor services, assigned counsel and defense services, court services, and court clerk services for civil commitment cases under this chapter and chapter 71.34 RCW.

(4) To the extent that resources have shared purpose, the behavioral health organization may only reimburse counties to the extent such resources are necessary for and devoted to judicial services as described in this section.

(5) No filing fee may be charged or collected for any civil commitment case subject to reimbursement under this section.

NEW SECTION. **Sec. 16.** A new section is added to chapter 71.05 RCW to read as follows:

(1) Less restrictive alternative treatment, at a minimum, includes the following services:

(a) Assignment of a care coordinator;

(b) An intake evaluation with the provider of the less restrictive alternative treatment;

(c) A psychiatric evaluation;

(d) Medication management;

(e) A schedule of regular contacts with the provider of the less restrictive alternative treatment services for the duration of the order;

(f) A transition plan addressing access to continued services at the expiration of the order; and

(g) An individual crisis plan.

(2) Less restrictive alternative treatment may additionally include requirements to participate in the following services:

(a) Psychotherapy;

(b) Nursing;

(c) Substance abuse counseling;

(d) Residential treatment; and

(e) Support for housing, benefits, education, and employment.

(3) Less restrictive alternative treatment must be administered by a provider that is certified or licensed to provide or coordinate the full scope of services required under the less restrictive alternative order and that has agreed to assume this responsibility.

(4) For the purpose of this section, "care coordinator" means a clinical practitioner who coordinates the activities of less restrictive alternative treatment. The care coordinator coordinates activities with the designated mental health professionals necessary for enforcement and continuation of less restrictive alternative orders and is responsible for coordinating service activities with other agencies and establishing and maintaining a therapeutic relationship with the individual on a continuing basis.

NEW SECTION. **Sec. 17.** A new section is added to chapter 71.05 RCW to read as follows:

A court order for less restrictive alternative treatment for a person found to be in need of assisted outpatient mental health treatment must be terminated prior to the expiration of the order when, in the opinion of the professional person in charge of the less restrictive alternative treatment provider, (1) the person is prepared to accept voluntary treatment, or (2) the outpatient treatment ordered is no longer necessary to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time.

Sec. 18. RCW 71.24.330 and 2013 c 320 s 9 are each amended to read as follows:

(1)(a) Contracts between a regional support network and the department shall include mechanisms for monitoring performance under the contract and remedies for failure to substantially comply with the requirements of the contract including, but not limited to, financial penalties, termination of the contract, and procurement of the contract.

(b) The department shall incorporate the criteria to measure the performance of service coordination organizations into contracts with regional support networks as provided in chapter 70.320 RCW.

(2) The regional support network procurement processes shall encourage the preservation of infrastructure previously purchased by the community mental health service delivery system, the maintenance of linkages between other services and delivery systems, and maximization of the use of available funds for services versus profits. However, a regional support network selected through the procurement process is not required to contract for services with any

countyowned or operated facility. The regional support network procurement process shall provide that public funds appropriated by the legislature shall not be used to promote or deter, encourage, or discourage employees from exercising their rights under Title 29, chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

(3) In addition to the requirements of RCW 71.24.035, contracts shall:

(a) Define administrative costs and ensure that the regional support network does not exceed an administrative cost of ten percent of available funds;

(b) Require effective collaboration with law enforcement, criminal justice agencies, and the chemical dependency treatment system;

(c) Require substantial implementation of department adopted integrated screening and assessment process and matrix of best practices;

(d) Maintain the decision-making independence of designated mental health professionals;

(e) Except at the discretion of the secretary or as specified in the biennial budget, require regional support networks to pay the state for the costs associated with individuals who are being served on the grounds of the state hospitals and who are not receiving long-term inpatient care as defined in RCW 71.24.025;

(f) Include a negotiated alternative dispute resolution clause; ~~((and))~~

(g) Include a provision requiring either party to provide one hundred eighty days' notice of any issue that may cause either party to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to act as a regional support network. If either party decides to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to serve as a regional support network they shall provide ninety days' advance notice in writing to the other party;

(h) Require regional support networks to provide services as identified in section 16 of this act to individuals committed for involuntary commitment under less restrictive alternative court orders when:

(i) The individual is enrolled in the medicaid program and meets regional support network access to care standards; or

(ii) The individual is not enrolled in medicaid, does not have other insurance which can pay for the services, and the regional support network has adequate available resources to provide the services; and

(i) Establish caseload guidelines for care coordinators who supervise less restrictive alternative orders and guidelines for response times during and immediately following periods of hospitalization or incarceration.

Sec. 19. RCW 71.24.330 and 2014 c 225 s 51 are each amended to read as follows:

(1)(a) Contracts between a behavioral health organization and the department shall include mechanisms for monitoring performance under the contract and remedies for failure to substantially comply with the requirements of the contract including, but not limited to, financial penalties, termination of the contract, and reprocurement of the contract.

(b) The department shall incorporate the criteria to measure the performance of service coordination organizations into contracts with behavioral health organizations as provided in chapter 70.320 RCW.

(2) The behavioral health organization procurement processes shall encourage the preservation of infrastructure previously purchased by the community mental health service delivery system, the maintenance of linkages between other services and delivery systems, and maximization of the use of available funds for services versus profits. However, a behavioral health organization selected through the procurement process is not required to contract for services with any countyowned or operated facility. The behavioral health organization procurement process shall provide that public funds appropriated by the legislature shall not be used to promote or deter, encourage, or discourage employees from exercising their rights under Title 29, chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

(3) In addition to the requirements of RCW 71.24.035, contracts shall:

(a) Define administrative costs and ensure that the behavioral health organization does not exceed an administrative cost of ten percent of available funds;

(b) Require effective collaboration with law enforcement, criminal justice agencies, and the chemical dependency treatment system;

(c) Require substantial implementation of department adopted integrated screening and assessment process and matrix of best practices;

(d) Maintain the decision-making independence of designated mental health professionals;

(e) Except at the discretion of the secretary or as specified in the biennial budget, require behavioral health organizations to pay the state for the costs associated with individuals who are being served on the grounds of the state hospitals and who are not receiving long-term inpatient care as defined in RCW 71.24.025;

(f) Include a negotiated alternative dispute resolution clause; ~~((and))~~

(g) Include a provision requiring either party to provide one hundred eighty days' notice of any issue that may cause either party to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to act as a behavioral health organization. If either party decides to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to serve as a behavioral health organization they shall provide ninety days' advance notice in writing to the other party;

(h) Require behavioral health organizations to provide services as identified in section 16 of this act to individuals committed for involuntary commitment under less restrictive alternative court orders when:

(i) The individual is enrolled in the medicaid program and meets behavioral health organization access to care standards; or

(ii) The individual is not enrolled in medicaid, does not have other insurance which can pay for the services, and the behavioral health organization has adequate available resources to provide the services; and

(i) Establish caseload guidelines for care coordinators who supervise less restrictive alternative orders and guidelines for response times during and immediately following periods of hospitalization or incarceration.

Sec. 20. RCW 71.05.210 and 2009 c 217 s 1 are each amended to read as follows:

Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility (1) shall, within twenty-four hours of his or her

admission or acceptance at the facility, be examined and evaluated by (a) a licensed physician who may be assisted by a physician assistant according to chapter 18.71A RCW and a mental health professional, (b) an advanced registered nurse practitioner according to chapter 18.79 RCW and a mental health professional, or (c) a licensed physician and a psychiatric advanced registered nurse practitioner and (2) shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, (~~71.05.340~~) section 13 of this act, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (a) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (b) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to seventy-two hours, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

If, after examination and evaluation, the mental health professional and licensed physician or psychiatric advanced registered nurse practitioner determine that the initial needs of the person would be better served by placement in a chemical dependency treatment facility, then the person shall be referred to an approved treatment program defined under RCW 70.96A.020.

An evaluation and treatment center admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated mental health professional and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

Sec. 21. 2009 c 323 s 1 (uncodified) is amended to read as follows:

(1) The legislature finds that many persons who are released from involuntary mental health treatment in an inpatient setting would benefit from an order for less restrictive treatment in order to provide the structure and support necessary to facilitate long-term stability and success in the community.

(2) The legislature intends to make it easier to renew orders for less restrictive treatment following a period of inpatient commitment in cases in which a person has been involuntarily committed more than once and is likely to benefit from a renewed order for less restrictive treatment.

(3) The legislature finds that public safety is enhanced when a designated mental health professional is able to file a petition to revoke an order for less restrictive treatment under (~~RCW 71.05.340~~) section 13 of this act before a person who is the subject of the petition becomes ill enough to present a likelihood of serious harm.

NEW SECTION. Sec. 22. Sections 1, 14, and 18 of this act expire April 1, 2016.

NEW SECTION. Sec. 23. Sections 2, 15, and 19 of this act take effect April 1, 2016.

NEW SECTION. Sec. 24. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2015, in the omnibus appropriations act, this act is null and void.

Passed by the House April 20, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 251

[Engrossed Second Substitute House Bill 1471]

INSURANCE--PUBLIC EMPLOYEES--PRIOR AUTHORIZATION STANDARDS

AN ACT Relating to mitigating barriers to patient access to care resulting from health insurance contracting practices; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.43 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 41.05 RCW to read as follows:

(1) A health plan offered to public employees and their covered dependents under this chapter that imposes different prior authorization standards and criteria for a covered service among tiers of contracting providers of the same licensed profession in the same health plan shall inform an enrollee which tier an individual provider or group of providers is in by posting the information on its web site in a manner accessible to both enrollees and providers.

(2) The health plan may not require prior authorization for an evaluation and management visit or an initial treatment visit with a contracting provider in a new episode of chiropractic, physical therapy, occupational therapy, East Asian medicine, massage therapy, or speech and hearing therapies. Notwithstanding RCW 48.43.515(5) this section may not be interpreted to limit the ability of a health plan to require a referral or prescription for the therapies listed in this section.

(3) The health care authority shall post on its web site and provide upon the request of a covered person or contracting provider any prior authorization standards, criteria, or information the health plan uses for medical necessity decisions.

(4) A health care provider with whom the administrator of the health plan consults regarding a decision to deny, limit, or terminate a person's covered health care services must hold a license, certification, or registration, in good standing and must be in the same or related health field as the health care provider being reviewed or of a specialty whose practice entails the same or similar covered health care service.

(5) The health plan may not require a provider to provide a discount from usual and customary rates for health care services not covered under the health plan, policy, or other agreement, to which the provider is a party.

(6) For purposes of this section:

(a) "New episode of care" means treatment for a new or recurrent condition for which the enrollee has not been treated by the provider within the previous ninety days and is not currently undergoing any active treatment.

(b) "Contracting provider" does not include providers employed within an integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW.

NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43 RCW to read as follows:

(1) A health carrier that imposes different prior authorization standards and criteria for a covered service among tiers of contracting providers of the same licensed profession in the same health plan shall inform an enrollee which tier an individual provider or group of providers is in by posting the information on its web site in a manner accessible to both enrollees and providers.

(2) A health carrier may not require prior authorization for an evaluation and management visit or an initial treatment visit with a contracting provider in a new episode of chiropractic, physical therapy, occupational therapy, East Asian medicine, massage therapy, or speech and hearing therapies. Notwithstanding RCW 48.43.515(5) this section may not be interpreted to limit the ability of a health plan to require a referral or prescription for the therapies listed in this section.

(3) A health carrier shall post on its web site and provide upon the request of a covered person or contracting provider any prior authorization standards, criteria, or information the carrier uses for medical necessity decisions.

(4) A health care provider with whom a health carrier consults regarding a decision to deny, limit, or terminate a person's covered health care services must hold a license, certification, or registration, in good standing and must be in the same or related health field as the health care provider being reviewed or of a specialty whose practice entails the same or similar covered health care service.

(5) A health carrier may not require a provider to provide a discount from usual and customary rates for health care services not covered under a health plan, policy, or other agreement, to which the provider is a party.

(6) For purposes of this section:

(a) "New episode of care" means treatment for a new or recurrent condition for which the enrollee has not been treated by the provider within the previous ninety days and is not currently undergoing any active treatment.

(b) "Contracting provider" does not include providers employed within an integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW.

NEW SECTION. **Sec. 3.** This act takes effect January 1, 2017.

Passed by the House April 20, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 252

[Engrossed Second Substitute House Bill 1485]

FAMILY MEDICINE RESIDENCIES--HEALTH PROFESSIONAL SHORTAGE AREAS

AN ACT Relating to family medicine residencies in health professional shortage areas; amending RCW 70.112.020, 70.112.060, 18.71.080, 18.71A.020, 18.57.050, and 18.57A.020; reenacting and amending RCW 70.112.010; adding new sections to chapter 70.112 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature to increase the number of family medicine physicians in shortage areas in the state by providing a fiscal incentive for hospitals and clinics to develop or expand residency programs in these areas. The legislature also intends to encourage family medicine residents to work in shortage areas by funding the health professional loan repayment and scholarship program.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70.112 RCW to read as follows:

(1) Each family medicine residency program shall annually report the following information to the department of health:

(a) The location of the residency program and whether the program, or any portion of the program, is located in a health professional shortage area as defined in RCW 70.112.010;

(b) The number of residents in the program and the number who attended an in-state versus an out-of-state medical school; and

(c) The number of graduates of the residency program who work within health professional shortage areas.

(2) The department of health shall aggregate the information received under subsection (1) of this section and report it to the appropriate legislative committees of the house of representatives and the senate by November 1, 2016, and November 1st every even year thereafter. The report must also include information on how the geographic distribution of family residency programs changes over time and, if information on the number of residents in specialty areas is readily available, a comparison of the number of residents in family medicine versus specialty areas.

Sec. 3. RCW 70.112.010 and 2010 1st sp.s. c 7 s 41 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) "Advisory board" means the family medicine education advisory board created in section 6 of this act.

(2) "Affiliated" means established or developed in cooperation with the schools of medicine.

~~((2) "Family practice unit" means the community facility or classroom used for training of ambulatory health skills within a residency training program.))~~

(3) "Health professional shortage areas" has the same definition as in RCW 28B.115.020.

(4) "Residency programs" ((mean[s]) means community-based ((family practice)) residency educational programs in family medicine, either in existence or established under this chapter and that are certified by the accreditation

council for graduate medical education or by the American osteopathic association.

~~((4))~~ (5) "Schools of medicine" means the University of Washington school of medicine located in Seattle, Washington; the Pacific Northwest University of Health Sciences located in Yakima, Washington; and any other such medical schools that are accredited by the liaison committee on medical education or the American osteopathic association's commission on osteopathic college accreditation, and that locate their entire four-year medical program in Washington.

Sec. 4. RCW 70.112.020 and 2012 c 117 s 426 are each amended to read as follows:

(1) There is established a statewide medical education system for the purpose of training resident physicians in family ~~((practice))~~ medicine.

(2) The deans of the schools 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 ~~((chair of the department of family medicine in the))~~ schools of medicine shall ~~((determine where affiliated residency programs shall exist;))~~ support development of high quality, accredited, affiliated residency programs, 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 and prioritizing support for health professional shortage areas in the state.

(3) The medical education system shall provide financial support for residents in training for those programs which are affiliated with the schools of medicine and shall establish positions for appropriate faculty to staff these programs.

(4) The schools of medicine shall coordinate with the office of student financial assistance to notify prospective family medicine students and residents of their eligibility for the health professional loan repayment and scholarship program under chapter 28B.115 RCW.

(5) The number of programs shall be determined by the board and be in keeping with the needs of the state.

Sec. 5. RCW 70.112.060 and 1975 1st ex.s. c 108 s 6 are each amended to read as follows:

(1) The moneys appropriated for these statewide family medicine residency programs shall be in addition to all the income of the ~~((University of Washington and its))~~ schools of medicine and shall not be used to supplant funds for other programs under the administration of the schools of medicine.

(2) The allocation of state funds for the residency programs shall not exceed fifty percent of the total cost of the program.

(3) No more than twenty-five percent of the appropriation for each fiscal year for the affiliated programs shall be authorized for expenditures made in support of the faculty and staff of the schools of medicine who are associated with the affiliated residency programs and are located at the schools of medicine.

(4) No funds for the purposes of this chapter shall be used to subsidize the cost of care incurred by patients.

(5) No more than ten percent of the state funds appropriated for the purposes of this chapter may be used for administrative or overhead costs to administer the statewide family medicine residency programs.

(6) The family medicine residency network at the University of Washington shall, in collaboration with the schools of medicine, administer the state funds appropriated for the purposes of this chapter.

NEW SECTION. Sec. 6. A new section is added to chapter 70.112 RCW to read as follows:

(1) There is created a family medicine education advisory board, which must consist of the following eleven members:

(a) One member appointed by the dean of the school of medicine at the University of Washington school of medicine;

(b) One member appointed by the dean of the school of medicine at the Pacific Northwest University of Health Sciences;

(c) Two citizen members, one from west of the crest of the Cascade mountains and one from east of the crest of the Cascade mountains, to be appointed by the governor;

(d) One member appointed by the Washington state medical association;

(e) One member appointed by the Washington osteopathic medical association;

(f) One member appointed by the Washington state academy of family physicians;

(g) One hospital administrator representing those Washington hospitals with family medicine residency programs, appointed by the Washington state hospital association;

(h) One director representing the directors of community-based family medicine residency programs, appointed by the family medicine residency network;

(i) One member of the house of representatives appointed by the speaker of the house; and

(j) One member of the senate appointed by the president of the senate.

(2) The two members of the advisory board appointed by the deans of the schools of medicine shall serve as chairs of the advisory board.

(3) The cochairs of the advisory board, appointed by the deans of the schools of medicine, shall serve as permanent members of the advisory board without specified term limits. The deans of the schools of medicine have the authority to replace the chair representing their school. The deans of the schools of medicine shall appoint a new member in the event that the member representing their school vacates his or her position.

(4) Other members must be initially appointed as follows: Terms of the two public members must be two years; terms of the members appointed by the medical association and the hospital association must be three years; and the remaining members must be four years. Thereafter, terms for the nonpermanent members must be four years. Members may serve two consecutive terms. New appointments must be filled in the same manner as for original appointments. Vacancies must be filled for an unexpired term in the manner of the original appointment.

NEW SECTION. **Sec. 7.** A new section is added to chapter 70.112 RCW to read as follows:

The advisory board shall consider and provide recommendations on the selection of the areas within the state where affiliate residency programs could exist, the allocation of funds appropriated under this chapter, and the procedures for review and evaluation of the residency programs.

Sec. 8. RCW 18.71.080 and 2011 c 178 s 1 are each amended to read as follows:

(1)(a) Every person licensed to practice medicine in this state shall pay licensing fees and renew his or her license in accordance with administrative procedures and administrative requirements adopted as provided in RCW 43.70.250 and 43.70.280.

(b) The commission shall request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, board certification, or other relevant data determined by the commission.

(c) A physician who resides and practices in Washington and obtains or renews a retired active license shall be exempt from licensing fees imposed under this section. The commission may establish rules governing mandatory continuing education requirements which shall be met by physicians applying for renewal of licenses. The rules shall provide that mandatory continuing education requirements may be met in part by physicians showing evidence of the completion of approved activities relating to professional liability risk management. The number of hours of continuing education for a physician holding a retired active license shall not exceed fifty hours per year.

(2) The office of crime victims advocacy shall supply the commission with information on methods of recognizing victims of human trafficking, what services are available for these victims, and where to report potential trafficking situations. The information supplied must be culturally sensitive and must include information relating to minor victims. The commission shall disseminate this information to licensees by: Providing the information on the commission's web site; including the information in newsletters; holding trainings at meetings attended by organization members; or another distribution method determined by the commission. The commission shall report to the office of crime victims advocacy on the method or methods it uses to distribute information under this subsection.

(3) The commission, in its sole discretion, may permit an applicant who has not renewed his or her license to be licensed without examination if it is satisfied that such applicant meets all the requirements for licensure in this state, and is competent to engage in the practice of medicine.

Sec. 9. RCW 18.71A.020 and 2011 c 178 s 2 are each amended to read as follows:

(1) The commission shall adopt rules fixing the qualifications and the educational and training requirements for licensure as a physician assistant or for those enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the commission and within one year successfully take and pass an

examination approved by the commission, if the examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. An interim permit may be granted by the department of health for one year provided the applicant meets all other requirements. Physician assistants licensed by the board of medical examiners, or the medical quality assurance commission as of July 1, 1999, shall continue to be licensed.

(2)(a) The commission shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and

(ii) Physician assistants may practice after successful completion of a physician assistant training course.

(b) Such rules shall provide:

(i) That the practice of a physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each physician assistant shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician or physicians at the place where services are rendered.

(3) Applicants for licensure shall file an application with the commission on a form prepared by the secretary with the approval of the commission, detailing the education, training, and experience of the physician assistant and such other information as the commission may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. A surcharge of fifty dollars per year shall be charged on each license renewal or issuance of a new license to be collected by the department and deposited into the impaired physician account for physician assistant participation in the impaired physician program. Each applicant shall furnish proof satisfactory to the commission of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the commission and is eligible to take the examination approved by the commission;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing medicine as a physician assistant with reasonable skill and safety. The commission may require an applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical or mental capability, or both, to safely practice as a physician assistant.

(4)(a) The commission may approve, deny, or take other disciplinary action upon the application for license as provided in the Uniform Disciplinary Act, chapter 18.130 RCW.

(b) The license shall be renewed as determined under RCW 43.70.250 and 43.70.280. The commission shall request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, or other relevant data determined by the commission.

(c) The commission may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW.

(5) All funds in the impaired physician account shall be paid to the contract entity within sixty days of deposit.

Sec. 10. RCW 18.57.050 and 1996 c 191 s 36 are each amended to read as follows:

(1) The board may establish rules and regulations governing mandatory continuing education requirements which shall be met by physicians applying for renewal of licenses. Administrative procedures, administrative requirements, and fees for applications and renewals shall be established as provided in RCW 43.70.250 and 43.70.280. The board shall determine prerequisites for relicensing.

(2) The board must request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, board certification, or other relevant data determined by the board.

Sec. 11. RCW 18.57A.020 and 1999 c 127 s 2 are each amended to read as follows:

(1) The board shall adopt rules fixing the qualifications and the educational and training requirements for licensure as an osteopathic physician assistant or for those enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the board and within one year successfully take and pass an examination approved by the board, providing such examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. An interim permit may be granted by the department of health for one year provided the applicant meets all other requirements. Physician assistants licensed by the board of osteopathic medicine as of July 1, 1999, shall continue to be licensed.

(2)(a) The board shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and

(ii) Physician assistants may practice after successful completion of a training course.

(b) Such rules shall provide:

(i) That the practice of an osteopathic physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each osteopathic physician assistant shall practice osteopathic medicine only under the supervision and control of an osteopathic physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physicians at the place where services are rendered. The board may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW.

(3) Applicants for licensure shall file an application with the board on a form prepared by the secretary with the approval of the board, detailing the education, training, and experience of the physician assistant and such other information as the board may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. A surcharge of twenty-five dollars per year may be charged on each license renewal or issuance of a new license to be collected by the department of health for physician assistant participation in an impaired practitioner program. Each applicant shall furnish proof satisfactory to the board of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the board and is eligible to take the examination approved by the board;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing osteopathic medicine as an osteopathic physician assistant with reasonable skill and safety. The board may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice as an osteopathic physician assistant.

(4) The board may approve, deny, or take other disciplinary action upon the application for a license as provided in the uniform disciplinary act, chapter 18.130 RCW. The license shall be renewed as determined under RCW 43.70.250 and 43.70.280.

(5) The board must request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, board certification, or other relevant data determined by the board.

Passed by the House April 20, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 253

[House Bill 1599]

CRIMINALLY INSANE PERSONS--SECURE FACILITIES

AN ACT Relating to secure facilities for the criminally insane; and amending RCW 10.77.091.

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

Sec. 1. RCW 10.77.091 and 2010 c 263 s 2 are each amended to read as follows:

(1) If the secretary determines in writing that a person committed to the custody of the secretary for treatment as criminally insane presents an unreasonable safety risk which, based on behavior, clinical history, and facility security is not manageable in a state hospital setting, and the secretary has given consideration to reasonable alternatives that would be effective to manage the behavior, the secretary may place the person in any secure facility operated by the secretary or the secretary of the department of corrections. The secretary's written decision and reasoning must be documented in the patient's medical file. Any person affected by this provision shall receive appropriate mental health treatment governed by a formalized treatment plan targeted at mental health rehabilitation needs and shall be afforded his or her rights under RCW 10.77.140, 10.77.150, and 10.77.200. The secretary of the department of social and health services shall retain legal custody of any person placed under this section and review any placement outside of a department mental health hospital every three months, or sooner if warranted by the person's mental health status, to determine if the placement remains appropriate.

(2) Beginning December 1, 2010, and every six months thereafter, the secretary shall report to the governor and the appropriate committees of the legislature regarding the use of the authority under this section to transfer persons to a secure facility. The report shall include information related to the number of persons who have been placed in a secure facility operated by the secretary or the secretary of the department of corrections, and the length of time that each such person has been in the secure facility.

~~((3) This section expires June 30, 2015.)~~

Passed by the House April 23, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 254

[House Bill 1620]

SHELLFISH LICENSES--SURCHARGE--BIOTOXIN TESTING AND MONITORING

AN ACT Relating to increasing the surcharge to fund biotoxin testing and monitoring; and amending RCW 77.32.555.

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

Sec. 1. RCW 77.32.555 and 2009 c 577 s 1 are each amended to read as follows:

(1) In addition to the fees authorized in this chapter, the department shall include a surcharge to fund biotoxin testing and monitoring by the department of health of beaches used for recreational shellfishing, and to fund monitoring by the Olympic region harmful algal bloom program of the Olympic natural resources center at the University of Washington. The surcharge on recreational shellfish licenses cannot be increased more than one dollar and can only be increased when the surcharge for commercial shellfish licenses is increased. A surcharge of ~~((three))~~ four dollars applies to resident and nonresident shellfish and seaweed licenses as authorized by RCW 77.32.520(3) (a) and (b); a surcharge of ~~((two))~~ three dollars applies to resident and nonresident adult combination licenses as authorized by RCW 77.32.470(2)(a); a surcharge of ~~((two))~~ three dollars applies to annual resident and nonresident razor clam licenses as authorized by RCW 77.32.520(4); and a surcharge of ~~((one))~~ two dollars applies to the three-day razor clam license authorized by RCW 77.32.520(5). Amounts collected from these surcharges must be deposited in the biotoxin account created in subsection (3) of this section. The department may not use any amounts collected from these surcharges to pay for its administrative costs.

(2) Any moneys from surcharges remaining in the general fund—local account after the 2007-2009 biennium must be transferred to the biotoxin account created in subsection (3) of this section and be credited to the appropriate institution. The department of health and the University of Washington shall, by December 1st of each year, provide a letter to the relevant legislative policy and fiscal committees on the status of expenditures. This letter shall include, but is not limited to, the annual appropriation amount, the amount

not expended, account fund balance, and reasons for not spending the full annual appropriation.

(3) The biotoxin account is created in the state treasury to be administered by the department of health. All moneys received under subsection (1) of this section must be deposited in the account and used by the department of health and the University of Washington as required by subsection (1) of this section. Of the moneys deposited into the account, one hundred fifty thousand dollars per year must be made available to the University of Washington to implement subsection (1) of this section. Moneys in the account may be spent only after appropriation.

Passed by the House April 21, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 255

[Substitute House Bill 1625]

AMBULANCE AND AID SERVICES--PHARMACIES--PROVISION OF DRUGS

AN ACT Relating to the provision of drugs to ambulance and aid services; adding a new section to chapter 18.64 RCW; adding a new section to chapter 70.168 RCW; 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 18.64 RCW to read as follows:

A pharmacy that is licensed under this chapter and operated by a hospital that is licensed under chapter 70.41 RCW may provide drugs to ambulance or aid services that are licensed under RCW 18.73.130 for use associated with providing emergency medical services to patients if the following conditions are met:

(1) The hospital is located in the same or an adjacent county to the county in which the ambulance or aid service operates;

(2) A medical program director of an ambulance or aid service has requested drugs from the hospital per agreed protocol. A medical program director may only request drugs that:

(a) Are relevant to the level of service provided by the ambulance or aid service and the training of its emergency medical personnel; and

(b) Are approved as part of the ambulance or aid service prehospital patient care protocols for use by emergency medical personnel in the county in which the ambulance or aid service is located; and

(3) The provision of the drugs by the pharmacy is not contingent upon arrangements for the transport of patients to the hospital that operates the pharmacy for reasons other than the consideration of patients' medical needs and any patient care procedures.

NEW SECTION. Sec. 2. A new section is added to chapter 70.168 RCW to read as follows:

(1) The emergency medical services and trauma care steering committee established in RCW 70.168.020 shall consider the use of the following

medications by emergency medical technicians certified under chapter 18.73 RCW:

(a) Hydrocortisone sodium succinate or similar medications for the treatment of adrenal insufficiency; and

(b) Glucagon emergency kits.

(2) The review shall consider:

(a) The adequacy of current training for emergency medical technicians to administer the medications in subsection (1) of this section;

(b) The feasibility of supplementing the training of emergency medical technicians on either a statewide basis or a local basis to administer the medications in subsection (1) of this section;

(c) The costs and the likely utilization of stocking ambulances with the medications in subsection (1) of this section; and

(d) Options for localized solutions to specific community needs for the medications in subsection (1) of this section where only basic life support services are available, including needs that may arise in a school setting.

(3) The steering committee may appoint a work group to develop a draft report to present to the full steering committee, prior to the full steering committee adopting its report.

(4) By December 15, 2015, the steering committee shall report to the governor and the appropriate committees of the legislature. The report shall summarize the review of the topics in subsection (2) of this section and any policy recommendations related to the review. The report shall include any available data related to the frequency of incidents requiring the administration of medications in subsection (1) of this section.

(5) This section expires June 30, 2016.

Passed by the House April 16, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 256

[House Bill 1652]

MEDICAID--MANAGED HEALTH CARE SYSTEM--PAYMENTS--NONPARTICIPATING PROVIDERS

AN ACT Relating to medicaid managed health care system payments for health care services provided by nonparticipating providers; and amending RCW 74.09.522.

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

Sec. 1. RCW 74.09.522 and 2014 c 225 s 55 are each amended to read as follows:

(1) For the purposes of this section:

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

social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(b) "Nonparticipating provider" means a person, health care provider, practitioner, facility, or entity, acting within their scope of practice, that does not have a written contract to participate in a managed health care system's provider network, but provides health care services to enrollees of programs authorized under this chapter whose health care services are provided by the managed health care system.

(2) The authority shall enter into agreements with managed health care systems to provide health care services to recipients of temporary assistance for needy families under the following conditions:

(a) Agreements shall be made for at least thirty thousand recipients statewide;

(b) Agreements in at least one county shall include enrollment of all recipients of temporary assistance for needy families;

(c) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act, recipients shall have a choice of systems in which to enroll and shall have the right to terminate their enrollment in a system: PROVIDED, That the authority may limit recipient termination of enrollment without cause to the first month of a period of enrollment, which period shall not exceed twelve months: AND PROVIDED FURTHER, That the authority shall not restrict a recipient's right to terminate enrollment in a system for good cause as established by the authority by rule;

(d) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act, participating managed health care systems shall not enroll a disproportionate number of medical assistance recipients within the total numbers of persons served by the managed health care systems, except as authorized by the authority under federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(e)(i) In negotiating with managed health care systems the authority shall adopt a uniform procedure to enter into contractual arrangements, to be included in contracts issued or renewed on or after January 1, 2015, including:

(A) Standards regarding the quality of services to be provided;

(B) The financial integrity of the responding system;

(C) Provider reimbursement methods that incentivize chronic care management within health homes, including comprehensive medication management services for patients with multiple chronic conditions consistent with the findings and goals established in RCW 74.09.5223;

(D) Provider reimbursement methods that reward health homes that, by using chronic care management, reduce emergency department and inpatient use;

(E) Promoting provider participation in the program of training and technical assistance regarding care of people with chronic conditions described in RCW 43.70.533, including allocation of funds to support provider participation in the training, unless the managed care system is an integrated health delivery system that has programs in place for chronic care management;

(F) Provider reimbursement methods within the medical billing processes that incentivize pharmacists or other qualified providers licensed in Washington state to provide comprehensive medication management services consistent with the findings and goals established in RCW 74.09.5223;

(G) Evaluation and reporting on the impact of comprehensive medication management services on patient clinical outcomes and total health care costs, including reductions in emergency department utilization, hospitalization, and drug costs; and

(H) Established consistent processes to incentivize integration of behavioral health services in the primary care setting, promoting care that is integrated, collaborative, colocated, and preventive.

(ii)(A) Health home services contracted for under this subsection may be prioritized to enrollees with complex, high cost, or multiple chronic conditions.

(B) Contracts that include the items in (e)(i)(C) through (G) of this subsection must not exceed the rates that would be paid in the absence of these provisions;

(f) The authority shall seek waivers from federal requirements as necessary to implement this chapter;

(g) The authority shall, wherever possible, enter into prepaid capitation contracts that include inpatient care. However, if this is not possible or feasible, the authority may enter into prepaid capitation contracts that do not include inpatient care;

(h) The authority shall define those circumstances under which a managed health care system is responsible for out-of-plan services and assure that recipients shall not be charged for such services;

(i) Nothing in this section prevents the authority from entering into similar agreements for other groups of people eligible to receive services under this chapter; and

(j) The authority must consult with the federal center for medicare and medicaid innovation and seek funding opportunities to support health homes.

(3) The authority shall ensure that publicly supported community health centers and providers in rural areas, who show serious intent and apparent capability to participate as managed health care systems are seriously considered as contractors. The authority shall coordinate its managed care activities with activities under chapter 70.47 RCW.

(4) The authority shall work jointly with the state of Oregon and other states in this geographical region in order to develop recommendations to be presented to the appropriate federal agencies and the United States congress for improving health care of the poor, while controlling related costs.

(5) The legislature finds that competition in the managed health care marketplace is enhanced, in the long term, by the existence of a large number of managed health care system options for medicaid clients. In a managed care delivery system, whose goal is to focus on prevention, primary care, and improved enrollee health status, continuity in care relationships is of substantial importance, and disruption to clients and health care providers should be minimized. To help ensure these goals are met, the following principles shall guide the authority in its healthy options managed health care purchasing efforts:

(a) All managed health care systems should have an opportunity to contract with the authority to the extent that minimum contracting requirements defined

by the authority are met, at payment rates that enable the authority to operate as far below appropriated spending levels as possible, consistent with the principles established in this section.

(b) Managed health care systems should compete for the award of contracts and assignment of medicaid beneficiaries who do not voluntarily select a contracting system, based upon:

(i) Demonstrated commitment to or experience in serving low-income populations;

(ii) Quality of services provided to enrollees;

(iii) Accessibility, including appropriate utilization, of services offered to enrollees;

(iv) Demonstrated capability to perform contracted services, including ability to supply an adequate provider network;

(v) Payment rates; and

(vi) The ability to meet other specifically defined contract requirements established by the authority, including consideration of past and current performance and participation in other state or federal health programs as a contractor.

(c) Consideration should be given to using multiple year contracting periods.

(d) Quality, accessibility, and demonstrated commitment to serving low-income populations shall be given significant weight in the contracting, evaluation, and assignment process.

(e) All contractors that are regulated health carriers must meet state minimum net worth requirements as defined in applicable state laws. The authority shall adopt rules establishing the minimum net worth requirements for contractors that are not regulated health carriers. This subsection does not limit the authority of the Washington state health care authority to take action under a contract upon finding that a contractor's financial status seriously jeopardizes the contractor's ability to meet its contract obligations.

(f) Procedures for resolution of disputes between the authority and contract bidders or the authority and contracting carriers related to the award of, or failure to award, a managed care contract must be clearly set out in the procurement document.

(6) The authority may apply the principles set forth in subsection (5) of this section to its managed health care purchasing efforts on behalf of clients receiving supplemental security income benefits to the extent appropriate.

(7) By April 1, 2016, any contract with a managed health care system to provide services to medical assistance enrollees shall require that managed health care systems offer contracts to behavioral health organizations, mental health providers, or chemical dependency treatment providers to provide access to primary care services integrated into behavioral health clinical settings, for individuals with behavioral health and medical comorbidities.

(8) Managed health care system contracts effective on or after April 1, 2016, shall serve geographic areas that correspond to the regional service areas established in RCW 43.20A.893.

(9) A managed health care system shall pay a nonparticipating provider that provides a service covered under this chapter to the system's enrollee no more than the lowest amount paid for that service under the managed health care

system's contracts with similar providers in the state if the managed health care system has made good faith efforts to contract with the nonparticipating provider.

(10) For services covered under this chapter to medical assistance or medical care services enrollees and provided on or after August 24, 2011, nonparticipating providers must accept as payment in full the amount paid by the managed health care system under subsection ~~((7))~~ (9) of this section in addition to any deductible, coinsurance, or copayment that is due from the enrollee for the service provided. An enrollee is not liable to any nonparticipating provider for covered services, except for amounts due for any deductible, coinsurance, or copayment under the terms and conditions set forth in the managed health care system contract to provide services under this section.

(11) Pursuant to federal managed care access standards, 42 C.F.R. Sec. 438, managed health care systems must maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the authority, including hospital-based physician services. The authority will monitor and periodically report on the proportion of services provided by contracted providers and nonparticipating providers, by county, for each managed health care system to ensure that managed health care systems are meeting network adequacy requirements. No later than January 1st of each year, the authority will review and report its findings to the appropriate policy and fiscal committees of the legislature for the preceding state fiscal year.

(12) Payments under RCW 74.60.130 are exempt from this section.

(13) Subsections (9) through (11) of this section expire July 1, ~~(2016)~~ 2021.

Passed by the House April 20, 2015.

Passed by the Senate April 3, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 257

[House Bill 2140]

DEPENDENT CHILDREN--PERMANENCY PLANNING HEARINGS--GOOD CAUSE EXCEPTIONS

AN ACT Relating to good cause exceptions during permanency hearings; reenacting and amending RCW 13.34.145; creating a new section; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 13.34.145 and 2013 c 332 s 3, 2013 c 206 s 1, and 2013 c 173 s 3 are each reenacted and amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption

decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed. Every effort shall be made to provide stability in long-term placement, and to avoid disruption of placement, unless the child is being returned home or it is in the best interest of the child.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) When the youth is at least age seventeen years but not older than seventeen years and six months, the department shall provide the youth with written documentation which explains the availability of extended foster care services and detailed instructions regarding how the youth may access such services after he or she reaches age eighteen years.

(4) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the department or supervising agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to department or supervising agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the department or supervising agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

(5) Following this inquiry, at the permanency planning hearing, the court shall order the department or supervising agency to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child.

(a) For purposes of this subsection, "good cause exception" includes but is not limited to the following:

(i) The child is being cared for by a relative;

(ii) The department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home;

(iii) The department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests; ((or))

(iv) The parent is incarcerated, or the parent's prior incarceration is a significant factor in why the child has been in foster care for fifteen of the last twenty-two months, the parent maintains a meaningful role in the child's life, and the department has not documented another reason why it would be otherwise appropriate to file a petition pursuant to this section;

(v) ((Until June 30, 2015,)) Where a parent has been accepted into a dependency treatment court program or long-term substance abuse or dual diagnoses treatment program and is demonstrating compliance with treatment goals; or

(vi) ((Until June 30, 2015,)) Where a parent who has been court ordered to complete services necessary for the child's safe return home files a declaration

under penalty of perjury stating the parent's financial inability to pay for the same court-ordered services, and also declares the department was unwilling or unable to pay for the same services necessary for the child's safe return home.

(b) The court's assessment of whether a parent who is incarcerated maintains a meaningful role in the child's life may include consideration of the following:

(i) The parent's expressions or acts of manifesting concern for the child, such as letters, telephone calls, visits, and other forms of communication with the child;

(ii) The parent's efforts to communicate and work with the department or supervising agency or other individuals for the purpose of complying with the service plan and repairing, maintaining, or building the parentchild relationship;

(iii) A positive response by the parent to the reasonable efforts of the department or the supervising agency;

(iv) Information provided by individuals or agencies in a reasonable position to assist the court in making this assessment, including but not limited to the parent's attorney, correctional and mental health personnel, or other individuals providing services to the parent;

(v) Limitations in the parent's access to family support programs, therapeutic services, and visiting opportunities, restrictions to telephone and mail services, inability to participate in foster care planning meetings, and difficulty accessing lawyers and participating meaningfully in court proceedings; and

(vi) Whether the continued involvement of the parent in the child's life is in the child's best interest.

(c) The constraints of a parent's current or prior incarceration and associated delays or barriers to accessing courtmandated services may be considered in rebuttal to a claim of aggravated circumstances under RCW 13.34.132(4)((g)) (h) for a parent's failure to complete available treatment.

(6)(a) If the permanency plan identifies independent living as a goal, the court at the permanency planning hearing shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care. The court will inquire whether the child has been provided information about extended foster care services.

(b) The permanency plan shall also specifically identify the services, including extended foster care services, where appropriate, that will be provided to assist the child to make a successful transition from foster care to independent living.

(c) The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(7) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall:

(a) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(6), and 13.34.096; and

(b) If the department or supervising agency is recommending a placement other than the child's current placement with a foster parent, relative, or other suitable person, enter a finding as to the reasons for the recommendation for a change in placement.

(8) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the supervising agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(9) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(10) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(11) If the court orders the child returned home, casework supervision by the department or supervising agency shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(12) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(13) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (12) of this section are met.

(14) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the department or supervising agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(15) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court

shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(16) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

NEW SECTION. Sec. 2. This act may be known and cited as the Roger Freeman act.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2015.

Passed by the House April 21, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 258

[Engrossed Second Substitute Senate Bill 5269]

INVOLUNTARY TREATMENT--DETENTION DECISIONS--COURT REVIEW

AN ACT Relating to court review of detention decisions under the involuntary treatment act; amending RCW 71.05.130; adding new sections to chapter 71.05 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. This act may be known and cited as Joel's Law.

NEW SECTION. Sec. 2. A new section is added to chapter 71.05 RCW to read as follows:

(1) If a designated mental health professional decides not to detain a person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since a designated mental health professional received a request for investigation and the designated mental health professional has not taken action to have the person detained, an immediate family member or guardian or conservator of the person may petition the superior court for the person's initial detention.

(2)(a) The petition must be submitted on forms developed by the administrative office of the courts for this purpose. The petition must be accompanied by a sworn declaration from the petitioner, and other witnesses if desired, describing why the person should be detained for evaluation and treatment. The description of why the person should be detained may contain, but is not limited to, the information identified in RCW 71.05.212.

(b) The petition must contain:

(i) A description of the relationship between the petitioner and the person; and

(ii) The date on which an investigation was requested from the designated mental health professional.

(3) The court shall, within one judicial day, review the petition to determine whether the petition raises sufficient evidence to support the allegation. If the court so finds, it shall provide a copy of the petition to the designated mental health professional agency with an order for the agency to provide the court,

within one judicial day, with a written sworn statement describing the basis for the decision not to seek initial detention and a copy of all information material to the designated mental health professional's current decision.

(4) Following the filing of the petition and before the court reaches a decision, any person, including a mental health professional, may submit a sworn declaration to the court in support of or in opposition to initial detention.

(5) The court shall dismiss the petition at any time if it finds that a designated mental health professional has filed a petition for the person's initial detention under RCW 71.05.150 or 71.05.153 or that the person has voluntarily accepted appropriate treatment.

(6) The court must issue a final ruling on the petition within five judicial days after it is filed. After reviewing all of the information provided to the court, the court may enter an order for initial detention if the court finds that: (a) There is probable cause to support a petition for detention; and (b) the person has refused or failed to accept appropriate evaluation and treatment voluntarily. The court shall transmit its final decision to the petitioner.

(7) If the court enters an order for initial detention, it shall provide the order to the designated mental health professional agency, which shall execute the order without delay. An order for initial detention under this section expires one hundred eighty days from issuance.

(8) Except as otherwise expressly stated in this chapter, all procedures must be followed as if the order had been entered under RCW 71.05.150. RCW 71.05.160 does not apply if detention was initiated under the process set forth in this section.

(9) For purposes of this section, "immediate family member" means a spouse, domestic partner, child, stepchild, parent, stepparent, grandparent, or sibling.

NEW SECTION. **Sec. 3.** A new section is added to chapter 71.05 RCW to read as follows:

(1) The department and each regional support network or agency employing designated mental health professionals shall publish information in an easily accessible format describing the process for an immediate family member, guardian, or conservator to petition for court review of a detention decision under section 2 of this act.

(2) A designated mental health professional or designated mental health professional agency that receives a request for investigation for possible detention under this chapter must inquire whether the request comes from an immediate family member, guardian, or conservator who would be eligible to petition under section 2 of this act. If the designated mental health professional decides not to detain the person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since the request for investigation was received and the designated mental health professional has not taken action to have the person detained, the designated mental health professional or designated mental health professional agency must inform the immediate family member, guardian, or conservator who made the request for investigation about the process to petition for court review under section 2 of this act.

Sec. 4. RCW 71.05.130 and 1998 c 297 s 7 are each amended to read as follows:

In any judicial proceeding for involuntary commitment or detention except under section 2 of this act, or in any proceeding challenging ~~((such))~~ involuntary commitment or detention, the prosecuting attorney for the county in which the proceeding was initiated shall represent the individuals or agencies petitioning for commitment or detention and shall defend all challenges to such commitment or detention ~~((:PROVIDED))~~, except that the attorney general shall represent and provide legal services and advice to state hospitals or institutions with regard to all provisions of and proceedings under this chapter ~~((except in))~~ other than proceedings initiated by such hospitals and institutions seeking fourteen day detention.

Passed by the Senate April 22, 2015.

Passed by the House April 22, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 259

[Substitute Senate Bill 5027]

PRESCRIPTION DRUG MONITORING DATABASE--ACCESS--CLINICAL LABORATORIES

AN ACT Relating to providing access to the prescription drug monitoring database for clinical laboratories; amending RCW 70.225.040; and adding new sections to chapter 70.225 RCW.

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

Sec. 1. RCW 70.225.040 and 2011 1st sp.s. c 15 s 87 are each amended to read as follows:

(1) Prescription information submitted to the department ~~((shall))~~ must be confidential, in compliance with chapter 70.02 RCW and federal health care information privacy requirements and not subject to disclosure, except as provided in subsections (3) and (4) of this section.

(2) The department ~~((shall))~~ must maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in subsections (3) and (4) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) Health professional licensing, certification, or regulatory agency or entity;

(d) Appropriate local, state, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation involving a designated person;

(e) Authorized practitioners of the department of social and health services and the health care authority regarding medicaid program recipients;

(f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

(g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

(h) Other entities under grand jury subpoena or court order; ~~((and))~~

(i) Personnel of the department for purposes of administration and enforcement of this chapter or chapter 69.50 RCW; and

(j) Personnel of a test site that meet the standards under section 2 of this act pursuant to an agreement between the test site and a person identified in (a) of this subsection to provide assistance in determining which medications are being used by an identified patient who is under the care of that person.

(4) The department may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients, dispensers, prescribers, and persons who received prescriptions from dispensers.

(5) A dispenser or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

NEW SECTION, Sec. 2. A new section is added to chapter 70.225 RCW to read as follows:

(1) Test sites that may receive access to data in the prescription monitoring program under RCW 70.225.040 must be:

(a) Licensed by the department as a test site under chapter 70.42 RCW; and

(b) Certified as a drug testing laboratory by the United States department of health and human services, substance abuse and mental health services administration.

(2) Test sites may not:

(a) Charge a fee for accessing the prescription monitoring program;

(b) Store data accessed from the prescription drug monitoring program in any form, including, but not limited to, hard copies, electronic copies, or web/digital based copies of any kind. Such data may be used only to transmit to those entities listed in RCW 70.255.040(3)(a).

NEW SECTION, Sec. 3. A new section is added to chapter 70.225 RCW to read as follows:

(1) Access to data in the qualifying laboratory must be under the supervision of the responsible person as designated by the United States department of health and human services, substance abuse and mental health services administration certification program.

(2) Such data cannot be gathered, shared, sold, or used in any manner other than as designated under RCW 70.255.040, section 2 of this act, or this section.

Passed by the Senate April 16, 2015.

Passed by the House April 8, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 260

[Senate Bill 5125]

DISTRICT COURTS--CIVIL JURISDICTION

AN ACT Relating to district court civil jurisdiction; and amending RCW 3.66.020.

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

Sec. 1. RCW 3.66.020 and 2008 c 227 s 1 are each amended to read as follows:

If, for each claimant, the value of the claim or the amount at issue does not exceed (~~(seventy-five)~~) one hundred thousand dollars, exclusive of interest, costs, and attorneys' fees, the district court shall have jurisdiction and cognizance of the following civil actions and proceedings:

- (1) Actions arising on contract for the recovery of money;
- (2) Actions for damages for injuries to the person, or for taking or detaining personal property, or for injuring personal property, or for an injury to real property when no issue raised by the answer involves the plaintiff's title to or possession of the same and actions to recover the possession of personal property;
- (3) Actions for a penalty;
- (4) Actions upon a bond conditioned for the payment of money, when the amount claimed does not exceed fifty thousand dollars, though the penalty of the bond exceeds that sum, the judgment to be given for the sum actually due, not exceeding the amount claimed in the complaint;
- (5) Actions on an undertaking or surety bond taken by the court;
- (6) Actions for damages for fraud in the sale, purchase, or exchange of personal property;
- (7) Proceedings to take and enter judgment on confession of a defendant;
- (8) Proceedings to issue writs of attachment, garnishment and replevin upon goods, chattels, moneys, and effects;
- (9) Actions arising under the provisions of chapter 19.190 RCW;
- (10) Proceedings to civilly enforce any money judgment entered in any municipal court or municipal department of a district court organized under the laws of this state; and
- (11) All other actions and proceedings of which jurisdiction is specially conferred by statute, when the title to, or right of possession of, real property is not involved.

Passed by the Senate April 23, 2015.

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CHAPTER 261

[Substitute Senate Bill 5154]

SEX OR KIDNAPPING OFFENDERS--REGISTRATION--COMMUNITY NOTIFICATION

AN ACT Relating to registered sex or kidnapping offenders; amending RCW 4.24.550, 9A.44.128, 9A.44.130, 9A.44.132, 9A.44.140, 9A.44.141, 9A.44.142, 9A.44.143, 43.43.754, 9.94A.030, 28A.300.147, and 72.09.345; reenacting and amending RCW 9.94A.515 and 42.56.240; adding a new section to chapter 9A.44 RCW; creating new sections; and prescribing penalties.

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

Sec. 1. RCW 4.24.550 and 2011 c 337 s 1 are each amended to read as follows:

(1) In addition to the disclosure under subsection (5) of this section, public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding: (a) Any person adjudicated or convicted of a sex offense as defined in RCW 9A.44.128 or a kidnapping offense as defined by RCW 9A.44.128; (b) any person under the jurisdiction of the indeterminate sentence review board as the result of a sex offense or kidnapping offense; (c) any person committed as a sexually violent predator under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW; (d) any person found not guilty of a sex offense or kidnapping offense by reason of insanity under chapter 10.77 RCW; and (e) any person found incompetent to stand trial for a sex offense or kidnapping offense and subsequently committed under chapter 71.05 or 71.34 RCW.

(2) Except for the information specifically required under subsection (5) of this section, the extent of the public disclosure of relevant and necessary information shall be rationally related to: (a) The level of risk posed by the offender to the community; (b) the locations where the offender resides, expects to reside, or is regularly found; and (c) the needs of the affected community members for information to enhance their individual and collective safety.

(3) Except for the information specifically required under subsection (5) of this section, local law enforcement agencies shall consider the following guidelines in determining the extent of a public disclosure made under this section: (a) For offenders classified as risk level I, the agency shall share information with other appropriate law enforcement agencies and, if the offender is a student, the public or private school regulated under Title 28A RCW or chapter 72.40 RCW which the offender is attending, or planning to attend. The agency may disclose, upon request, relevant, necessary, and accurate information to any victim or witness to the offense (~~and to~~), any individual community member who lives near the residence where the offender resides, expects to reside, or is regularly found, and any individual who requests information regarding a specific offender; (b) for offenders classified as risk level II, the agency may also disclose relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, public libraries, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside, or is regularly found; (c) for offenders classified as risk level III, the agency may also disclose relevant, necessary, and accurate information to the public at large; and (d) because more localized notification is not feasible and homeless and transient offenders may present unique risks to the community, the agency may also disclose relevant, necessary, and accurate information to the public at large for offenders registered as homeless or transient.

(4) The county sheriff with whom an offender classified as risk level III is registered shall (~~cause to be published by legal notice, advertising, or news~~

~~release a sex offender community notification that conforms to the guidelines established under RCW 4.24.5501 in at least one legal newspaper with general circulation in the area of the sex offender's registered address or location. Unless the information is posted on the web site described in subsection (5) of this section, this list shall be maintained by the county sheriff on a publicly accessible web site and shall be updated at least once per month))~~ release a sex offender community notification that conforms to the guidelines established under RCW 4.24.5501.

(5)(a) When funded by federal grants or other sources, the Washington association of sheriffs and police chiefs shall create and maintain a statewide registered kidnapping and sex offender web site, which shall be available to the public. The web site shall post all level III and level II registered sex offenders, level I registered sex offenders only during the time they are out of compliance with registration requirements under RCW 9A.44.130 or if lacking a fixed residence as provided in RCW 9A.44.130, and all registered kidnapping offenders in the state of Washington.

(i) For level III offenders, the web site shall contain, but is not limited to, the registered sex offender's name, relevant criminal convictions, address by hundred block, physical description, and photograph. The web site shall provide mapping capabilities that display the sex offender's address by hundred block on a map. The web site shall allow citizens to search for registered sex offenders within the state of Washington by county, city, zip code, last name, and address by hundred block.

(ii) For level II offenders, and level I sex offenders during the time they are out of compliance with registration requirements under RCW 9A.44.130, the web site shall contain, but is not limited to, the same information and functionality as described in (a)(i) of this subsection, provided that it is permissible under state and federal law. If it is not permissible, the web site shall be limited to the information and functionality that is permissible under state and federal law.

(iii) For kidnapping offenders, the web site shall contain, but is not limited to, the same information and functionality as described in (a)(i) of this subsection, provided that it is permissible under state and federal law. If it is not permissible, the web site shall be limited to the information and functionality that is permissible under state and federal law.

~~(b) ((Until the implementation of (a) of this subsection, the Washington association of sheriffs and police chiefs shall create a web site available to the public that provides electronic links to county-operated web sites that offer sex offender registration information.))~~ Law enforcement agencies must provide information requested by the Washington association of sheriffs and police chiefs to administer the statewide registered kidnapping and sex offender web site.

(c)(i) Within five business days of the Washington association of sheriffs and police chiefs receiving any public record request under chapter 42.56 RCW for sex offender and kidnapping offender information, records or web site data it holds or maintains pursuant to this section or a unified sex offender registry, the Washington association of sheriffs and police chiefs shall refer the requester in writing to the appropriate law enforcement agency or agencies for submission of such a request. The Washington association of sheriffs and police chiefs shall

have no further obligation under chapter 42.56 RCW for responding to such a request.

(ii) This subparagraph (c) of this section is remedial and applies retroactively.

(6) ~~((Local))~~ (a) Law enforcement agencies ~~((that disseminate information pursuant to this section))~~ responsible for the registration and dissemination of information regarding offenders required to register under RCW 9A.44.130 shall assign a risk level classification to all offenders after consideration of: ~~((Review))~~ (i) Any available risk level classifications ~~((made))~~ provided by the department of corrections, the department of social and health services, and the indeterminate sentence review board; ~~((b) assign risk level classifications to all offenders about whom information will be disseminated))~~ (ii) the agency's own application of a sex offender risk assessment tool; and (iii) other information and aggravating or mitigating factors known to the agency and deemed rationally related to the risk posed by the offender to the community at large.

(b) A sex offender shall be classified as a risk level I if his or her risk assessment and other information or factors deemed relevant by the law enforcement agency indicate he or she is at a low risk to sexually reoffend within the community at large. A sex offender shall be classified as a risk level II if his or her risk assessment and other information or factors deemed relevant by the law enforcement agency indicate he or she is at a moderate risk to sexually reoffend within the community at large. A sex offender shall be classified as a risk level III if his or her risk assessment and other information or factors deemed relevant by the law enforcement agency indicate he or she is at a high risk to sexually reoffend within the community at large.

(c) The agency shall make a good faith effort to notify the public and residents within a reasonable period of time after the offender registers with the agency.

~~((The juvenile court shall provide local law enforcement officials with all relevant information on offenders allowed to remain in the community in a timely manner-))~~ (d) Agencies may develop a process to allow an offender to petition for review of the offender's assigned risk level classification. The timing, frequency, and process for review are at the sole discretion of the agency.

(7) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any discretionary risk level classification decisions or release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity in this section applies to risk level classification decisions and the release of relevant and necessary information regarding any individual for whom disclosure is authorized. The decision of a ~~((local))~~ law enforcement agency or official to classify an offender to a risk level other than the one assigned by the department of corrections, the department of social and health services, or the indeterminate sentence review board, or the release of any relevant and necessary information based on that different classification shall not, by itself, be considered gross negligence or bad faith. The immunity provided under this

section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(8) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section.

(9) Nothing in this section implies that information regarding persons designated in subsection (1) of this section is confidential except as may otherwise be provided by law.

(10) When a ~~(local)~~ law enforcement agency or official classifies an offender differently than the offender is classified by the end of sentence review committee ~~((or the department of social and health services))~~ at the time of the offender's release from confinement, the law enforcement agency or official shall notify the end of sentence review committee ~~((or the department of social and health services))~~ and the Washington state patrol and submit its reasons supporting the change in classification.

(11) As used in this section, "law enforcement agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

Sec. 2. RCW 9A.44.128 and 2014 c 188 s 2 are each amended to read as follows:

For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200, 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Conviction" means any adult conviction or juvenile adjudication for a sex offense or kidnapping offense.

(3) "Disqualifying offense" means a conviction for: Any offense that is a felony; a sex offense as defined in this section; a crime against children or persons as defined in RCW 43.43.830(7) and 9.94A.411(2)(a); an offense with a domestic violence designation as provided in RCW 10.99.020; permitting the commercial sexual abuse of a minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88 RCW.

(4) "Employed" or "carries on a vocation" means employment that is full time or part time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(5) "Fixed residence" means a building that a person lawfully and habitually uses as living quarters a majority of the week. Uses as living quarters means to conduct activities consistent with the common understanding of residing, such as sleeping; eating; keeping personal belongings; receiving mail; and paying utilities, rent, or mortgage. A nonpermanent structure including, but not limited to, a motor home, travel trailer, camper, or boat may qualify as a residence provided it is lawfully and habitually used as living quarters a majority of the week, primarily kept at one location with a physical address, and the location it is kept at is either owned or rented by the person or used by the person with the permission of the owner or renter. A shelter program may qualify as a residence provided it is a shelter program designed to provide temporary living accommodations for the homeless, provides an offender with a personally

assigned living space, and the offender is permitted to store belongings in the living space.

(6) "In the community" means residing outside of confinement or incarceration for a disqualifying offense.

(7) "Institution of higher education" means any public or private institution dedicated to postsecondary education, including any college, university, community college, trade, or professional school.

(8) "Kidnapping offense" means:

(a) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent;

(b) Any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection; ~~((and))~~

(c) Any federal or out-of-state conviction for: An offense for which the person would be required to register as a kidnapping offender if residing in the state of conviction; or, if not required to register in the state of conviction, an offense that under the laws of this state would be classified as a kidnapping offense under this subsection; and

(d) Any tribal conviction for an offense for which the person would be required to register as a kidnapping offender while residing in the reservation of conviction; or, if not required to register in the reservation of conviction, an offense that under the laws of this state would be classified as a kidnapping offense under this subsection.

(9) "Lacks a fixed residence" means the person does not have a living situation that meets the definition of a fixed residence and includes, but is not limited to, a shelter program designed to provide temporary living accommodations for the homeless, an outdoor sleeping location, or locations where the person does not have permission to stay.

(10) "Sex offense" means:

(a) Any offense defined as a sex offense by RCW 9.94A.030;

(b) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(c) Any violation under RCW 9A.40.100(1)(b)(ii) (trafficking);

(d) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(e) A violation under RCW 9A.88.070 (promoting prostitution in the first degree) or RCW 9A.88.080 (promoting prostitution in the second degree) if the person has a prior conviction for one of these offenses;

(f) Any violation under RCW 9A.40.100(1)(a)(i)(A) (III) or (IV) or (a)(i)(B);

(g) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection;

(h) Any out-of-state conviction for an offense for which the person would be required to register as a sex offender while residing in the state of conviction; or, if not required to register in the state of conviction, an offense that under the laws of this state would be classified as a sex offense under this subsection;

(i) Any federal conviction classified as a sex offense under 42 U.S.C. Sec. 16911 (SORNA);

(j) Any military conviction for a sex offense. This includes sex offenses under the uniform code of military justice, as specified by the United States secretary of defense;

(k) Any conviction in a foreign country for a sex offense if it was obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established pursuant to 42 U.S.C. Sec. 16912;

(l) Any tribal conviction for an offense for which the person would be required to register as a sex offender while residing in the reservation of conviction; or, if not required to register in the reservation of conviction, an offense that under the laws of this state would be classified as a sex offense under this subsection.

(11) "School" means a public or private school regulated under Title 28A RCW or chapter 72.40 RCW.

(12) "Student" means a person who is enrolled, on a full-time or part-time basis, in any school or institution of higher education.

Sec. 3. RCW 9A.44.130 and 2011 c 337 s 3 are each amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. When a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection must give notice to the county sheriff of the county with whom the person is registered within three business days:

(i) Prior to arriving at a school or institution of higher education to attend classes;

(ii) Prior to starting work at an institution of higher education; or

(iii) After any termination of enrollment or employment at a school or institution of higher education.

(2)(a) A person required to register under this section must provide the following information when registering: (i) Name and any aliases used; (ii) complete and accurate residential address or, if the person lacks a fixed residence, where he or she plans to stay; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) social security number; (viii) photograph; and (ix) fingerprints.

(b) A person may be required to update any of the information required in this subsection in conjunction with any address verification conducted by the county sheriff or as part of any notice required by this section.

(c) A photograph or copy of an individual's fingerprints may be taken at any time to update an individual's file.

(3) Any person required to register under this section who intends to travel outside the United States must provide, by certified mail, with return receipt requested, or in person, signed written notice of the plan to travel outside the country to the county sheriff of the county with whom the person is registered at least twenty-one days prior to travel. The notice shall include the following information: (a) Name; (b) passport number and country; (c) destination; (d) itinerary details including departure and return dates; (e) means of travel; and (f) purpose of travel. If the offender subsequently cancels or postpones travel outside the United States, the offender must notify the county sheriff not later than three days after cancellation or postponement of the intended travel outside the United States or on the departure date provided in the notification, whichever is earlier. The county sheriff shall notify the United States marshals service as soon as practicable after receipt of the notification. In cases of unexpected travel due to family or work emergencies, or for offenders who travel routinely across international borders for work-related purposes, the notice must be submitted in person at least twenty-four hours prior to travel to the sheriff of the county where such offenders are registered with a written explanation of the circumstances that make compliance with this subsection (3) impracticable.

(4)(a) Offenders shall register with the county sheriff within the following deadlines:

(i) ~~OFFENDERS IN CUSTODY. ((A)) Sex offenders ((who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B)) or kidnapping offenders who ((on or after July 27, 1997;)) are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register.~~

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting

the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

When a person required to register under this section is in the custody of the state department of corrections or a local corrections or probations agency and has been approved for partial confinement as defined in RCW 9.94A.030, the person must register at the time of transfer to partial confinement with the official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county in which the offender is in partial confinement. The offender must also register within three business days from the time of the termination of partial confinement or release from confinement with the county sheriff for the county of the person's residence. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register.

~~(ii) ((OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence.~~

~~(iii)) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders ((who, on or after July 23, 1995, and)) or kidnapping offenders who((, on or after July 27, 1997, as a result of that offense)) are in the custody of the United States bureau of prisons or other federal or military correctional agency ((for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997,)) must register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. ((Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(iii) as of July 23, 1995, or a kidnapping~~

offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation.

~~(iv))~~ (iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense ~~((on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990,))~~ and kidnapping offenders who are convicted ~~((on or after July 27, 1997,))~~ for a kidnapping offense ~~((that was committed on or after July 27, 1997,))~~ but who are not sentenced to serve a term of confinement immediately upon sentencing~~((;))~~ shall report to the county sheriff to register within three business days of being sentenced.

~~((iv))~~ (iv) OFFENDERS WHO ARE NEW RESIDENTS, TEMPORARY RESIDENTS, OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country ~~((that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington,))~~ must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. ~~((The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within three business days of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.~~

(vi)) If the offender is under the jurisdiction of an agency of this state when the offender moves to Washington, the agency shall provide notice to the offender of the duty to register.

Sex offenders and kidnapping offenders who are visiting Washington state and intend to reside or be present in the state for ten days or more shall register his or her temporary address or where he or she plans to stay with the county sheriff of each county where the offender will be staying within three business days of arrival. Registration for temporary residents shall include the information required by subsection (2)(a) of this section, except the photograph and fingerprints.

(v) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of ~~((A))~~ committing a sex offense ~~((on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services.))~~ or ~~((B) committing))~~ a kidnapping offense ~~((on, before, or after July 27, 1997,))~~ and

who (~~on or after July 27, 1997,~~) is in custody, as a result of that finding, of the state department of social and health services, must register within three business days from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. (~~Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within three business days of receiving notice of this registration requirement.~~

~~(vii))~~ (vi) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than three business days after entering the county and provide the information required in subsection (2)(a) of this section.

~~((viii))~~ (vii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

~~((ix))~~ (viii) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within three business days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within three business days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of RCW 9A.44.132, or arraignment on charges for a violation of RCW 9A.44.132, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under RCW 9A.44.132 who asserts as a defense the lack of notice of the duty to register shall register within three business days following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection ~~((3))~~ (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

~~((d))~~ The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

~~(4))~~ (5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must

provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address to the county sheriff within three business days of moving.

(b) If any person required to register pursuant to this section moves to a new county, within three business days of moving the person must register with ~~((that))~~ the county sheriff ~~((within three business days of moving. Within three business days, the person must also))~~ of the county into which the person has moved and provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address ~~((in the new county))~~ to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered ~~((shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency))~~ is responsible for address verification pursuant to RCW 9A.44.135 until the person completes registration of his or her new residence address.

~~((5))~~ (6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within three business days after ceasing to have a fixed residence. The notice shall include the information required by subsection (2)(a) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The person must keep an accurate accounting of where he or she stays during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within three business days of ceasing to have a fixed residence and has subsequently complied with the requirements of subsections ~~((3))~~ (4)(a)((vii)) (vi) or ~~((viii))~~ (vii) and ~~((5))~~ (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

~~((6))~~ (7) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will

interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within three business days of the entry of the order.

~~((7))~~ (8) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.44 RCW to read as follows:

(1) RCW 9A.44.128 through 9A.44.145 apply to offenders who committed their crimes and were adjudicated within the following time frames:

(a) Sex offenders convicted of a sex offense on or after July 28, 1991, for a sex offense committed on or after February 28, 1990;

(b) Kidnapping offenders convicted of a kidnapping offense on or after July 27, 1997, for a kidnapping offense committed on or after July 27, 1997;

(c) Sex offenders who, on or after July 28, 1991, were in the custody or under the jurisdiction of the department of corrections, the department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as the result of a sex offense, regardless of when the sex offense was committed;

(d) Kidnapping offenders who, on or after July 27, 1997, were in the custody or under the jurisdiction of the department of corrections, the department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as the result of a kidnapping offense, regardless of when the kidnapping offense was committed;

(e) Any person who is or has been determined to be a sexually violent predator pursuant to chapter 71.09 RCW;

(f) Sex offenders who, on or after July 23, 1995, were in the custody or under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board as the result of a sex offense, regardless of when the sex offense was committed;

(g) Kidnapping offenders who, on or after July 27, 1997, were in the custody or under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board as the result of a kidnapping offense, regardless of when the kidnapping offense was committed;

(h) Sex offenders who move to Washington state from another state, tribe, or a foreign country and who were convicted of a sex offense under the laws of this state, another state, a foreign country, tribe, or other federal or military tribunal, regardless of when the sex offense was committed or the conviction occurred;

(i) Kidnapping offenders who move to Washington state from another state, tribe, or a foreign country and who were convicted of a kidnapping offense under the laws of this state, another state, a foreign country, tribe, or other federal or military tribunal, regardless of when the kidnapping offense was committed or the conviction occurred;

(j) Any adult or juvenile found not guilty by reason of insanity under chapter 10.77 RCW of committing a sex offense or of committing a kidnapping offense, regardless of when the offense was committed.

(2) The provisions of this section do not relieve any sex offender of the duty to register under the law as it existed prior to July 28, 1991.

Sec. 5. RCW 9A.44.132 and 2011 c 337 s 5 are each amended to read as follows:

(1) A person commits the crime of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a felony sex offense and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) The failure to register as a sex offender pursuant to this subsection is a class C felony if:

(i) It is the person's first conviction for a felony failure to register; or

(ii) The person has previously been convicted of a felony failure to register as a sex offender in this state or pursuant to the laws of another state, or pursuant to federal law.

(b) If a person has been convicted of a felony failure to register as a sex offender in this state or pursuant to the laws of another state, or pursuant to federal law, on two or more prior occasions, the failure to register under this subsection is a class B felony.

(2) A person is guilty of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a sex offense other than a felony and knowingly fails to comply with any of the requirements of RCW 9A.44.130. The failure to register as a sex offender under this subsection is a gross misdemeanor.

(3) A person commits the crime of failure to register as a kidnapping offender if the person has a duty to register under RCW 9A.44.130 for a kidnapping offense and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) If the person has a duty to register for a felony kidnapping offense, the failure to register as a kidnapping offender is a class C felony.

(b) If the person has a duty to register for a kidnapping offense other than a felony, the failure to register as a kidnapping offender is a gross misdemeanor.

(4) A person commits the crime of refusal to provide DNA if the person has a duty to register under RCW 9A.44.130 and the person willfully refuses to comply with a legal request for a DNA sample as required under RCW 43.43.754(1)(b). The refusal to provide DNA is a gross misdemeanor.

(5) Unless relieved of the duty to register pursuant to RCW 9A.44.141 and 9A.44.142, a violation of this section is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

Sec. 6. RCW 9A.44.140 and 2010 c 267 s 4 are each amended to read as follows:

The duty to register under RCW 9A.44.130 shall continue for the duration provided in this section.

(1) For a person convicted in this state of a class A felony (~~or an offense listed in RCW 9A.44.142(5)~~), or a person convicted (~~in this state~~) of any sex offense or kidnapping offense who has one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall continue indefinitely.

(2) For a person convicted in this state of a class B felony who does not have one or more prior convictions for a sex offense or kidnapping offense (~~and whose current offense is not listed in RCW 9A.44.142(5)~~), the duty to register shall end fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen consecutive years in the community without being convicted of a disqualifying offense during that time period.

(3) For a person convicted in this state of a class C felony, a violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to commit a class C felony, and the person does not have one or more prior convictions for a sex offense or kidnapping offense (~~and the person's current offense is not listed in RCW 9A.44.142(5)~~), the duty to register shall end ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of a disqualifying offense during that time period.

(4) Except as provided in RCW 9A.44.142, for a person required to register for a federal, tribal, or out-of-state conviction, the duty to register shall continue indefinitely.

(5) For a person who is or has been determined to be a sexually violent predator pursuant to chapter 71.09 RCW, the duty to register shall continue for the person's lifetime.

(6) Nothing in this section prevents a person from being relieved of the duty to register under RCW 9A.44.142 and 9A.44.143.

~~((6))~~ (7) Nothing in RCW 9.94A.637 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to RCW 9A.44.130.

~~((7))~~ (8) For purposes of determining whether a person has been convicted of more than one sex offense, failure to register as a sex offender or kidnapping offender is not a sex or kidnapping offense.

~~((8))~~ (9) The provisions of this section and RCW 9A.44.141 through 9A.44.143 apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a sex offense or kidnapping offense.

Sec. 7. RCW 9A.44.141 and 2011 c 337 s 6 are each amended to read as follows:

(1) Upon the request of a person who is listed in the Washington state patrol central registry of sex offenders and kidnapping offenders, the county sheriff shall investigate whether a person's duty to register has ended by operation of law pursuant to RCW 9A.44.140.

(a) Using available records, the county sheriff shall verify that the offender has spent the requisite time in the community and has not been convicted of a disqualifying offense.

(b) If the county sheriff determines the person's duty to register has ended by operation of law, the county sheriff shall request the Washington state patrol remove the person's name from the central registry.

(2) Nothing in this subsection prevents a county sheriff from investigating, upon his or her own initiative, whether a person's duty to register has ended by operation of law pursuant to RCW 9A.44.140.

(3)(a) A person who is listed in the central registry as the result of a federal, tribal, or out-of-state conviction may request the county sheriff to investigate whether the person should be removed from the registry if:

(i) A court or other administrative authority in the person's state of conviction has made an individualized determination that the person ~~((should))~~ is not ((be)) required to register; and

(ii) The person provides proof of relief from registration to the county sheriff.

(b) If the county sheriff determines the person has been relieved of the duty to register in his or her state of conviction, the county sheriff shall request the Washington state patrol remove the person's name from the central registry.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for removing or requesting the removal of a person from the central registry of sex offenders and kidnapping offenders or the failure to remove or request removal of a person within the time frames provided in RCW 9A.44.140.

Sec. 8. RCW 9A.44.142 and 2011 c 337 s 7 are each amended to read as follows:

(1) A person who is required to register under RCW 9A.44.130 may petition the superior court to be relieved of the duty to register:

(a) If the person has a duty to register for a sex offense or kidnapping offense committed when the offender was a juvenile, regardless of whether the conviction was in this state, as provided in RCW 9A.44.143;

(b) If the person is required to register for a conviction in this state and is not prohibited from petitioning for relief from registration under subsection (2) of this section, when the person has spent ten consecutive years in the community without being convicted of a disqualifying offense during that time period; or

(c) If the person is required to register for a federal, tribal, or out-of-state conviction, when the person has spent fifteen consecutive years in the community without being convicted of a disqualifying offense during that time period.

(2)(a) A person may not petition for relief from registration if the person has been:

(i) Determined to be a sexually violent predator ~~((as defined in RCW 71.09.020))~~ pursuant to chapter 71.09 RCW; or

(ii) Convicted as an adult of a sex offense or kidnapping offense that is a class A felony and that was committed with forcible compulsion on or after June 8, 2000~~((or~~

~~((iii) Until July 1, 2012, convicted of one aggravated offense or more than one sexually violent offense, as defined in subsection (5) of this section, and the offense or offenses were committed on or after March 12, 2002. After July 1, 2012, this subsection (2)(a)(iii) shall have no further force and effect)).~~

(b) Any person who may not be relieved of the duty to register may petition the court to be exempted from any community notification requirements that the person may be subject to fifteen years after the later of the judgment and sentence or the last date of release from confinement, including full-time residential treatment, pursuant to the conviction, if the person has spent the time in the community without being convicted of a disqualifying offense.

(3) A petition for relief from registration or exemption from notification under this section shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register or, in the case of convictions in other states, a foreign country, or a federal, tribal, or military court, to the court in the county where the person is registered at the time the petition is sought. The prosecuting attorney of the county shall be named and served as the respondent in any such petition.

(4)(a) The court may relieve a petitioner of the duty to register only if the petitioner shows by clear and convincing evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

(b) In determining whether the petitioner is sufficiently rehabilitated to warrant removal from the registry, the following factors are provided as guidance to assist the court in making its determination:

(i) The nature of the registrable offense committed including the number of victims and the length of the offense history;

(ii) Any subsequent criminal history;

(iii) The petitioner's compliance with supervision requirements;

(iv) The length of time since the charged incident(s) occurred;

(v) Any input from community corrections officers, law enforcement, or treatment providers;

(vi) Participation in sex offender treatment;

(vii) Participation in other treatment and rehabilitative programs;

(viii) The offender's stability in employment and housing;

(ix) The offender's community and personal support system;

(x) Any risk assessments or evaluations prepared by a qualified professional;

(xi) Any updated polygraph examination;

(xii) Any input of the victim;

(xiii) Any other factors the court may consider relevant.

~~(5)((a) A person who has been convicted of an aggravated offense, or has been convicted of one or more prior sexually violent offenses or criminal offenses against a victim who is a minor, as defined in (b) of this subsection:~~

~~(i) Until July 1, 2012, may not be relieved of the duty to register;~~

~~(ii) After July 1, 2012, may petition the court to be relieved of the duty to register as provided in this section;~~

~~(iii) This provision shall apply to convictions for crimes committed on or after July 22, 2001.~~

~~(b) Unless the context clearly requires otherwise, the following definitions apply only to the federal lifetime registration requirements under this subsection:~~

~~(i) "Aggravated offense" means an adult conviction that meets the definition of 18 U.S.C. Sec. 2241, which is limited to the following:~~

~~(A) Any sex offense involving sexual intercourse or sexual contact where the victim is under twelve years of age;~~

~~(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape of a child in the first degree), or RCW 9A.44.083 (child molestation in the first degree);~~

~~(C) Any of the following offenses when committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or~~

~~permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct: RCW 9A.44.050 (rape in the second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160 (custodial sexual misconduct in the first degree), RCW 9A.64.020 (incest), or RCW 9.68A.040 (sexual exploitation of a minor);~~

~~(D) Any of the following offenses when committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct, if the victim is twelve years of age or over but under sixteen years of age and the offender is eighteen years of age or over and is more than forty-eight months older than the victim: RCW 9A.44.076 (rape of a child in the second degree), RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086 (child molestation in the second degree), or RCW 9A.44.089 (child molestation in the third degree);~~

~~(E) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is under twelve years of age or that is committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct;~~

~~(F) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or~~

~~(G) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(i)(A) through (F) of this subsection.~~

~~(ii) "Sexually violent offense" means an adult conviction that meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is limited to the following:~~

~~(A) An aggravated offense;~~

~~(B) An offense that is not an aggravated offense but meets the definition of 18 U.S.C. Sec. 2242, which is limited to RCW 9A.44.050(1) (b) through (f) (rape in the second degree) and RCW 9A.44.100(1) (b) through (f) (indecent liberties);~~

~~(C) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is incapable of appraising the nature of the conduct or physically incapable of declining participation in, or communicating unwillingness to engage in, the conduct;~~

~~(D) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or~~

~~(E) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(ii)(A) through (D) of this subsection.~~

~~(iii) "Criminal offense against a victim who is a minor" means, in addition to any aggravated offense or sexually violent offense where the victim was under eighteen years of age, an adult conviction for the following offenses where the victim is under eighteen years of age:~~

~~(A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape of a child in the second degree), RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086 (child molestation in the second degree), RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093 (sexual misconduct with a minor in the first degree), RCW 9A.44.096 (sexual misconduct with a minor in~~

~~the second degree), RCW 9A.44.160 (custodial sexual misconduct in the first degree), RCW 9A.64.020 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090 (communication with a minor for immoral purposes), or RCW 9.68A.100 (commercial sexual abuse of a minor);~~

~~(B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030 (kidnapping in the second degree), or RCW 9A.40.040 (unlawful imprisonment), where the victim is a minor and the offender is not the minor's parent;~~

~~(C) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is a minor;~~

~~(D) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or~~

~~(E) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(iii)(A) through (D) of this subsection)) If a person is relieved of the duty to register pursuant to this section, the relief of registration does not constitute a certificate of rehabilitation, or the equivalent of a certificate of rehabilitation, for the purposes of restoration of firearm possession under RCW 9.41.040.~~

Sec. 9. RCW 9A.44.143 and 2011 c 338 s 1 are each amended to read as follows:

(1) An offender having a duty to register under RCW 9A.44.130 for a sex offense or kidnapping offense committed when the offender was a juvenile, and who has not been determined to be a sexually violent predator pursuant to chapter 71.09 RCW may petition the superior court to be relieved of that duty as provided in this section.

(2) For class A sex offenses or kidnapping offenses committed when the petitioner was fifteen years of age or older, the court may relieve the petitioner of the duty to register if:

(a) At least sixty months have passed since the petitioner's adjudication and completion of any term of confinement for the offense giving rise to the duty to register and the petitioner has not been adjudicated or convicted of any additional sex offenses or kidnapping offenses within the sixty months before the petition;

(b) The petitioner has not been adjudicated or convicted of a violation of RCW 9A.44.132 (failure to register) during the sixty months prior to filing the petition; and

(c) The petitioner shows by a preponderance of the evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

(3) For all other sex offenses or kidnapping offenses committed by a juvenile not included in subsection (2) of this section, the court may relieve the petitioner of the duty to register if:

(a) At least twenty-four months have passed since the petitioner's adjudication and completion of any term of confinement for the offense giving rise to the duty to register and the petitioner has not been adjudicated or convicted of any additional sex offenses or kidnapping offenses within the twenty-four months before the petition;

(b) The petitioner has not been adjudicated or convicted of a violation of RCW 9A.44.132 (failure to register) during the twenty-four months prior to filing the petition; and

(c) The petitioner shows by a preponderance of the evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

(4) A petition for relief from registration under this section shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in ~~((Thurston))~~ the county in which the juvenile is registered at the time a petition is sought. The prosecuting attorney of the county shall be named and served as the respondent in any such petition.

(5) In determining whether the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders, the following factors are provided as guidance to assist the court in making its determination, to the extent the factors are applicable considering the age and circumstances of the petitioner:

(a) The nature of the registrable offense committed including the number of victims and the length of the offense history;

(b) Any subsequent criminal history;

(c) The petitioner's compliance with supervision requirements;

(d) The length of time since the charged incident(s) occurred;

(e) Any input from community corrections officers, juvenile parole or probation officers, law enforcement, or treatment providers;

(f) Participation in sex offender treatment;

(g) Participation in other treatment and rehabilitative programs;

(h) The offender's stability in employment and housing;

(i) The offender's community and personal support system;

(j) Any risk assessments or evaluations prepared by a qualified professional;

(k) Any updated polygraph examination;

(l) Any input of the victim;

(m) Any other factors the court may consider relevant.

(6) If a person is relieved of the duty to register pursuant to this section, the relief of registration does not constitute a certificate of rehabilitation, or the equivalent of a certificate of rehabilitation, for the purposes of restoration of firearm possession under RCW 9.41.040.

(7) A juvenile prosecuted and convicted of a sex offense or kidnapping offense as an adult pursuant to RCW 13.40.110 or 13.04.030 may not petition to the superior court under this section and must follow the provisions of RCW 9A.44.142.

(8) An adult prosecuted for an offense committed as a juvenile once the juvenile court has lost jurisdiction due to the passage of time between the date of the offense and the date of filing of charges may petition the superior court under the provisions of this section.

Sec. 10. RCW 43.43.754 and 2008 c 97 s 2 are each amended to read as follows:

(1) A biological sample must be collected for purposes of DNA identification analysis from:

(a) Every adult or juvenile individual convicted of a felony, or any of the following crimes (or equivalent juvenile offenses):

Assault in the fourth degree with sexual motivation (RCW 9A.36.041, 9.94A.835)

Communication with a minor for immoral purposes (RCW 9.68A.090)

Custodial sexual misconduct in the second degree (RCW 9A.44.170)

Failure to register (RCW 9A.44.130 for persons convicted on or before June 10, 2010, and RCW 9A.44.132 for persons convicted after June 10, 2010)

Harassment (RCW 9A.46.020)

Patronizing a prostitute (RCW 9A.88.110)

Sexual misconduct with a minor in the second degree (RCW 9A.44.096)

Stalking (RCW 9A.46.110)

Violation of a sexual assault protection order granted under chapter 7.90 RCW; and

(b) Every adult or juvenile individual who is required to register under RCW 9A.44.130.

(2) If the Washington state patrol crime laboratory already has a DNA sample from an individual for a qualifying offense, a subsequent submission is not required to be submitted.

(3) Biological samples shall be collected in the following manner:

(a) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense who do not serve a term of confinement in a department of corrections facility, and do serve a term of confinement in a city or county jail facility, the city or county shall be responsible for obtaining the biological samples.

(b) The local police department or sheriff's office shall be responsible for obtaining the biological samples for:

(i) Persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense who do not serve a term of confinement in a department of corrections facility, and do not serve a term of confinement in a city or county jail facility; and

(ii) Persons who are required to register under RCW (~~9A.44.030~~) 9A.44.130.

(c) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who are serving or who are to serve a term of confinement in a department of corrections facility or a department of social and health services facility, the facility holding the person shall be responsible for obtaining the biological samples. For those persons incarcerated before June 12, 2008, who have not yet had a biological sample collected, priority shall be given to those persons who will be released the soonest.

(4) Any biological sample taken pursuant to RCW 43.43.752 through 43.43.758 may be retained by the forensic laboratory services bureau, and shall be used solely for the purpose of providing DNA or other tests for identification analysis and prosecution of a criminal offense or for the identification of human remains or missing persons. Nothing in this section prohibits the submission of results derived from the biological samples to the federal bureau of investigation combined DNA index system.

(5) The forensic laboratory services bureau of the Washington state patrol is responsible for testing performed on all biological samples that are collected under subsection (1) of this section, to the extent allowed by funding available for this purpose. The director shall give priority to testing on samples collected from those adults or juveniles convicted of a felony or adjudicated guilty of an equivalent juvenile offense that is defined as a sex offense or a violent offense in RCW 9.94A.030. Known duplicate samples may be excluded from testing unless testing is deemed necessary or advisable by the director.

(6) This section applies to:

(a) All adults and juveniles to whom this section applied prior to June 12, 2008;

(b) All adults and juveniles to whom this section did not apply prior to June 12, 2008, who:

(i) Are convicted on or after June 12, 2008, of an offense listed in subsection (1)(a) of this section; or

(ii) Were convicted prior to June 12, 2008, of an offense listed in subsection (1)(a) of this section and are still incarcerated on or after June 12, 2008; and

(c) All adults and juveniles who are required to register under RCW 9A.44.130 on or after June 12, 2008, whether convicted before, on, or after June 12, 2008.

(7) This section creates no rights in a third person. No cause of action may be brought based upon the noncollection or nonanalysis or the delayed collection or analysis of a biological sample authorized to be taken under RCW 43.43.752 through 43.43.758.

(8) The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the sample was obtained or placed in the database by mistake, or if the conviction or juvenile adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including but not limited to posttrial or postfact-finding motions, appeals, or collateral attacks.

(9) A person commits the crime of refusal to provide DNA if the person has a duty to register under RCW 9A.44.130 and the person willfully refuses to comply with a legal request for a DNA sample as required under this section. The refusal to provide DNA is a gross misdemeanor.

Sec. 11. RCW 9.94A.515 and 2013 c 322 s 26, 2013 c 290 s 8, 2013 c 267 s 2, and 2013 c 153 s 2 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)~~))
(3)
- XI Manslaughter 1 (RCW 9A.32.060)
 - Rape 2 (RCW 9A.44.050)
 - Rape of a Child 2 (RCW 9A.44.076)
 - Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- 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)
- 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 Prostitution 1 (RCW 9A.88.070)
- Theft of Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)
- Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))

- Introducing Contraband 1 (RCW 9A.76.140)
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
- Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
 - Bribery (RCW 9A.68.010)
 - Incest 1 (RCW 9A.64.020(1))
 - Intimidating a Judge (RCW 9A.72.160)
 - Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
 - Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
 - Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
 - Rape of a Child 3 (RCW 9A.44.079)
 - Theft of a Firearm (RCW 9A.56.300)
 - Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)
 - Advancing money or property for extortionate extension of credit (RCW 9A.82.030)

Bail Jumping with class A Felony
(RCW 9A.76.170(3)(b))

Child Molestation 3 (RCW 9A.44.089)

Criminal Mistreatment 2 (RCW
9A.42.030)

Custodial Sexual Misconduct 1 (RCW
9A.44.160)

Dealing in Depictions of Minor
Engaged in Sexually Explicit
Conduct 2 (RCW 9.68A.050(2))

Domestic Violence Court Order
Violation (RCW 10.99.040,
10.99.050, 26.09.300, 26.10.220,
26.26.138, 26.50.110, 26.52.070,
or 74.34.145)

Driving While Under the Influence
(RCW 46.61.502(6))

Extortion 1 (RCW 9A.56.120)

Extortionate Extension of Credit (RCW
9A.82.020)

Extortionate Means to Collect
Extensions of Credit (RCW
9A.82.040)

Incest 2 (RCW 9A.64.020(2))

Kidnapping 2 (RCW 9A.40.030)

Perjury 1 (RCW 9A.72.020)

Persistent prison misbehavior (RCW
9.94.070)

Physical Control of a Vehicle While
Under the Influence (RCW
46.61.504(6))

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

Rape 3 (RCW 9A.44.060)

Rendering Criminal Assistance 1
(RCW 9A.76.070)

Sending, Bringing into State Depictions
of Minor Engaged in Sexually
Explicit Conduct 2 (RCW
9.68A.060(2))

- Sexual Misconduct with a Minor 1
(RCW 9A.44.093)
- Sexually Violating Human Remains
(RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without
Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a
Projectile Stun Gun) (RCW
9A.36.031(1)(h))
- Assault by Watercraft (RCW
79A.60.060)
- Bribing a Witness/Bribe Received by
Witness (RCW 9A.72.090,
9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled
Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW
46.52.020(4)(b))
- Hit and Run with Vessel—Injury
Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under
Age Fourteen (subsequent sex
offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event
(RCW 9A.82.070)
- Malicious Harassment (RCW
9A.36.080)
- Possession of Depictions of a Minor
Engaged in Sexually Explicit
Conduct 2 (RCW 9.68A.070(2))
- Residential Burglary (RCW
9A.52.025)

- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW 9A.82.050)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))
- Unlicensed practice as an insurance professional (RCW 48.17.063(2))
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
- 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)

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 Special 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 Hunting of Big Game 1 (RCW 77.15.410(3)(b))
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful Misbranding of Food Fish or Shellfish 1 (RCW 69.04.938(3))
- Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
- Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
- Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
- 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 Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
- Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
- Escape from Community Custody (RCW 72.09.310)

- Failure to Register as a Sex Offender
(second or subsequent offense)
(RCW 9A.44.130 prior to June 10,
2010, and RCW 9A.44.132)
- 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 Special Circumstances
2 (RCW 9A.56.360(3))
- Scrap Processing, Recycling, or
Supplying Without a License
(second or subsequent offense)
(RCW 19.290.100)
- 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 Participation of Non-Indians
in Indian Fishery (RCW
77.15.570(2))

- Unlawful Practice of Law (RCW 2.48.180)
- Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))
- 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)
- Spotlighting Big Game 1 (RCW 77.15.450(3)(b))
- Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))
- 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)

Unlawful Fish and Shellfish Catch
 Accounting (RCW
 77.15.630(3)(b))

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 (~~Release of~~) Releasing,
 planting, possessing, or placing
 Deleterious Exotic Wildlife (RCW
 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps
 (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW
 9.91.144)

Unlawful Use of Net to Take Fish 1
 (RCW 77.15.580(3)(b))

Unlawful Use of Prohibited Aquatic
 Animal Species (RCW
 77.15.253(3))

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or
 Time 1 (RCW 77.15.550(3)(b))

Sec. 12. RCW 9.94A.030 and 2012 c 143 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) "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); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

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

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

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

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

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

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

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

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

(24) "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.

(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.

(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.

(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.

(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.

(29) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(30) "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.

(31) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

(32) "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.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1,

1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(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 this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(33) "Nonviolent offense" means an offense which is not a violent offense.

(34) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

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

(36) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

(37) "Persistent offender" is an offender who:

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

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

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a

child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (37)(b)(i); and

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

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

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

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

(41) "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.

(42) "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.

(43) "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.

(44) "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.

(45) "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.

(46) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

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

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

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

(47) "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.

(48) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(49) "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.

(50) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(51) "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.

(52) "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.

(53) "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.

(54) "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.

(55) "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.

(56) "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.

(57) "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. 13. RCW 28A.300.147 and 2011 c 338 s 6 are each amended to read as follows:

The superintendent of public instruction shall publish on its web site, with a link to the safety center web page(§):

(1) A revised and updated sample policy for schools to follow regarding students required to register as sex or kidnapping offenders; and

(2) Educational materials developed pursuant to RCW 28A.300.145.

Sec. 14. RCW 72.09.345 and 2011 c 338 s 5 are each amended to read as follows:

(1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public concerning offenders convicted of sex offenses.

(2) In order for (~~public~~) law enforcement agencies to have the information necessary to notify the public as authorized in RCW 4.24.550, the secretary shall establish and administer an end-of-sentence review committee for the purposes of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders.

(3) The committee shall assess, on a case-by-case basis, the public risk posed by:

(a) Offenders preparing for release from confinement for a sex offense or sexually violent offense committed on or after July 1, 1984;

(b) Sex offenders accepted from another state under a reciprocal agreement under the interstate corrections compact authorized in chapter 72.74 RCW;

(c) Juveniles preparing for release from confinement for a sex offense and releasing from the department of social and health services juvenile rehabilitation administration;

(d) Juveniles, following disposition, under the jurisdiction of a county juvenile court for a registerable sex offense; and

(e) Juveniles found to have committed a sex offense and accepted from another state under a reciprocal agreement under the interstate compact for juveniles authorized in chapter 13.24 RCW.

(4) Notwithstanding any other provision of law, the committee shall have access to all relevant records and information in the possession of public agencies relating to the offenders under review, including police reports; prosecutors' statements of probable cause; presentence investigations and reports; complete judgments and sentences; current classification referrals; criminal history summaries; violation and disciplinary reports; all psychological evaluations and psychiatric hospital reports; sex offender treatment program reports; and juvenile records. Records and information obtained under this subsection shall not be disclosed outside the committee unless otherwise authorized by law.

(5) The committee shall review each sex offender under its authority before the offender's release from confinement or start of the offender's term of community custody in order to: (a) Classify the offender into a risk level for the purposes of public notification under RCW 4.24.550; (b) where available, review the offender's proposed release plan in accordance with the requirements of RCW 72.09.340; and (c) make appropriate referrals.

(6) The committee shall classify as risk level I those sex offenders whose risk assessments indicate ((a)) they are at a low risk ((of reoffense)) to sexually reoffend within the community at large. The committee shall classify as risk level II those offenders whose risk assessments indicate ((a)) they are at a moderate risk ((of reoffense)) to sexually reoffend within the community at large. The committee shall classify as risk level III those offenders whose risk assessments indicate ((a)) they are at a high risk ((of reoffense)) to sexually reoffend within the community at large.

(7) The committee shall issue to appropriate law enforcement agencies, for their use in making public notifications under RCW 4.24.550, narrative notices regarding the pending release of sex offenders from the department's facilities. The narrative notices shall, at a minimum, describe the identity and criminal history behavior of the offender and shall include the department's risk level classification for the offender. For sex offenders classified as either risk level II or III, the narrative notices shall also include the reasons underlying the classification.

NEW SECTION. Sec. 15. The attorney general shall evaluate the availability of data to determine the comparability of sex and kidnapping offenses among the states, federal government, and other jurisdictions as needed to facilitate the implementation of RCW 9A.44.128. The attorney general shall recommend whether the creation of such a database is advisable. The attorney general shall report his or her findings to the appropriate policy committees of the legislature by December 1, 2015.

NEW SECTION. Sec. 16. (1) The sex offender policy board must review and make findings and recommendations regarding the following:

(a) Disclosure to the public of information compiled and submitted for the purposes of sex offender and kidnapping offender registries that is currently held by public agencies, including the relationship between chapter 42.56 RCW and RCW 4.24.550;

(b) Any other best practices adopted by or under consideration in other states regarding public disclosure of information compiled and submitted for the purposes of sex offender and kidnapping offender registries;

(c) Ability of registered sex offenders and kidnapping offenders to petition for review of their assigned risk level classification and whether such a review process should be conducted according to a uniform statewide standard; and

(d) The guidelines established under RCW 4.24.5501 addressing sex offender community notification, including whether and how public access to the guidelines can be improved.

(2) The sex offender policy board must report its findings and recommendations pursuant to this section to the governor and to the appropriate committees of the legislature on or before December 1, 2015.

Passed by the Senate April 22, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 262

[Engrossed Senate Bill 5262]

OFFICE OF CIVIL LEGAL AID--JUVENILE RECORDS

AN ACT Relating to access to juvenile case records for the Washington state office of civil legal aid; and reenacting and amending RCW 13.50.010.

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

Sec. 1. RCW 13.50.010 and 2014 c 175 s 2 and 2014 c 117 s 5 are each reenacted and amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of the family and children's ombuds, the department of social and health services and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(d) "Social file" means the juvenile court file containing the records and reports of the probation counselor.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) The court shall release to the caseload forecast council the records needed for its research and data-gathering functions. Access to caseload forecast data may be permitted by the council for research purposes only if the anonymity of all persons mentioned in the records or information will be preserved.

(10) Juvenile detention facilities shall release records to the caseload forecast council upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(11) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's ombuds.

(12) For the purpose of research only, the administrative office of the courts shall maintain an electronic research copy of all records in the judicial information system related to juveniles. Access to the research copy is restricted to the Washington state center for court research. The Washington state center for court research shall maintain the confidentiality of all confidential records and shall preserve the anonymity of all persons identified in the research copy. The research copy may not be subject to any records retention schedule and must include records destroyed or removed from the judicial information system pursuant to RCW 13.50.270 and 13.50.100(3).

(13) The court shall release to the Washington state office of public defense records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.70.020. Access to the records used as a basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of public defense. The Washington state office of public defense shall maintain the confidentiality of all confidential information included in the records.

(14) The court shall release to the Washington state office of civil legal aid records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.53.045. Access to the records used as a basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of civil legal aid. The Washington state office of civil legal aid shall maintain the confidentiality of all confidential information included in the records, and shall, as soon as possible, destroy any retained notes or records obtained under this section that are not necessary for its functions related to RCW 2.53.045.

Passed by the Senate April 21, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 263

[Engrossed Senate Bill 5471]

INSURANCE PRODUCTS--ELECTRONIC NOTICES--DOCUMENT DELIVERY

AN ACT Relating to electronic notices and document delivery of insurance products; and adding a new chapter to Title 48 RCW.

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

NEW SECTION. **Sec. 1.** The definitions in this subsection apply throughout this chapter unless the context clearly requires otherwise.

(1)(a)(i) "Delivered by electronic means" includes:

(A) Delivery to an electronic mail address at which a party has consented to receive notices or documents; or

(B) Posting on an electronic network or site accessible via the internet, mobile application, computer, mobile device, tablet, or any other electronic device, together with separate notice of the posting which shall be provided by

electronic mail to the address at which the party has consented to receive notice or by any other delivery method that has been consented to by the party.

(i) "Delivered by electronic means" does not include any communication between an insurer and an insurance producer relating to RCW 48.17.591 and 48.17.595.

(b) "Party" means any recipient of any notice or document required as part of an insurance transaction, including but not limited to an applicant, an insured, a policyholder, or an annuity contract holder.

(2) Subject to the requirements of this section, any notice to a party or any other document required under applicable law in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means so long as it meets the requirements of the Washington electronic authentication act (chapter 19.34 RCW).

(3) Delivery of a notice or document in accordance with this section is the equivalent to any delivery method required under applicable law, including delivery by first-class mail; first-class mail, postage prepaid; certified mail; or registered mail.

(4) A notice or document may be delivered by an insurer to a party by electronic means under this section only if:

(a) The party has affirmatively consented to that method of delivery and has not withdrawn the consent;

(b) The party, before giving consent, has been provided with a clear and conspicuous statement informing the party of:

(i) The right the party has to withdraw consent to have a notice or document delivered by electronic means at any time, and any conditions or consequences imposed in the event consent is withdrawn;

(ii) The types of notices and documents to which the party's consent would apply;

(iii) The right of a party to have a notice or document in paper form; and

(iv) The procedures a party must follow to withdraw consent to have a notice or document delivered by electronic means and to update the party's electronic mail address;

(c) The party:

(i) Before giving consent, has been provided with a statement of the hardware and software requirements for access to and retention of notices or documents delivered by electronic means; and

(ii) Consents electronically, or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for notices or documents delivered by electronic means as to which the party has given consent; and

(d) After consent of the party is given, the insurer, in the event a change in the hardware or software requirements needed to access or retain a notice or document delivered by electronic means creates a material risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies:

(i) Shall provide the party with a statement that describes:

(A) The revised hardware and software requirements for access to and retention of a notice or document delivered by electronic means; and

(B) The right of the party to withdraw consent without the imposition of any fee, condition, or consequence that was not disclosed at the time of initial consent; and

(ii) Complies with (b) of this subsection.

(5) This section does not affect requirements related to content or timing of any notice or document required under applicable law.

(6) If this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.

(7) The legal effectiveness, validity, or enforceability of any contract or policy of insurance executed by a party may not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party in accordance with subsection (4)(c)(ii) of this section.

(8)(a) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice or document delivered by electronic means to the party before the withdrawal of consent is effective.

(b) A withdrawal of consent by a party is effective within a reasonable period of time, not to exceed thirty days, after receipt of the withdrawal by the insurer.

(c) Failure by an insurer to comply with subsections (4)(d) and (10) of this section may be treated, at the election of the party, as a withdrawal of consent for purposes of this section.

(9) This section does not apply to a notice or document delivered by an insurer in an electronic form before the effective date of this section to a party who, before that date, has consented to receive a notice or document in an electronic form otherwise allowed by law.

(10) If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before the effective date of this section, and pursuant to this section, an insurer intends to deliver additional notices or documents to such party in an electronic form, then prior to delivering such additional notices or documents electronically, the insurer shall:

(a) Provide the party with a statement that describes:

(i) The notices or documents that shall be delivered by electronic means under this section that were not previously delivered electronically; and

(ii) The party's right to withdraw consent to have notices or documents delivered by electronic means, without the imposition of any condition or consequence that was not disclosed at the time of initial consent; and

(b) Comply with subsection (4)(b) of this section.

(11) An insurer shall deliver a notice or document by any other delivery method permitted by law other than electronic means if:

(a) The insurer attempts to deliver the notice or document by electronic means and has a reasonable basis for believing that the notice or document has not been received by the party; or

(b) The insurer becomes aware that the electronic mail address provided by the party is no longer valid.

(12) A producer shall not be subject to civil liability for any harm or injury that occurs as a result of a party's election to receive any notice or document by

electronic means or by an insurer's failure to deliver a notice or document by electronic means.

(13) This section does not modify, limit, or supersede the provisions of the federal electronic signatures in global and national commerce act (E-SIGN), P.L. 106-229, as amended.

NEW SECTION. Sec. 2. (1) Notwithstanding any other provisions of this chapter, standard property and casualty insurance policy forms and endorsements that do not contain personally identifiable information may be mailed, delivered, or posted on the insurer's web site. If the insurer elects to post insurance policy forms and endorsements on its web site in lieu of mailing or delivering them to the insured, it must comply with all of the following conditions:

(a) The policy forms and endorsements must be accessible to the insured and the producer of record and remain that way for as long as the policy is in force;

(b) After the expiration of the policy, the insurer must archive its expired policy forms and endorsements for a period of six years or other period required by law, and make them available upon request;

(c) The policy forms and endorsements must be posted in a manner that enables the insured and producer of record to print and save the policy form and endorsements using programs or applications that are widely available on the internet and free to use;

(d) The insurer must provide the following information in, or simultaneous with, each declarations page provided at the time of issuance of the initial policy and any renewals of that policy:

(i) A description of the exact policy and endorsement forms purchased by the insured;

(ii) A description of the insured's right to receive, upon request and without charge, a paper copy of the policy and endorsements by mail;

(iii) The internet address where their policy and endorsements are posted;

(iv) The insurer, upon request and without charge, mails a paper copy of the insured's policy and endorsements to the insured; and

(v) Notice, in the manner in which the insurer customarily communicates with the insured, of any changes to the forms or endorsements, the insured's right to obtain, upon request and without charge, a paper copy of such forms or endorsements, and the internet address where such forms or endorsements are posted.

(2) Nothing in this section affects the timing or content of any disclosure or other document required to be provided or made available to any insured under applicable law.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 4. Sections 1 and 2 of this act constitute a new chapter in Title 48 RCW.

Passed by the Senate April 16, 2015.

Passed by the House April 8, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 264

[Substitute Senate Bill 5538]

RESIDENTIAL LANDLORD--TENANT ACT--DECEASED TENANTS

AN ACT Relating to deceased tenants; amending RCW 59.18.310; reenacting and amending RCW 59.18.030; and adding new sections to chapter 59.18 RCW.

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

Sec. 1. RCW 59.18.030 and 2012 c 41 s 2 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of RCW 9A.72.085 by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety, (b) exposure of the occupants to the weather, (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (d) not providing facilities adequate to supply heat and water and hot water as reasonably required by the tenant, (e) providing heating or ventilation systems that are not functional or are hazardous, (f) defective, hazardous, or missing electrical wiring or electrical service, (g) defective or hazardous exits that increase the risk of injury to occupants, and (h) conditions that increase the risk of fire.

(2) "Distressed home" has the same meaning as in RCW 61.34.020.

(3) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(4) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(5) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

(6) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(7) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(8) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;
(ii) A person licensed or required to be licensed under chapter 19.134 RCW;
(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;
(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(9) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

(10) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(11) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(12) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(13) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(14) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(15) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(16) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(17) "Qualified inspector" means a United States department of housing and urban development certified inspector; a Washington state licensed home inspector; an American society of home inspectors certified inspector; a private inspector certified by the national association of housing and redevelopment officials, the American association of code enforcement, or other comparable professional association as approved by the local municipality; a municipal code enforcement officer; a Washington licensed structural engineer; or a Washington licensed architect.

(18) "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite

to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(19) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

(20) A "single-family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

(21) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(22) "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

(23) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service.

(24) "Commercially reasonable manner," with respect to a sale of a deceased tenant's personal property, means a sale where every aspect of the sale, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a landlord may sell the tenant's property by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(25) "Designated person" means a person designated by the tenant under section 2 of this act.

(26) "Reasonable manner," with respect to disposing of a deceased tenant's personal property, means to dispose of the property by donation to a not-for-profit charitable organization, by removal of the property by a trash hauler or recycler, or by any other method that is reasonable under the circumstances.

(27) "Tenant representative" means:

(a) A personal representative of a deceased tenant's estate if known to the landlord;

(b) If the landlord has no knowledge that a personal representative has been appointed for the deceased tenant's estate, a person claiming to be a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2);

(c) In the absence of a personal representative under (a) of this subsection or a person claiming to be a successor under (b) of this subsection, a designated person; or

(d) In the absence of a personal representative under (a) of this subsection, a person claiming to be a successor under (b) of this subsection, or a designated person under (c) of this subsection, any person who provides the landlord with reasonable evidence that he or she is a successor of the deceased tenant as defined in RCW 11.62.005. The landlord has no obligation to identify all of the deceased tenant's successors.

NEW SECTION. Sec. 2. A new section is added to chapter 59.18 RCW to read as follows:

(1)(a) At a landlord's request, the tenant may designate a person to act for the tenant on the tenant's death when the tenant is the sole occupant of the dwelling unit.

(b) Any designation must be in writing, be separate from the rental agreement, and include:

(i) The designated person's name, mailing address, any address used for the receipt of electronic communications, and telephone number;

(ii) A signed statement authorizing the landlord in the event of the tenant's death when the tenant is the sole occupant of the dwelling unit to allow the designated person to: Access the tenant's dwelling unit, remove the tenant's property, receive refunds of amounts due to the tenant, and dispose of the tenant's property consistent with the tenant's last will and testament and any applicable intestate succession law; and

(iii) A conspicuous statement that the designation remains in effect until it is revoked in writing by the tenant or replaced with a new designation.

(2) A tenant may, without request from the landlord, designate a person to act for the tenant on the tenant's death when the tenant is the sole occupant of the dwelling unit by providing the landlord with the information and signing a statement as provided in subsection (1) of this section.

(3) The tenant may change the designated person or revoke any previous designation in writing at any time prior to his or her death.

(4) Once the landlord or the designated person knows of the appointment of a personal representative for the deceased tenant's estate or of a person claiming to be a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2), the designated person's authority to act under this section terminates.

NEW SECTION. Sec. 3. A new section is added to chapter 59.18 RCW to read as follows:

(1) In the event of the death of a tenant who is the sole occupant of the dwelling unit:

(a) The landlord, upon learning of the death of the tenant, shall promptly mail or personally deliver written notice to any known personal representative, known designated person, emergency contact identified by the tenant on the rental application, known person reasonably believed to be a successor of the tenant as defined in RCW 11.62.005, and to the deceased tenant at the address of the dwelling unit. If the landlord knows of any address used for the receipt of electronic communications, the landlord shall email the notice to that address as well. The notice must include:

(i) The name of the deceased tenant and address of the dwelling unit;

(ii) The approximate date of the deceased tenant's death;

(iii) The rental amount and date through which rent is paid;

(iv) A statement that the tenancy will terminate fifteen days from the date the notice is mailed or personally delivered or the date through which rent is paid, whichever comes later, unless during that time period a tenant representative makes arrangements with the landlord to pay rent in advance for no more than sixty days from the date of the tenant's death to allow a tenant

representative to arrange for orderly removal of the tenant's property. At the end of the period for which the rent has been paid pursuant to this subsection, the tenancy ends;

(v) A statement that failure to remove the tenant's property before the tenancy is terminated or ends as provided in (a)(iv) of this subsection will allow the landlord to enter the dwelling unit and take possession of any property found on the premises, store it in a reasonably secure place, and charge the actual or reasonable costs, whichever is less, of drayage and storage of the property, and after service of a second notice sell or dispose of the property as provided in subsection (3) of this section; and

(vi) A copy of any designation executed by the tenant pursuant to section 2 of this act;

(b) The landlord shall turn over possession of the tenant's property to a tenant representative if a request is made in writing within the specified time period or any subsequent date agreed to by the parties;

(c) Within fourteen days after the removal of the property by the tenant representative, the landlord shall refund any unearned rent and shall give a full and specific statement of the basis for retaining any deposit together with the payment of any refund due the deceased tenant under the terms and conditions of the rental agreement to the tenant representative; and

(d) Any tenant representative who removes property from the tenant's dwelling unit or the premises must, at the time of removal, provide to the landlord an inventory of the removed property and signed acknowledgment that he or she has only been given possession and not ownership of the property.

(2) A landlord shall send a second written notice before selling or disposing of a deceased tenant's property.

(a) If the tenant representative makes arrangements with the landlord to pay rent in advance as provided in subsection (1)(a)(iv) of this section, the landlord shall mail a second written notice to any known personal representative, known designated person, emergency contact identified by the tenant on the rental application, known person reasonably believed to be a successor of the tenant as defined in RCW 11.62.005, and to the deceased tenant at the dwelling unit. The second notice must include:

(i) The name, address, and phone number or other contact information for the tenant representative, if known, who made the arrangements to pay rent in advance;

(ii) The amount of rent paid in advance and date through which rent was paid; and

(iii) A statement that the landlord may sell or dispose of the property on or after the date through which rent is paid or at least forty-five days after the second notice is mailed, whichever comes later, if a tenant representative does not claim and remove the property in accordance with this subsection.

(b) If the landlord places the property in storage pursuant to subsection (1)(a) of this section, the landlord shall mail a second written notice, unless a written notice under (a) of this subsection has already been provided, to any known personal representative, known designated person, emergency contact identified by the tenant on the rental application, known person reasonably believed to be a successor of the tenant as defined in RCW 11.62.005, and to the deceased tenant at the dwelling unit. The second notice must state that the

landlord may sell or dispose of the property on or after a specified date that is at least forty-five days after the second notice is mailed if a tenant representative does not claim and remove the property in accordance with this subsection.

(c) The landlord shall turn over possession of the tenant's property to a tenant representative if a written request is made within the applicable time periods after the second notice is mailed, provided the tenant representative: (i) Pays the actual or reasonable costs, whichever is less, of drayage and storage of the property, if applicable; and (ii) gives the landlord an inventory of the property and signs an acknowledgment that he or she has only been given possession and not ownership of the property.

(d) Within fourteen days after the removal of the property by the tenant representative, the landlord shall refund any unearned rent and shall give a full and specific statement of the basis for retaining any deposit together with the payment of any refund due the deceased tenant under the terms and conditions of the rental agreement to the tenant representative.

(3)(a) If a tenant representative has not contacted the landlord or removed the deceased tenant's property within the applicable time periods under this section, the landlord may sell or dispose of the deceased tenant's property, except for personal papers and personal photographs, as provided in this subsection.

(i) If the landlord reasonably estimates the fair market value of the stored property to be more than one thousand dollars, the landlord shall arrange to sell the property in a commercially reasonable manner and may dispose of any property that remains unsold in a reasonable manner.

(ii) If the value of the stored property does not meet the threshold provided in (a)(i) of this subsection, the landlord may dispose of the property in a reasonable manner.

(iii) The landlord may apply any income derived from the sale of the property pursuant to this section against any costs of sale and moneys due the landlord, including actual or reasonable costs, whichever is less, of drayage and storage of the deceased tenant's property. Any excess income derived from the sale of such property under this section must be held by the landlord for a period of one year from the date of sale, and if no claim is made for recovery of the excess income before the expiration of that one-year period, the balance must be treated as abandoned property and deposited by the landlord with the department of revenue pursuant to chapter 63.29 RCW.

(b) Personal papers and personal photographs that are not claimed by a tenant representative within ninety days after a sale or other disposition of the deceased tenant's other property shall be either destroyed or held for the benefit of any successor of the deceased tenant as defined in RCW 11.62.005.

(c) No landlord or employee of a landlord, or his or her family members, may acquire, directly or indirectly, the property sold pursuant to (a)(i) of this subsection or disposed of pursuant to (a)(ii) of this subsection.

(4) Upon learning of the death of the tenant, the landlord may enter the deceased tenant's dwelling unit and immediately dispose of any perishable food, hazardous materials, and garbage found on the premises and turn over animals to a tenant representative or to an animal control officer, humane society, or other individual or organization willing to care for the animals.

(5) Any notices sent by the landlord under this section must include a mailing address, any address used for the receipt of electronic communications, and a telephone number of the landlord.

(6) If a landlord knowingly violates this section, the landlord is liable to the deceased tenant's estate for actual damages. The prevailing party in any action pursuant to this subsection may recover costs and reasonable attorneys' fees.

(7) A landlord who complies with this section is relieved from any liability relating to the deceased tenant's property.

Sec. 4. RCW 59.18.310 and 2011 c 132 s 16 are each amended to read as follows:

(1) If the tenant defaults in the payment of rent and reasonably indicates by words or actions the intention not to resume tenancy, the tenant shall be liable for the following for such abandonment: PROVIDED, That upon learning of such abandonment of the premises the landlord shall make a reasonable effort to mitigate the damages resulting from such abandonment:

~~((1+))~~ (a) When the tenancy is month-to-month, the tenant shall be liable for the rent for the thirty days following either the date the landlord learns of the abandonment, or the date the next regular rental payment would have become due, whichever first occurs.

~~((2+))~~ (b) When the tenancy is for a term greater than month-to-month, the tenant shall be liable for the lesser of the following:

~~((a+))~~ (i) The entire rent due for the remainder of the term; or

~~((b+))~~ (ii) All rent accrued during the period reasonably necessary to rerent the premises at a fair rental, plus the difference between such fair rental and the rent agreed to in the prior agreement, plus actual costs incurred by the landlord in rerenting the premises together with statutory court costs and reasonable attorneys' fees.

(2) In the event of such abandonment of tenancy and an accompanying default in the payment of rent by the tenant, the landlord may immediately enter and take possession of any property of the tenant found on the premises and may store the same in any reasonably secure place. A landlord shall make reasonable efforts to provide the tenant with a notice containing the name and address of the landlord and the place where the property is stored and informing the tenant that a sale or disposition of the property shall take place pursuant to this section, and the date of the sale or disposal, and further informing the tenant of the right under RCW 59.18.230 to have the property returned prior to its sale or disposal. The landlord's efforts at notice under this subsection shall be satisfied by the mailing by first-class mail, postage prepaid, of such notice to the tenant's last known address and to any other address provided in writing by the tenant or actually known to the landlord where the tenant might receive the notice. The landlord shall return the property to the tenant after the tenant has paid the actual or reasonable drayage and storage costs whichever is less if the tenant makes a written request for the return of the property before the landlord has sold or disposed of the property. After forty-five days from the date the notice of such sale or disposal is mailed or personally delivered to the tenant, the landlord may sell or dispose of such property, including personal papers, family pictures, and keepsakes. The landlord may apply any income derived therefrom against moneys due the landlord, including actual or reasonable costs whichever is less of drayage and storage of the property. If the property has a cumulative value of

two hundred fifty dollars or less, the landlord may sell or dispose of the property in the manner provided in this section, except for personal papers, family pictures, and keepsakes, after seven days from the date the notice of sale or disposal is mailed or personally delivered to the tenant: PROVIDED, That the landlord shall make reasonable efforts, as defined in this section, to notify the tenant. Any excess income derived from the sale of such property under this section shall be held by the landlord for the benefit of the tenant for a period of one year from the date of sale, and if no claim is made or action commenced by the tenant for the recovery thereof prior to the expiration of that period of time, the balance shall be the property of the landlord, including any interest paid on the income.

(3) This section does not apply to the disposition of property of a deceased tenant. Section 3 of this act governs the disposition of property on the death of a tenant when the tenant is the sole occupant of the dwelling unit.

Passed by the Senate April 16, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 265

[Engrossed Second Substitute Senate Bill 5564]

JUVENILE JUSTICE SYSTEM--FINANCIAL OBLIGATIONS

AN ACT Relating to decreasing the barriers to successful community participation for individuals involved with the juvenile justice system; amending RCW 13.50.260, 13.40.190, 13.40.192, 7.68.035, 9.08.070, 9.08.072, 9.46.1961, 9.68A.105, 9.68A.106, 9.94A.550, 9A.20.021, 9A.50.030, 9A.56.060, 9A.56.085, 9A.88.120, 9A.88.140, 10.73.160, 10.82.090, 10.99.080, 13.40.080, 36.18.016, 36.18.020, 36.18.040, 43.43.690, 43.43.7541, 46.61.5054, 46.61.5055, 69.50.401, 69.50.425, 69.50.430, 69.50.435, and 77.15.420; reenacting and amending RCW 13.50.010, 46.52.130, and 13.40.127; adding a new section to chapter 13.40 RCW; adding a new section to chapter 13.50 RCW; creating a new section; and repealing RCW 13.40.145 and 13.40.085.

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

NEW SECTION. Sec. 1. The legislature finds that requiring juvenile offenders to pay all legal financial obligations before being eligible to have a juvenile record administratively sealed disproportionately affects youth based on their socioeconomic status. Juveniles who cannot afford to pay their legal financial obligations cannot seal their juvenile records once they turn eighteen and oftentimes struggle to find employment. By eliminating most nonrestitution legal financial obligations for juveniles convicted of less serious crimes, juvenile offenders will be better able to find employment and focus on making restitution payments first to the actual victim. This legislation is intended to help juveniles understand the consequences of their actions and the harm that those actions have caused others without placing insurmountable burdens on juveniles attempting to become productive members of society. Depending on the juvenile's ability to pay, and upon the consent of the victim, courts should also strongly consider ordering community restitution in lieu of paying restitution where appropriate.

Sec. 2. RCW 13.50.010 and 2014 c 175 s 2 and 2014 c 117 s 5 are each reenacted and amended to read as follows:

(1) For purposes of this chapter:

(a) "Good faith effort to pay" means a juvenile offender has either (i) paid the principal amount in full; (ii) made at least eighty percent of the value of full monthly payments within the period from disposition or deferred disposition until the time the amount of restitution owed is under review; or (iii) can show good cause why he or she paid an amount less than eighty percent of the value of full monthly payments;

(b) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of the family and children's ombuds, the department of social and health services and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415;

~~((b))~~ (c) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

~~((c))~~ (d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

~~((d))~~ (e) "Social file" means the juvenile court file containing the records and reports of the probation counselor.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a

juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) The court shall release to the caseload forecast council the records needed for its research and data-gathering functions. Access to caseload forecast data may be permitted by the council for research purposes only if the anonymity of all persons mentioned in the records or information will be preserved.

(10) Juvenile detention facilities shall release records to the caseload forecast council upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(11) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's ombuds.

(12) For the purpose of research only, the administrative office of the courts shall maintain an electronic research copy of all records in the judicial information system related to juveniles. Access to the research copy is restricted to the Washington state center for court research. The Washington state center for court research shall maintain the confidentiality of all confidential records and shall preserve the anonymity of all persons identified in the research copy. The research copy may not be subject to any records retention schedule and must include records destroyed or removed from the judicial information system pursuant to RCW 13.50.270 and 13.50.100(3).

(13) The court shall release to the Washington state office of public defense records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.70.020. Access to the records used as a basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of public defense. The Washington state office of public defense shall maintain the confidentiality of all confidential information included in the records.

Sec. 3. RCW 13.50.260 and 2014 c 175 s 4 are each amended to read as follows:

(1)(a) The court shall hold regular sealing hearings. During these regular sealing hearings, the court shall administratively seal an individual's juvenile (~~court~~) record pursuant to the requirements of this subsection unless the court

receives an objection to sealing or the court notes a compelling reason not to seal, in which case, the court shall set a contested hearing to be conducted on the record to address sealing. ~~((The respondent and his or her attorney shall be given at least eighteen days' notice of any contested sealing hearing and the opportunity to respond to any objections, but the respondent's presence is not required at any sealing hearing pursuant to this subsection.))~~ Although the juvenile record shall be sealed, the social file may be available to any juvenile justice or care agency when an investigation or case involving the juvenile subject of the records is being prosecuted by the juvenile justice or care agency or when the juvenile justice or care agency is assigned the responsibility of supervising the juvenile. The contested hearing shall be set no sooner than eighteen days after notice of the hearing and the opportunity to object has been sent to the juvenile, the victim, and juvenile's attorney. The juvenile respondent's presence is not required at a sealing hearing pursuant to this subsection.

(b) At the disposition hearing of a juvenile offender, the court shall schedule an administrative sealing hearing to take place during the first regularly scheduled sealing hearing after the latest of the following events that apply:

- (i) The respondent's eighteenth birthday;
- (ii) Anticipated completion of a respondent's probation, if ordered;
- (iii) Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.

(c) A court shall enter a written order sealing an individual's juvenile court record pursuant to this subsection if:

(i) One of the offenses for which the court has entered a disposition is not at the time of commission of the offense:

- (A) A most serious offense, as defined in RCW 9.94A.030;
- (B) A sex offense under chapter 9A.44 RCW; or
- (C) A drug offense, as defined in RCW 9.94A.030; and

(ii) The respondent has completed the terms and conditions of disposition, including affirmative conditions and ~~((financial obligations))~~ has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(d) Following a contested sealing hearing on the record after an objection is made pursuant to (a) of this subsection, the court shall enter a written order sealing the juvenile court record unless the court determines that sealing is not appropriate.

(2) The court shall enter a written order immediately sealing the official juvenile court record upon the acquittal after a fact finding or upon the dismissal of charges with prejudice, subject to the state's right, if any, to appeal the dismissal.

(3) If a juvenile court record has not already been sealed pursuant to this section, in any case in which information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to RCW 13.50.050(13), order

the sealing of the official juvenile court record, the social file, and records of the court and of any other agency in the case.

(4)(a) The court shall grant any motion to seal records for class A offenses made pursuant to subsection (3) of this section if:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense;

(v) The person has not been convicted of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion; and

(vi) ~~((Full restitution has been paid))~~ The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(b) The court shall grant any motion to seal records for class B, ~~((class))~~ class C, gross misdemeanor, and misdemeanor offenses and diversions made under subsection (3) of this section if:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense; and

(v) ~~((Full restitution has been paid))~~ The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(c) Notwithstanding the requirements in (a) or (b) of this subsection, the court shall grant any motion to seal records of any deferred disposition vacated under RCW 13.40.127(9) prior to June 7, 2012, if restitution has been paid and the person is eighteen years of age or older at the time of the motion.

(5) The person making a motion pursuant to subsection (3) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose records are sought to be sealed.

(6)(a) If the court enters a written order sealing the juvenile court record pursuant to this section, it shall, subject to RCW 13.50.050(13), order sealed the

official juvenile court record, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(c) Effective July 1, 2019, the department of licensing may release information related to records the court has ordered sealed only to the extent necessary to comply with federal law and regulation.

(7) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and 13.50.050(13).

(8)(a) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying a sealing order; however, the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria under this section and the court record has not previously been resealed.

(b) Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order.

(c) The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(d) The Washington state patrol shall ensure that the Washington state identification system provides criminal justice agencies access to sealed juvenile records information.

(9) If the juvenile court record has been sealed pursuant to this section, the record of an employee is not admissible in an action for liability against the employer based on the former juvenile offender's conduct to show that the employer knew or should have known of the juvenile record of the employee. The record may be admissible, however, if a background check conducted or authorized by the employer contained the information in the sealed record.

(10) County clerks may interact or correspond with the respondent, his or her parents, and any holders of potential assets or wages of the respondent for the purposes of collecting an outstanding legal financial obligation after juvenile court records have been sealed pursuant to this section.

(11) Persons and agencies that obtain sealed juvenile records information pursuant to this section may communicate about this information with the respondent, but may not disseminate or be compelled to release the information

to any person or agency not specifically granted access to sealed juvenile records in this section.

Sec. 4. RCW 46.52.130 and 2012 c 74 s 6 and 2012 c 73 s 1 are each reenacted and amended to read as follows:

Upon a proper request, the department may furnish an abstract of a person's driving record as permitted under this section.

(1) **Contents of abstract of driving record.** An abstract of a person's driving record, whenever possible, must include:

(a) An enumeration of motor vehicle accidents in which the person was driving, including:

- (i) The total number of vehicles involved;
- (ii) Whether the vehicles were legally parked or moving;
- (iii) Whether the vehicles were occupied at the time of the accident; and
- (iv) Whether the accident resulted in a fatality;

(b) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;

(c) The status of the person's driving privilege in this state; and

(d) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(2) **Release of abstract of driving record.** An abstract of a person's driving record may be furnished to the following persons or entities:

(a) **Named individuals.** (i) An abstract of the full driving record maintained by the department may be furnished to the individual named in the abstract.

(ii) Nothing in this section prevents a court from providing a copy of the driver's abstract to the individual named in the abstract, provided that the named individual has a pending or open infraction or criminal case in that court. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for the production and copying of the abstract for the individual.

(b) **Employers or prospective employers.** (i)(A) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual for purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer.

(B) Release of an abstract of the driving record of an employee or prospective employee requires a statement signed by: (I) The employee or prospective employee that authorizes the release of the record; and (II) the employer attesting that the information is necessary for employment purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement. The statement must also note that any information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee may not be used by the employer or prospective employer, or an agent authorized to obtain this

information on their behalf, unless required by federal regulation or law. The employer or prospective employer must afford the employee or prospective employee an opportunity to demonstrate that an adjudication contained in the abstract is subject to a court order sealing the juvenile record.

(C) Upon request of the person named in the abstract provided under this subsection, and upon that same person furnishing copies of court records ruling that the person was not at fault in a motor vehicle accident, the department must indicate on any abstract provided under this subsection that the person was not at fault in the motor vehicle accident.

(D) No employer or prospective employer, nor any agent of an employer or prospective employer, may use information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee for any purpose unless required by federal regulation or law. The employee or prospective employee must furnish a copy of the court order sealing the juvenile record to the employer or prospective employer, or the agent of the employer or prospective employer, as may be required to ensure the application of this subsection.

(ii) In addition to the methods described in (b)(i) of this subsection, the director may enter into a contractual agreement with an employer or its agent for the purpose of reviewing the driving records of existing employees for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(c) **Volunteer organizations.** (i) An abstract of the full driving record maintained by the department may be furnished to a volunteer organization or an agent for a volunteer organization for which the named individual has submitted an application for a position that would require driving by the individual at the direction of the volunteer organization.

(ii) Release of an abstract of the driving record of a prospective volunteer requires a statement signed by: (A) The prospective volunteer that authorizes the release of the record; and (B) the volunteer organization attesting that the information is necessary for purposes related to driving by the individual at the direction of the volunteer organization. If the volunteer organization authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(d) **Transit authorities.** An abstract of the full driving record maintained by the department may be furnished to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(e) **Insurance carriers.** (i) An abstract of the driving record maintained by the department covering the period of not more than the last three years may be furnished to an insurance company or its agent:

(A) That has motor vehicle or life insurance in effect covering the named individual;

(B) To which the named individual has applied; or

(C) That has insurance in effect covering the employer or a prospective employer of the named individual.

(ii) The abstract provided to the insurance company must:

(A) Not contain any information related to actions committed by law enforcement officers or firefighters, as both terms are defined in RCW 41.26.030, or by Washington state patrol officers, while driving official vehicles in the performance of their occupational duty. This does not apply to any situation where the vehicle was used in the commission of a misdemeanor or felony;

(B) Include convictions under RCW 46.61.5249 and 46.61.525, except that the abstract must report the convictions only as negligent driving without reference to whether they are for first or second degree negligent driving; and

(C) Exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract must show the deferred prosecution as well as the removal.

(iii) Any policy of insurance may not be canceled, nonrenewed, denied, or have the rate increased on the basis of information regarding an accident included in the abstract of a driving record, unless the policyholder was determined to be at fault.

(iv) Any insurance company or its agent, for underwriting purposes relating to the operation of commercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment. Any insurance company or its agent, for underwriting purposes relating to the operation of noncommercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(v) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(f) **Alcohol/drug assessment or treatment agencies.** An abstract of the driving record maintained by the department covering the period of not more than the last five years may be furnished to an alcohol/drug assessment or treatment agency approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment, for purposes of assisting employees in making a determination as to what level of treatment, if any, is appropriate, except that the abstract must:

(i) Also include records of alcohol-related offenses, as defined in RCW 46.01.260(2), covering a period of not more than the last ten years; and

(ii) Indicate whether an alcohol-related offense was originally charged as a violation of either RCW 46.61.502 or 46.61.504.

(g) **City attorneys and county prosecuting attorneys.** An abstract of the full driving record maintained by the department, including whether a recorded violation is an alcohol-related offense, as defined in RCW 46.01.260(2), that was originally charged as a violation of either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys or county prosecuting attorneys. City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug

assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(h) **State colleges, universities, or agencies, or units of local government.** An abstract of the full driving record maintained by the department may be furnished to (i) state colleges, universities, or agencies for employment and risk management purposes or (ii) units of local government authorized to self-insure under RCW 48.62.031 for employment and risk management purposes.

(i) **Superintendent of public instruction.** An abstract of the full driving record maintained by the department may be furnished to the superintendent of public instruction for review of public school bus driver records. The superintendent or superintendent's designee may discuss information on the driving record with an authorized representative of the employing school district for employment and risk management purposes.

(3) **Release to third parties prohibited.** Any person or entity receiving an abstract of a person's driving record under subsection (2)(b) through (i) of this section shall use the abstract exclusively for his, her, or its own purposes or as otherwise expressly permitted under this section, and shall not divulge any information contained in the abstract to a third party.

(4) **Fee.** The director shall collect a thirteen dollar fee for each abstract of a person's driving record furnished by the department. Fifty percent of the fee must be deposited in the highway safety fund, and fifty percent of the fee must be deposited according to RCW 46.68.038.

(5) **Violation.** (a) Any negligent violation of this section is a gross misdemeanor.

(b) Any intentional violation of this section is a class C felony.

(6) Effective July 1, 2019, the contents of a driving abstract pursuant to this section shall not include any information related to sealed juvenile records unless that information is required by federal law or regulation.

NEW SECTION. Sec. 5. A new section is added to chapter 13.40 RCW to read as follows:

Cities, towns, and counties may not impose any legal financial obligations, fees, fines, or costs associated with juvenile offenses unless there is express statutory authority for those legal financial obligations, fees, fines, or costs.

Sec. 6. RCW 13.40.190 and 2014 c 175 s 7 are each amended to read as follows:

(1)(a) In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. In addition, restitution may be ordered for loss or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which, pursuant to a plea agreement, are not prosecuted.

(b) Restitution may include the costs of counseling reasonably related to the offense.

(c) The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter.

(d) The court may determine the amount, terms, and conditions of the restitution including a payment plan extending up to ten years if the court determines that the respondent does not have the means to make full restitution over a shorter period. If the court determines that a juvenile has insufficient funds to pay and upon agreement of the victim, the court may order performance of a number of hours of community restitution in lieu of monetary penalty, at the rate of the then state minimum wage per hour. The court shall allow the victim to determine the nature of the community restitution to be completed when it is practicable and appropriate to do so. For the purposes of this section, the respondent shall remain under the court's jurisdiction for a maximum term of ten years after the respondent's eighteenth birthday and, during this period, the restitution portion of the dispositional order may be modified as to amount, terms, and conditions at any time. Prior to the expiration of the ten-year period, the juvenile court may extend the judgment for the payment of restitution for an additional ten years. If the court grants a respondent's petition pursuant to RCW 13.50.260, the court's jurisdiction under this subsection shall terminate.

(e) Nothing in this section shall prevent a respondent from petitioning the court pursuant to RCW 13.50.260 if the respondent has paid the full restitution amount stated in the court's order and has met the statutory criteria.

(f) If the respondent participated in the crime with another person or other persons, ~~((all such participants shall be jointly and severally responsible for the payment of restitution))~~ the court may either order joint and several restitution or may divide restitution equally among the respondents. In determining whether restitution should be joint and several or equally divided, the court shall consider the interest and circumstances of the victim or victims, the circumstances of the respondents, and the interest of justice.

(g) At any time, the court may determine that the respondent is not required to pay, or may relieve the respondent of the requirement to pay, full or partial restitution to any insurance provider authorized under Title 48 RCW if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution to the insurance provider ~~((and could not reasonably acquire the means to pay the insurance provider the restitution over a ten-year period))~~.

(2) Regardless of the provisions of subsection (1) of this section, the court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the court within one year of entry of the disposition order for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.

(3) If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. The county clerk shall make restitution disbursements to victims prior to payments to any insurance provider under Title 48 RCW.

(4) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the offense charged. "Victim" may also include a known parent or guardian of a victim who is a minor child or is not a minor child but is incapacitated, incompetent, disabled, or deceased.

(5) A respondent under obligation to pay restitution may petition the court for modification of the restitution order for good cause shown, including inability to pay.

Sec. 7. RCW 13.40.192 and 1997 c 121 s 7 are each amended to read as follows:

(1) If a juvenile is ordered to pay legal financial obligations, including fines, penalty assessments, attorneys' fees, court costs, and restitution, the money judgment remains enforceable for a period of ten years. When the juvenile reaches the age of eighteen years or at the conclusion of juvenile court jurisdiction, whichever occurs later, the superior court clerk must docket the remaining balance of the juvenile's legal financial obligations in the same manner as other judgments for the payment of money. The judgment remains valid and enforceable until ten years from the date of its imposition. The clerk of the superior court may seek extension of the judgment for legal financial obligations, including crime victims' assessments, in the same manner as RCW 6.17.020 for purposes of collection as allowed under RCW 36.18.190.

(2) A respondent under obligation to pay legal financial obligations other than restitution, the victim penalty assessment set forth in RCW 7.68.035, or the crime laboratory analysis fee set forth in RCW 43.43.690 may petition the court for modification or relief from those legal financial obligations and interest accrued on those obligations for good cause shown, including inability to pay. The court shall consider factors such as, but not limited to incarceration and a respondent's other debts, including restitution, when determining a respondent's ability to pay.

Sec. 8. RCW 7.68.035 and 2011 c 336 s 246 are each amended to read as follows:

(1)(a) When any person is found guilty in any superior court of having committed a crime, except as provided in subsection (2) of this section, there shall be imposed by the court upon such convicted person a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be five hundred dollars for each case or cause of action that includes one or more convictions of a felony or gross misdemeanor and two hundred fifty dollars for any case or cause of action that includes convictions of only one or more misdemeanors.

(b) When any juvenile is adjudicated of ~~((any offense in any juvenile offense disposition under Title 13 RCW, except as provided in subsection (2) of this section))~~ an offense that is a most serious offense as defined in RCW 9.94A.030, or a sex offense under chapter 9A.44 RCW, there shall be imposed upon the juvenile offender a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be one hundred dollars for each case or cause of action ~~((that includes one or more adjudications for a felony or gross misdemeanor and seventy five dollars for each case or cause of action that includes adjudications of only one or more misdemeanors)).~~

(c) When any juvenile is adjudicated of an offense which has a victim, and which is not a most serious offense as defined in RCW 9.94A.030 or a sex offense under chapter 9A.44 RCW, the court shall order up to seven hours of community restitution, unless the court finds that such an order is not practicable for the offender. This community restitution must be imposed consecutively to any other community restitution the court imposes for the offense.

(2) The assessment imposed by subsection (1) of this section shall not apply to motor vehicle crimes defined in Title 46 RCW except those defined in the following sections: RCW 46.61.520, 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.101, 46.20.410, 46.52.020, 46.10.495, 46.09.480, 46.61.5249, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180, 46.10.490(2), and 46.09.470(2).

(3) When any person accused of having committed a crime posts bail in superior court pursuant to the provisions of chapter 10.19 RCW and such bail is forfeited, there shall be deducted from the proceeds of such forfeited bail a penalty assessment, in addition to any other penalty or fine imposed by law, equal to the assessment which would be applicable under subsection (1) of this section if the person had been convicted of the crime.

(4) Such penalty assessments shall be paid by the clerk of the superior court to the county treasurer who shall monthly transmit the money as provided in RCW 10.82.070. Each county shall deposit fifty percent of the money it receives per case or cause of action under subsection (1) of this section and retains under RCW 10.82.070, not less than one and seventy-five one-hundredths percent of the remaining money it retains under RCW 10.82.070 and the money it retains under chapter 3.62 RCW, and all money it receives under subsection (7) of this section into a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. A program shall be considered "comprehensive" only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

(a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the legislature to make funds available only to programs which do not restrict services to victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;

(b) Are administered by the county prosecuting attorney either directly through the prosecuting attorney's office or by contract between the county and agencies providing services to victims of crime;

(c) Make a reasonable effort to inform the known victim or his or her surviving dependents of the existence of this chapter and the procedure for making application for benefits;

(d) Assist victims in the restitution and adjudication process; and

(e) Assist victims of violent crimes in the preparation and presentation of their claims to the department of labor and industries under this chapter.

Before a program in any county west of the Cascade mountains is submitted to the department for approval, it shall be submitted for review and comment to each city within the county with a population of more than one hundred fifty thousand. The department will consider if the county's proposed comprehensive

plan meets the needs of crime victims in cases adjudicated in municipal, district or superior courts and of crime victims located within the city and county.

(5) Upon submission to the department of a letter of intent to adopt a comprehensive program, the prosecuting attorney shall retain the money deposited by the county under subsection (4) of this section until such time as the county prosecuting attorney has obtained approval of a program from the department. Approval of the comprehensive plan by the department must be obtained within one year of the date of the letter of intent to adopt a comprehensive program. The county prosecuting attorney shall not make any expenditures from the money deposited under subsection (4) of this section until approval of a comprehensive plan by the department. If a county prosecuting attorney has failed to obtain approval of a program from the department under subsection (4) of this section or failed to obtain approval of a comprehensive program within one year after submission of a letter of intent under this section, the county treasurer shall monthly transmit one hundred percent of the money deposited by the county under subsection (4) of this section to the state treasurer for deposit in the state general fund.

(6) County prosecuting attorneys are responsible to make every reasonable effort to insure that the penalty assessments of this chapter are imposed and collected.

(7) Every city and town shall transmit monthly one and seventy-five one-hundredths percent of all money, other than money received for parking infractions, retained under RCW 3.50.100 and 35.20.220 to the county treasurer for deposit as provided in subsection (4) of this section.

NEW SECTION. **Sec. 9.** A new section is added to chapter 13.50 RCW to read as follows:

(1) Courts and judicial agencies that maintain a database of juvenile records may provide those records, whether sealed or not, to government agencies for the purpose of carrying out research or data gathering functions. This data may also be linked with records from other agencies or research organizations, provided that any agency receiving or using records under this subsection maintain strict confidentiality of the identity of the juveniles who are the subjects of such records.

(2) Juvenile records, whether sealed or not, can be provided without personal identifiers to researchers conducting legitimate research for educational, scientific, or public purposes, so long as the data is not used by the recipients of the records to identify an individual with a juvenile record.

Sec. 10. RCW 9.08.070 and 2003 c 53 s 9 are each amended to read as follows:

(1) Any person who, with intent to deprive or defraud the owner thereof, does any of the following shall be guilty of a gross misdemeanor punishable according to chapter 9A.20 RCW and ~~((by))~~ for adult offenders, a mandatory fine of not less than five hundred dollars per pet animal shall be imposed, except as provided by subsection (2) of this section:

(a) Takes, leads away, confines, secretes or converts any pet animal, except in cases in which the value of the pet animal exceeds two hundred fifty dollars;

(b) Conceals the identity of any pet animal or its owner by obscuring, altering, or removing from the pet animal any collar, tag, license, tattoo, or other identifying device or mark;

(c) Willfully or recklessly kills or injures any pet animal, unless excused by law.

(2) Nothing in this section shall prohibit a person from also being convicted of separate offenses under RCW 9A.56.030, 9A.56.040, or 9A.56.050 for theft or under RCW 9A.56.150, 9A.56.160, or 9A.56.170 for possession of stolen property.

Sec. 11. RCW 9.08.072 and 2003 c 53 s 10 are each amended to read as follows:

(1) It is unlawful for any person to receive with intent to sell to a research institution in the state of Washington, or sell or otherwise directly transfer to a research institution in the state of Washington, a pet animal that the person knows or has reason to know has been stolen or fraudulently obtained. This section does not apply to U.S.D.A. licensed dealers.

(2) The first conviction under this section is a gross misdemeanor punishable according to chapter 9A.20 RCW and ~~((by))~~, for adult offenders, a mandatory fine of not less than five hundred dollars per pet animal shall be imposed.

(3) A second or subsequent conviction under this section is a class C felony punishable according to chapter 9A.20 RCW and ~~((by))~~, for adult offenders, a mandatory fine of not less than one thousand dollars per pet animal shall be imposed.

(4) Nothing in this section shall prohibit a person from also being convicted of separate offenses under RCW 9A.56.030, 9A.56.040, or 9A.56.050 for theft or under RCW 9A.56.150, 9A.56.160, or 9A.56.170 for possession of stolen property.

Sec. 12. RCW 9.46.1961 and 2002 c 253 s 2 are each amended to read as follows:

(1) A person is guilty of cheating in the first degree if he or she engages in cheating and:

(a) Knowingly causes, aids, abets, or conspires with another to engage in cheating; or

(b) Holds a license or similar permit issued by the state of Washington to conduct, manage, or act as an employee in an authorized gambling activity.

(2) Cheating in the first degree is a class C felony subject to the penalty set forth in RCW 9A.20.021. In addition to any other penalties imposed by law for a conviction of a violation of this section the court may impose an additional penalty of up to twenty thousand dollars on adult offenders.

Sec. 13. RCW 9.68A.105 and 2013 c 121 s 4 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))~~ an adult offender 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 thousand dollar fee.

(b) The court may not reduce, waive, or suspend payment of all or part of the fee assessed unless it finds, on the record, that the ~~((person))~~ adult offender does not have the ability to pay in which case it may reduce the fee by an amount up to two-thirds of the maximum allowable fee.

~~((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 reduce, waive, or suspend payment of all or part of the fee assessed unless it finds, on the record, that the minor does not have the ability to pay the fee in which case it may reduce the fee by an amount up to two thirds of the maximum allowable fee.))~~

(2) Fees assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fees must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.

(a) At least fifty percent of the revenue from fees imposed under this section must be spent on prevention, including education programs for offenders, such as john school, and rehabilitative services for victims, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling.

(b) Two percent of the revenue from fees imposed under this section shall be remitted quarterly to the department of commerce, together with a report detailing the fees assessed, the revenue received, and how that revenue was spent.

(c) Revenues from these fees are not subject to the distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or 35.20.220.

(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.

Sec. 14. RCW 9.68A.106 and 2013 c 9 s 1 are each amended to read as follows:

(1) In addition to all other penalties under this chapter, ~~((a person))~~ an adult offender convicted of an offense under RCW 9.68A.100, 9.68A.101, or 9.68A.102 shall be assessed an additional fee of five thousand dollars per offense when the court finds that an internet advertisement in which the victim of the crime was described or depicted was instrumental in facilitating the commission of the crime.

(2) For purposes of this section, an "internet advertisement" means a statement in electronic media that would be understood by a reasonable person to be an implicit or explicit offer for sexual contact or sexual intercourse, both as defined in chapter 9A.44 RCW, in exchange for something of value.

(3) Amounts collected as penalties under this section shall be deposited in the account established under RCW 43.63A.740.

Sec. 15. RCW 9.94A.550 and 2003 c 53 s 59 are each amended to read as follows:

Unless otherwise provided by a statute of this state, on all sentences under this chapter the court may impose fines on adult offenders according to the following ranges:

Class A felonies	\$0 - 50,000
Class B felonies	\$0 - 20,000
Class C felonies	\$0 - 10,000

Sec. 16. RCW 9A.20.021 and 2011 c 96 s 13 are each amended to read as follows:

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

(5) The fines in this section apply to adult offenders only.

Sec. 17. RCW 9A.50.030 and 1993 c 128 s 4 are each amended to read as follows:

(1) A violation of RCW 9A.50.020 is a gross misdemeanor. A person convicted of violating RCW 9A.50.020 shall be punished as follows:

~~((1))~~ (a) For a first offense, a fine of not less than two hundred fifty dollars and a jail term of not less than twenty-four consecutive hours;

~~((2))~~ (b) For a second offense, a fine of not less than five hundred dollars and a jail term of not less than seven consecutive days; and

~~((3))~~ (c) For a third or subsequent offense, a fine of not less than one thousand dollars and a jail term of not less than thirty consecutive days.

(2) The fines imposed by this section apply to adult offenders only.

Sec. 18. RCW 9A.56.060 and 2009 c 431 s 10 are each amended to read as follows:

(1) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft, on a bank or other depository for the payment of money, knowing at the time of such drawing, or delivery, that he or she has not sufficient funds in, or credit with the bank or other depository, to meet the check or draft, in full upon its presentation, is guilty of unlawful issuance of bank check. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft, and the uttering or delivery of such a check or draft to another person without such fund or credit to meet the same shall be prima facie evidence of an intent to defraud.

(2) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft on a bank or other depository for the payment of money and who issues a stop-payment order directing the bank or depository on which the check is drawn not to honor the check, and who fails to make payment of money in the amount of the check or draft or otherwise arrange a settlement agreed upon by the holder of the check within twenty days of issuing the check or draft is guilty of unlawful issuance of a bank check.

(3) When any series of transactions which constitute unlawful issuance of a bank check would, when considered separately, constitute unlawful issuance of a bank check in an amount of seven hundred fifty dollars or less because of value, and the series of transactions are a part of a common scheme or plan, the transactions may be aggregated in one count and the sum of the value of all of the transactions shall be the value considered in determining whether the unlawful issuance of a bank check is to be punished as a class C felony or a gross misdemeanor.

(4) Unlawful issuance of a bank check in an amount greater than seven hundred fifty dollars is a class C felony.

(5) Unlawful issuance of a bank check in an amount of seven hundred fifty dollars or less is a gross misdemeanor and shall be punished as follows:

(a) The court shall order the defendant to make full restitution;

(b) The defendant need not be imprisoned, but the court shall impose a fine of up to one thousand one hundred twenty-five dollars for adult offenders. Of the fine imposed, at least three hundred seventy-five dollars or an amount equal to one hundred fifty percent of the amount of the bank check, whichever is greater, shall not be suspended or deferred. Upon conviction for a second offense within any twelve-month period, the court may not suspend or defer any portion of the fine.

Sec. 19. RCW 9A.56.085 and 2003 c 53 s 76 are each amended to read as follows:

(1) Whenever (~~(a person)~~) an adult offender is convicted of a violation of RCW 9A.56.080 or 9A.56.083, the convicting court shall order the person to pay the amount of two thousand dollars for each animal killed or possessed.

(2) For the purpose of this section, the term "convicted" includes a plea of guilty, a finding of guilt regardless of whether the imposition of the sentence is deferred or any part of the penalty is suspended, or the levying of a fine.

(3) If two or more persons are convicted of any violation of this section, the amount required under this section shall be imposed upon them jointly and severally.

(4) The fine in this section shall be imposed in addition to and regardless of any penalty, including fines or costs, that is provided for any violation of this section. The amount imposed by this section shall be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect. Nothing in this section may be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(5) A defaulted payment or any installment payment may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including vacation of a deferral of sentencing or of a suspension of sentence.

(6) The two thousand dollars additional penalty shall be remitted by the county treasurer to the state treasurer as provided under RCW 10.82.070.

Sec. 20. RCW 9A.88.120 and 2013 c 121 s 5 are each amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 9A.88.010 and 9A.88.030, (~~(a person)~~) an adult offender 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 9A.88.010, 9A.88.030, or comparable county or municipal ordinances shall be assessed a fifty dollar fee.

(b) In addition to penalties set forth in RCW 9A.88.090, (~~(a person)~~) an adult offender 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 9A.88.090 or comparable county or municipal ordinances shall be assessed a fee in the amount of:

(i) One thousand five hundred dollars if the defendant has no prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense;

(ii) Two thousand five hundred dollars if the defendant has one prior conviction, deferred sentence, deferred prosecution, or statutory or nonstatutory diversion agreement for this offense; and

(iii) Five thousand dollars if the defendant has two or more prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense.

(c) In addition to penalties set forth in RCW 9A.88.110, 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 9A.88.110 or a comparable county or municipal ordinance shall be assessed a fee in the amount of:

(i) One thousand five hundred dollars if the defendant has no prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense;

(ii) Two thousand five hundred dollars if the defendant has one prior conviction, deferred sentence, deferred prosecution, or statutory or nonstatutory diversion agreement for this offense; and

(iii) Five thousand dollars if the defendant has two or more prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense.

(d) In addition to penalties set forth in RCW 9A.88.070 and 9A.88.080, 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 9A.88.070, 9A.88.080, or comparable county or municipal ordinances shall be assessed a fee in the amount of:

(i) Three thousand dollars if the defendant has no prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense;

(ii) Six thousand dollars if the defendant has one prior conviction, deferred sentence, deferred prosecution, or statutory or nonstatutory diversion agreement for this offense; and

(iii) Ten thousand dollars if the defendant has two or more prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense.

~~(2) ((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 under this chapter or comparable county or municipal ordinances, the court shall assess the fee as specified under subsection (1) of this section.~~

~~(3))~~ The court shall not reduce, waive, or suspend payment of all or part of the assessed fee in this section unless it finds, on the record, that the offender does not have the ability to pay the fee in which case it may reduce the fee by an amount up to two-thirds of the maximum allowable fee.

(a) A superior court may, as described in RCW 9.94A.760, set a sum that the offender is required to pay on a monthly basis towards satisfying the fee imposed in this section.

(b) A district or municipal court may enter into a payment plan with the defendant, in which the fee assessed in this section is paid through scheduled periodic payments. The court may assess the defendant a reasonable fee for administrative services related to the operation of the payment plan.

~~((4))~~ (3) Fees assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fees must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.

(a) At least fifty percent of the revenue from fees imposed under this section must be spent on prevention, including education programs for offenders, such as john school, and rehabilitative services for victims, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling.

(b) Two percent of the revenue from fees imposed under this section shall be remitted quarterly to the department of commerce, together with a report detailing the fees assessed, the revenue received, and how that revenue was spent.

(c) Revenues from these fees are not subject to the distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or 35.20.220.

~~((5))~~ (4) 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.

Sec. 21. RCW 9A.88.140 and 2013 c 121 s 6 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, 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."

(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))~~ an adult owner of ~~((the))~~ an impounded vehicle must pay a fine 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.

(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.

(c) Fines assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fines must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.

(i) At least fifty percent of the revenue from fines imposed under this section must be spent on prevention, including education programs for offenders, such as john school, and rehabilitative services for victims, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling.

(ii) Two percent of the revenue from fines imposed under this section shall be remitted quarterly to the department of commerce, together with a report detailing the fees assessed, the revenue received, and how that revenue was spent.

(iii) Revenues from these fees are not subject to the distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or 35.20.220.

(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 (4)(b) of this section.

(b) The written receipt issued under subsection (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 (4)(a) of this section.

(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 (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 fine paid under subsection (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. 22. RCW 10.73.160 and 1995 c 275 s 3 are each amended to read as follows:

(1) The court of appeals, supreme court, and superior courts may require an adult ~~((or a juvenile))~~ offender convicted of an offense ~~((or the parents or another person legally obligated to support a juvenile offender))~~ to pay appellate costs.

(2) Appellate costs are limited to expenses specifically incurred by the state in prosecuting or defending an appeal or collateral attack from a criminal conviction ~~((or sentence or a juvenile offender conviction or disposition))~~. Appellate costs shall not include expenditures to maintain and operate government agencies that must be made irrespective of specific violations of the law. Expenses incurred for producing a verbatim report of proceedings and clerk's papers may be included in costs the court may require a convicted defendant ~~((or juvenile offender))~~ to pay.

(3) Costs, including recoupment of fees for court-appointed counsel, shall be requested in accordance with the procedures contained in Title 14 of the rules of appellate procedure and in Title 9 of the rules for appeal of decisions of courts of limited jurisdiction. An award of costs shall become part of the trial court judgment and sentence. ~~((An award of costs in juvenile cases shall also become part of any order previously entered in the trial court pursuant to RCW 13.40.145.))~~

(4) A defendant ~~((or juvenile offender))~~ who has been sentenced to pay costs and who is not in contumacious default in the payment may at any time petition the court that sentenced the defendant or juvenile offender for remission of the payment of costs or of any unpaid portion. If it appears to the satisfaction of the sentencing court that payment of the amount due will impose manifest hardship on the defendant~~((;))~~ or the defendant's immediate family~~((; or the juvenile offender))~~, the sentencing court may remit all or part of the amount due in costs, or modify the method of payment under RCW 10.01.170.

(5) The parents or another person legally obligated to support a juvenile offender who has been ordered to pay appellate costs ~~((pursuant to RCW 13.40.145))~~ and who is not in contumacious default in the payment may at any time petition the court that sentenced the juvenile offender for remission of the payment of costs or of any unpaid portion. If it appears to the satisfaction of the sentencing court that payment of the amount due will impose manifest hardship on the parents or another person legally obligated to support a juvenile offender or on their immediate families, the sentencing court may remit all or part of the amount due in costs, or may modify the method of payment.

Sec. 23. RCW 10.82.090 and 2011 c 106 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, financial obligations imposed in a judgment shall bear interest from the date of the judgment until payment, at the rate applicable to civil judgments. All nonrestitution interest

retained by the court shall be split twenty-five percent to the state treasurer for deposit in the state general fund, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the county current expense fund, and twenty-five percent to the county current expense fund to fund local courts.

(2) The court may, on motion by the offender, following the offender's release from total confinement, reduce or waive the interest on legal financial obligations levied as a result of a criminal conviction as follows:

(a) The court shall waive all interest on the portions of the legal financial obligations that are not restitution that accrued during the term of total confinement for the conviction giving rise to the financial obligations, provided the offender shows that the interest creates a hardship for the offender or his or her immediate family;

(b) The court may reduce interest on the restitution portion of the legal financial obligations only if the principal has been paid in full;

(c) The court may otherwise reduce or waive the interest on the portions of the legal financial obligations that are not restitution if the offender shows that he or she has personally made a good faith effort to pay and that the interest accrual is causing a significant hardship. For purposes of this section, "good faith effort" means that the offender has either (i) paid the principal amount in full; or (ii) made at least fifteen monthly payments within an eighteen-month period, excluding any payments mandatorily deducted by the department of corrections;

(d) For purposes of (a) through (c) of this subsection, the court may reduce or waive interest on legal financial obligations only as an incentive for the offender to meet his or her legal financial obligations. The court may grant the motion, establish a payment schedule, and retain jurisdiction over the offender for purposes of reviewing and revising the reduction or waiver of interest.

(3) This section only applies to (~~persons convicted as adults or adjudicated in juvenile court~~) adult offenders.

Sec. 24. RCW 10.99.080 and 2004 c 15 s 2 are each amended to read as follows:

(1) All superior courts, and courts organized under Title 3 or 35 RCW, may impose a penalty assessment not to exceed one hundred dollars on any (~~person~~) adult offender convicted of a crime involving domestic violence. The assessment shall be in addition to, and shall not supersede, any other penalty, restitution, fines, or costs provided by law.

(2) Revenue from the assessment shall be used solely for the purposes of establishing and funding domestic violence advocacy and domestic violence prevention and prosecution programs in the city or county of the court imposing the assessment. Revenue from the assessment shall not be used for indigent criminal defense. If the city or county does not have domestic violence advocacy or domestic violence prevention and prosecution programs, cities and counties may use the revenue collected from the assessment to contract with recognized community-based domestic violence program providers.

(3) The assessment imposed under this section shall not be subject to any state or local remittance requirements under chapter 3.46, 3.50, 3.62, 7.68, 10.82, or 35.20 RCW.

(4) For the purposes of this section, "convicted" includes a plea of guilty, a finding of guilt regardless of whether the imposition of the sentence is deferred or any part of the penalty is suspended, or the levying of a fine. For the purposes of this section, "domestic violence" has the same meaning as that term is defined under RCW 10.99.020 and includes violations of equivalent local ordinances.

(5) When determining whether to impose a penalty assessment under this section, judges are encouraged to solicit input from the victim or representatives for the victim in assessing the ability of the convicted offender to pay the penalty, including information regarding current financial obligations, family circumstances, and ongoing restitution.

Sec. 25. RCW 13.40.080 and 2014 c 128 s 5 are each amended to read as follows:

(1) A diversion agreement shall be a contract between a juvenile accused of an offense and a diversion unit whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it. Such agreements shall be entered into as expeditiously as possible.

(2) A diversion agreement shall be limited to one or more of the following:

(a) Community restitution not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Restitution limited to the amount of actual loss incurred by any victim;

(c) Attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions at a community agency. The educational or informational sessions may include sessions relating to respect for self, others, and authority; victim awareness; accountability; self-worth; responsibility; work ethics; good citizenship; literacy; and life skills. If an assessment identifies mental health or chemical dependency needs, a youth may access up to thirty hours of counseling. The counseling sessions may include services demonstrated to improve behavioral health and reduce recidivism. For purposes of this section, "community agency" may also mean a community-based nonprofit organization, a physician, a counselor, a school, or a treatment provider, if approved by the diversion unit. The state shall not be liable for costs resulting from the diversion unit exercising the option to permit diversion agreements to mandate attendance at up to thirty hours of counseling and/or up to twenty hours of educational or informational sessions;

~~(d) ((A fine, not to exceed one hundred dollars;~~

~~(e))~~ Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas; and

~~((f))~~ (e) Upon request of any victim or witness, requirements to refrain from any contact with victims or witnesses of offenses committed by the juvenile.

(3) Notwithstanding the provisions of subsection (2) of this section, youth courts are not limited to the conditions imposed by subsection (2) of this section in imposing sanctions on juveniles pursuant to RCW 13.40.630.

(4) In assessing periods of community restitution to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement, the court officer to whom this task is assigned shall consult with the juvenile's

custodial parent or parents or guardian. To the extent possible, the court officer shall advise the victims of the juvenile offender of the diversion process, offer victim impact letter forms and restitution claim forms, and involve members of the community. Such members of the community shall meet with the juvenile and advise the court officer as to the terms of the diversion agreement and shall supervise the juvenile in carrying out its terms.

(5)(a) A diversion agreement may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the diverttee.

(b) If additional time is necessary for the juvenile to complete restitution to a victim, the time period limitations of this subsection may be extended by an additional six months.

(c) If the juvenile has not paid the full amount of restitution by the end of the additional six-month period, then the juvenile shall be referred to the juvenile court for entry of ~~((an))~~ a civil order establishing the amount of restitution still owed to the victim. In this order, the court shall also determine the terms and conditions of the restitution, including a payment plan extending up to ten years if the court determines that the juvenile does not have the means to make full restitution over a shorter period. For the purposes of this subsection (5)(c), the juvenile shall remain under the court's jurisdiction for a maximum term of ten years after the juvenile's eighteenth birthday. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may relieve the juvenile of the requirement to pay full or partial restitution if the juvenile reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a ten-year period. If the court relieves the juvenile of the requirement to pay full or partial restitution, the court may order an amount of community restitution that the court deems appropriate. The county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. A juvenile under obligation to pay restitution may petition the court for modification of the restitution order.

(6) The juvenile shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

(7) Diverttees and potential diverttees shall be afforded due process in all contacts with a diversion unit regardless of whether the juveniles are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written diversion agreement shall be executed stating all conditions in clearly understandable language;

(b) Violation of the terms of the agreement shall be the only grounds for termination;

(c) No diverttee may be terminated from a diversion program without being given a court hearing, which hearing shall be preceded by:

(i) Written notice of alleged violations of the conditions of the diversion program; and

(ii) Disclosure of all evidence to be offered against the diverttee;

(d) The hearing shall be conducted by the juvenile court and shall include:

(i) Opportunity to be heard in person and to present evidence;

- (ii) The right to confront and cross-examine all adverse witnesses;
- (iii) A written statement by the court as to the evidence relied on and the reasons for termination, should that be the decision; and
- (iv) Demonstration by evidence that the divertee has substantially violated the terms of his or her diversion agreement;
- (e) The prosecutor may file an information on the offense for which the divertee was diverted:

- (i) In juvenile court if the divertee is under eighteen years of age; or
- (ii) In superior court or the appropriate court of limited jurisdiction if the divertee is eighteen years of age or older.

(8) The diversion unit shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during diversion unit hearings or negotiations.

(9) The diversion unit shall be responsible for advising a divertee of his or her rights as provided in this chapter.

(10) The diversion unit may refer a juvenile to a restorative justice program, community-based counseling, or treatment programs.

(11) The right to counsel shall inure prior to the initial interview for purposes of advising the juvenile as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The juvenile shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews mean all interviews regarding the diversion agreement process.

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(~~((7))~~) (8). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversion unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

(12) When a juvenile enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

- (a) The fact that a charge or charges were made;
- (b) The fact that a diversion agreement was entered into;
- (c) The juvenile's obligations under such agreement;
- (d) Whether the alleged offender performed his or her obligations under such agreement; and
- (e) The facts of the alleged offense.

(13) A diversion unit may refuse to enter into a diversion agreement with a juvenile. When a diversion unit refuses to enter a diversion agreement with a juvenile, it shall immediately refer such juvenile to the court for action and shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversion unit shall also immediately refer the case to the prosecuting attorney for action if such juvenile violates the terms of the diversion agreement.

(14) A diversion unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no

victim, or where it determines that the juvenile referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a juvenile without entering into a diversion agreement. A diversion unit's authority to counsel and release a juvenile under this subsection includes the authority to refer the juvenile to community-based counseling or treatment programs or a restorative justice program. Any juvenile released under this subsection shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020~~((7))~~ (8). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language. A juvenile determined to be eligible by a diversion unit for release as provided in this subsection shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

(15) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

(16) If ~~((a fine))~~ restitution required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert ~~((an))~~ unpaid ~~((fine))~~ restitution into community restitution. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community restitution in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

~~((17) Fines imposed under this section shall be collected and paid into the county general fund in accordance with procedures established by the juvenile court administrator under RCW 13.04.040 and may be used only for juvenile services. In the expenditure of funds for juvenile services, there shall be a maintenance of effort whereby counties exhaust existing resources before using amounts collected under this section.))~~

Sec. 26. RCW 13.40.127 and 2014 c 175 s 6 and 2014 c 117 s 2 are each reenacted and amended to read as follows:

- (1) A juvenile is eligible for deferred disposition unless he or she:
 - (a) Is charged with a sex or violent offense;
 - (b) Has a criminal history which includes any felony;
 - (c) Has a prior deferred disposition or deferred adjudication; or
 - (d) Has two or more adjudications.

(2) The juvenile court may, upon motion at least fourteen days before commencement of trial and, after consulting the juvenile's custodial parent or parents or guardian and with the consent of the juvenile, continue the case for disposition for a period not to exceed one year from the date the juvenile is found guilty. The court shall consider whether the offender and the community will benefit from a deferred disposition before deferring the disposition. The

court may waive the fourteen-day period anytime before the commencement of trial for good cause.

(3) Any juvenile who agrees to a deferral of disposition shall:

(a) Stipulate to the admissibility of the facts contained in the written police report;

(b) Acknowledge that the report will be entered and used to support a finding of guilt and to impose a disposition if the juvenile fails to comply with terms of supervision;

(c) Waive the following rights to: (i) A speedy disposition; and (ii) call and confront witnesses; and

(d) Acknowledge the direct consequences of being found guilty and the direct consequences that will happen if an order of disposition is entered.

The adjudicatory hearing shall be limited to a reading of the court's record.

(4) Following the stipulation, acknowledgment, waiver, and entry of a finding or plea of guilt, the court shall defer entry of an order of disposition of the juvenile.

(5) Any juvenile granted a deferral of disposition under this section shall be placed under community supervision. The court may impose any conditions of supervision that it deems appropriate including posting a probation bond. Payment of restitution under RCW 13.40.190 shall be a condition of community supervision under this section.

The court may require a juvenile offender convicted of animal cruelty in the first degree to submit to a mental health evaluation to determine if the offender would benefit from treatment and such intervention would promote the safety of the community. After consideration of the results of the evaluation, as a condition of community supervision, the court may order the offender to attend treatment to address issues pertinent to the offense.

The court may require the juvenile to undergo a mental health or substance abuse assessment, or both. If the assessment identifies a need for treatment, conditions of supervision may include treatment for the assessed need that has been demonstrated to improve behavioral health and reduce recidivism.

The court shall require a juvenile granted a deferral of disposition for unlawful possession of a firearm in violation of RCW 9.41.040 to participate in a qualifying program as described in RCW 13.40.193(2)(b), when available, unless the court makes a written finding based on the outcome of the juvenile court risk assessment that participation in a qualifying program would not be appropriate.

(6) A parent who signed for a probation bond has the right to notify the counselor if the juvenile fails to comply with the bond or conditions of supervision. The counselor shall notify the court and surety of any failure to comply. A surety shall notify the court of the juvenile's failure to comply with the probation bond. The state shall bear the burden to prove, by a preponderance of the evidence, that the juvenile has failed to comply with the terms of community supervision.

(7)(a) Anytime prior to the conclusion of the period of supervision, the prosecutor or the juvenile's juvenile court community supervision counselor may file a motion with the court requesting the court revoke the deferred disposition based on the juvenile's lack of compliance or treat the juvenile's lack of compliance as a violation pursuant to RCW 13.40.200.

(b) If the court finds the juvenile failed to comply with the terms of the deferred disposition, the court may:

- (i) Revoke the deferred disposition and enter an order of disposition; or
- (ii) Impose sanctions for the violation pursuant to RCW 13.40.200.

(8) At any time following deferral of disposition the court may, following a hearing, continue supervision for an additional one-year period for good cause.

(9)(a) At the conclusion of the period of supervision, the court shall determine whether the juvenile is entitled to dismissal of the deferred disposition only when the court finds:

- (i) The deferred disposition has not been previously revoked;
- (ii) The juvenile has completed the terms of supervision;
- (iii) There are no pending motions concerning lack of compliance pursuant to subsection (7) of this section; and
- (iv) The juvenile has either paid the full amount of restitution, or, made a good faith effort to pay the full amount of restitution during the period of supervision.

(b) If the court finds the juvenile is entitled to dismissal of the deferred disposition pursuant to (a) of this subsection, the juvenile's conviction shall be vacated and the court shall dismiss the case with prejudice, except that a conviction under RCW 16.52.205 shall not be vacated. Whenever a case is dismissed with restitution still owing, the court shall enter a restitution order pursuant to RCW (~~(13.40.190)~~) 7.80.130 for any unpaid restitution. Jurisdiction to enforce payment and modify terms of the restitution order shall be the same as those set forth in RCW (~~(13.40.190)~~) 7.80.130.

(c) If the court finds the juvenile is not entitled to dismissal of the deferred disposition pursuant to (a) of this subsection, the court shall revoke the deferred disposition and enter an order of disposition. A deferred disposition shall remain a conviction unless the case is dismissed and the conviction is vacated pursuant to (b) of this subsection or sealed pursuant to RCW 13.50.260.

(10)(a)(i) Any time the court vacates a conviction pursuant to subsection (9) of this section, if the juvenile is eighteen years of age or older and the full amount of restitution (~~(ordered)~~) owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW has been paid, the court shall enter a written order sealing the case.

(ii) Any time the court vacates a conviction pursuant to subsection (9) of this section, if the juvenile is not eighteen years of age or older and full restitution ordered has been paid, the court shall schedule an administrative sealing hearing to take place no later than thirty days after the respondent's eighteenth birthday, at which time the court shall enter a written order sealing the case. The respondent's presence at the administrative sealing hearing is not required.

(iii) Any deferred disposition vacated prior to June 7, 2012, is not subject to sealing under this subsection.

(b) Nothing in this subsection shall preclude a juvenile from petitioning the court to have the records of his or her deferred dispositions sealed under RCW 13.50.260.

(c) Records sealed under this provision shall have the same legal status as records sealed under RCW 13.50.260.

Sec. 27. RCW 36.18.016 and 2009 c 417 s 2 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2)(a) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, and any party filing a counterclaim, cross-claim, or third-party claim in any such action, a fee of thirty-six dollars must be paid.

(b) The party filing the first or initial petition for dissolution, legal separation, or declaration concerning the validity of marriage shall pay, at the time and in addition to the filing fee required under RCW 36.18.020, a fee of thirty dollars. The clerk of the superior court shall transmit monthly twenty-four dollars of the thirty dollar fee collected under this subsection to the state treasury for deposit in the domestic violence prevention account. The remaining six dollars shall be retained by the county for the purpose of supporting community-based services within the county for victims of domestic violence, except for five percent of the six dollars, which may be retained by the court for administrative purposes.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional one hundred twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of one hundred twenty-five dollars for a jury of six, or two hundred fifty dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing a certified copy of an instrument on file or of record in the clerk's office, for the first page or portion of the first page, a fee of five dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of two dollars for each additional seal affixed must be charged. For preparing a copy of an instrument on file or of record in the clerk's office without a seal, a fee of fifty cents per page must be charged. When copying a document without a seal or file that is in an electronic format, a fee of twenty-five cents per page must be charged. For copies made on a compact disc, an additional fee of twenty dollars for each compact disc must be charged.

(5) For executing a certificate, with or without a seal, a fee of two dollars must be charged.

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of twenty dollars must be charged.

(7) For filing a supplemental proceeding, a fee of twenty dollars must be charged.

(8) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(9) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of five dollars.

(10) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(11) For clerk's services such as performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed thirty dollars per hour.

(12) For processing ex parte orders, the clerk may collect a fee of thirty dollars.

(13) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape or other electronic storage medium.

(14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of twenty dollars must be charged.

(15) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of two hundred dollars must be charged. When the extension of judgment is at the request of the clerk, the two hundred dollar charge may be imposed as court costs under RCW 10.46.190.

(16) A facilitator surcharge of up to twenty dollars must be charged as authorized under RCW 26.12.240.

(17) For filing (~~a water rights statement~~) an adjudication claim under RCW 90.03.180, a fee of twenty-five dollars must be charged.

(18) For filing a claim of frivolous lien under RCW 60.04.081, a fee of thirty-five dollars must be charged.

(19) For preparation of a change of venue, a fee of twenty dollars must be charged by the originating court in addition to the per page charges in subsection (4) of this section.

(20) A service fee of five dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(21) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

(22) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(23) Investment service charge and earnings under RCW 36.48.090 must be charged.

(24) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

(25) For filing a request for mandatory arbitration, a filing fee may be assessed against the party filing a statement of arbitrability not to exceed two hundred twenty dollars as established by authority of local ordinance. This charge shall be used solely to offset the cost of the mandatory arbitration program.

(26) For filing a request for trial de novo of an arbitration award, a fee not to exceed two hundred fifty dollars as established by authority of local ordinance must be charged.

(27) A public agency may not charge a fee to a law enforcement agency, for preparation, copying, or mailing of certified copies of the judgment and sentence, information, affidavit of probable cause, and/or the notice of requirement to register, of a sex offender convicted in a Washington court, when

such records are necessary for risk assessment, preparation of a case for failure to register, or maintenance of a sex offender's registration file.

(28) For the filing of a will or codicil under the provisions of chapter 11.12 RCW, a fee of twenty dollars must be charged.

(29) For the collection of an adult offender's unpaid legal financial obligations, the clerk may impose an annual fee of up to one hundred dollars, pursuant to RCW 9.94A.780.

(30) A surcharge of up to twenty dollars may be charged in dissolution and legal separation actions as authorized by RCW 26.12.260.

The revenue to counties from the fees established in this section shall be deemed to be complete reimbursement from the state for the state's share of benefits paid to the superior court judges of the state prior to July 24, 2005, and no claim shall lie against the state for such benefits.

Sec. 28. RCW 36.18.020 and 2013 2nd sp.s. c 7 s 3 are each amended to read as follows:

(1) Revenue collected under this section is subject to division with the state under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070, except as provided in subsection (5) of this section.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) In addition to any other fee required by law, the party filing the first or initial document in any civil action, including, but not limited to an action for restitution, adoption, or change of name, and any party filing a counterclaim, cross-claim, or third-party claim in any such civil action, shall pay, at the time the document is filed, a fee of two hundred dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of forty-five dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The forty-five dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial document on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the document is filed, a fee of two hundred dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of two hundred dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of fifty-three dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of two hundred dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first document therein, a fee of two hundred dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of two hundred dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a

conviction by a court of limited jurisdiction, ((a)) an adult defendant in a criminal case shall be liable for a fee of two hundred dollars.

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972. However, no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

(4) No fee shall be collected when an abstract of judgment is filed by the county clerk of another county for the purposes of collection of legal financial obligations.

(5)(a) Until July 1, 2017, in addition to the fees required to be collected under this section, clerks of the superior courts must collect surcharges as provided in this subsection (5) of which seventy-five percent must be remitted to the state treasurer for deposit in the judicial stabilization trust account and twenty-five percent must be retained by the county.

(b) On filing fees required to be collected under subsection (2)(b) of this section, a surcharge of thirty dollars must be collected.

(c) On all filing fees required to be collected under this section, except for fees required under subsection (2)(b), (d), and (h) of this section, a surcharge of forty dollars must be collected.

Sec. 29. RCW 36.18.040 and 1992 c 164 s 1 are each amended to read as follows:

(1) Sheriffs shall collect the following fees for their official services:

(a) For service of each summons and complaint, notice and complaint, summons and petition, and notice of small claim on one defendant at any location, ten dollars, and on two or more defendants at the same residence, twelve dollars, besides mileage;

(b) For making a return, besides mileage actually traveled, seven dollars;

(c) For levying each writ of attachment or writ of execution upon real or personal property, besides mileage, thirty dollars per hour;

(d) For filing copy of writ of attachment or writ of execution with auditor, ten dollars plus auditor's filing fee;

(e) For serving writ of possession or restitution without aid of the county, besides mileage, twenty-five dollars;

(f) For serving writ of possession or restitution with aid of the county, besides mileage, forty dollars plus thirty dollars for each hour after one hour;

(g) For serving an arrest warrant in any action or proceeding, besides mileage, thirty dollars;

(h) For executing any other writ or process in a civil action or proceeding, besides mileage, thirty dollars per hour;

(i) For each mile actually and necessarily traveled in going to or returning from any place of service, or attempted service, thirty-five cents;

(j) For making a deed to lands sold upon execution or order of sale or other decree of court, to be paid by the purchaser, thirty dollars;

(k) For making copies of papers when sufficient copies are not furnished, one dollar for first page and fifty cents per each additional page;

(l) For the service of any other document and supporting papers for which no other fee is provided for herein, twelve dollars;

(m) For posting a notice of sale, or postponement, ten dollars besides mileage;

(n) For certificate or bill of sale of property, or certificate of redemption, thirty dollars;

(o) For conducting a sale of property, thirty dollars per hour spent at a sheriff's sale;

(p) For notarizing documents, five dollars for each document;

(q) For fingerprinting for noncriminal purposes, ten dollars for each person for up to two sets, three dollars for each additional set;

(r) For mailing required by statute, whether regular, certified, or registered, the actual cost of postage;

(s) For an internal criminal history records check, ten dollars;

(t) For the reproduction of audio, visual, or photographic material, to include magnetic microfilming, the actual cost including personnel time.

(2) Fees allowable under this section may be recovered by the prevailing party incurring the same as court costs. Nothing contained in this section permits the expenditure of public funds to defray costs of private litigation. Such costs shall be borne by the party seeking action by the sheriff, and may be recovered from the proceeds of any subsequent judicial sale, or may be added to any judgment upon proper application to the court entering the judgment.

(3) Notwithstanding subsection (1) of this section, a county legislative authority may set the amounts of fees that shall be collected by the sheriff under subsection (1) of this section to cover the costs of administration and operation.

(4) The fines imposed by this section do not apply to juvenile offenders.

Sec. 30. RCW 43.43.690 and 1992 c 129 s 2 are each amended to read as follows:

(1) When ~~((a person))~~ an adult offender has been adjudged guilty of violating any criminal statute of this state and a crime laboratory analysis was performed by a state crime laboratory, in addition to any other disposition, penalty, or fine imposed, the court shall levy a crime laboratory analysis fee of one hundred dollars for each offense for which the person was convicted. Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay the fee.

~~(2) ((When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of any criminal statute of this state and a crime laboratory analysis was performed, in addition to any other disposition imposed, the court shall assess a crime laboratory analysis fee of one hundred dollars for each adjudication. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee [if] it finds that the minor does not have the ability to pay the fee.~~

~~(3))~~ All crime laboratory analysis fees assessed under this section shall be collected by the clerk of the court and forwarded to the state general fund, to be used only for crime laboratories. The clerk may retain five dollars to defray the costs of collecting the fees.

Sec. 31. RCW 43.43.7541 and 2011 c 125 s 1 are each amended to read as follows:

Every sentence imposed for a crime specified in RCW 43.43.754 must include a fee of one hundred dollars. The fee is a courtordered legal financial obligation as defined in RCW 9.94A.030 and other applicable law. For a sentence imposed under chapter 9.94A RCW, the fee is payable by the offender after payment of all other legal financial obligations included in the sentence has been completed. For all other sentences, the fee is payable by the offender in the same manner as other assessments imposed. The clerk of the court shall transmit eighty percent of the fee collected to the state treasurer for deposit in the state DNA database account created under RCW 43.43.7532, and shall transmit twenty percent of the fee collected to the agency responsible for collection of a biological sample from the offender as required under RCW 43.43.754. This fee shall not be imposed on juvenile offenders if the state has previously collected the juvenile offender's DNA as a result of a prior conviction.

Sec. 32. RCW 46.61.5054 and 2011 c 293 s 12 are each amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 46.61.5051 through 46.61.5053 until September 1, 1995, and RCW 46.61.5055 thereafter, a two hundred dollar fee shall be assessed to a person who is either convicted, sentenced to a lesser charge, or given deferred prosecution, as a result of an arrest for violating RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for the purpose of funding the Washington state toxicology laboratory and the Washington state patrol for grants and activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs.

(b) Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay.

~~((c) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall assess the two hundred dollar fee under (a) of this subsection. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee if 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, subject to subsection (4) of this section, one hundred seventy-five dollars of the fee must be distributed as follows:

(a) Forty percent shall be subject to distribution under RCW 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

(b) The remainder of the fee shall be forwarded to the state treasurer who shall, through June 30, 1997, deposit: Fifty percent in the death investigations' account to be used solely for funding the state toxicology laboratory blood or breath testing programs; and fifty percent in the state patrol highway account to be used solely for funding activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs. Effective July 1, 1997, the remainder of the fee shall be forwarded to the state treasurer who shall deposit: Fifteen percent in the death investigations' account to be used solely for funding the state toxicology laboratory blood or breath

testing programs; and eighty-five percent in the state patrol highway account to be used solely for funding activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs.

(3) Twenty-five dollars of the fee assessed under subsection (1) of this section must be distributed to the highway safety (~~(account [fund])~~) fund to be used solely for funding Washington traffic safety commission grants to reduce statewide collisions caused by persons driving under the influence of alcohol or drugs. Grants awarded under this subsection may be for projects that encourage collaboration with other community, governmental, and private organizations, and that utilize innovative approaches based on best practices or proven strategies supported by research or rigorous evaluation. Grants recipients may include, for example:

(a) DUI courts; and

(b) Jurisdictions implementing the victim impact panel registries under RCW 46.61.5152 and 10.01.230.

(4) If the court has suspended payment of part of the fee pursuant to subsection (1)(b) (~~(or (e))~~) of this section, amounts collected shall be distributed proportionately.

(5) This section applies to any offense committed on or after July 1, 1993, and only to adult offenders.

Sec. 33. RCW 46.61.5055 and 2014 c 100 s 1 are each amended to read as follows:

(1) **No prior offenses in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than three hundred sixty-four days. Twenty-four consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device or other separate alcohol monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than three hundred sixty-four days. Forty-eight consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer or other separate alcohol monitoring device, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(2) **One prior offense in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than three hundred sixty-four days and sixty days of electronic home monitoring. In lieu of the mandatory minimum term of sixty days electronic home monitoring, the court may order at least an additional four days in jail or, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and the court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than three hundred sixty-four days and ninety days of electronic home monitoring. In lieu of the mandatory minimum term of ninety days electronic home monitoring, the court may order at least an additional six days in jail or, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and the court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(3) **Two or three prior offenses in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred twenty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred twenty days of electronic home monitoring, the court may order at least an additional eight days in jail. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol

the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(i) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred fifty days of electronic home monitoring, the court may order at least an additional ten days in jail. The offender shall pay for the cost of the electronic monitoring. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(4) **Four or more prior offenses in ten years.** A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if:

(a) The person has four or more prior offenses within ten years; or

(b) The person has ever previously been convicted of:

(i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

(5) **Monitoring.**

(a) **Ignition interlock device.** The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) **Monitoring devices.** If the court orders that a person refrain from consuming any alcohol, the court may order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring, unless the court specifies that the cost of monitoring will be paid with funds that are available from an alternative source identified by the court. The county or municipality where the penalty is being imposed shall determine the cost.

(c) **Ignition interlock device substituted for 24/7 sobriety program monitoring.** In any county or city where a 24/7 sobriety program is available and verified by the Washington association of sheriffs and police chiefs, the court shall:

(i) Order the person to install and use a functioning ignition interlock or other device in lieu of such period of 24/7 sobriety program monitoring;

(ii) Order the person to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section; or

(iii) Order the person to install and use a functioning ignition interlock or other device in addition to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section.

(6) **Penalty for having a minor passenger in vehicle.** If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) Order the use of an ignition interlock or other device for an additional six months;

(b) In any case in which the person has no prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional twenty-four hours of imprisonment and a fine of not less than one thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

(c) In any case in which the person has one prior offense within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional five days of imprisonment and a fine of not less than two thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

(d) In any case in which the person has two or three prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional ten days of imprisonment and a fine of not less than three thousand dollars and not more than ten thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(7) **Other items courts must consider while setting penalties.** In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property;

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers;

(c) Whether the driver was driving in the opposite direction of the normal flow of traffic on a multiple lane highway, as defined by RCW 46.04.350, with a posted speed limit of forty-five miles per hour or greater; and

(d) Whether a child passenger under the age of sixteen was an occupant in the driver's vehicle.

(8) **Treatment and information school.** An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) **Driver's license privileges of the defendant.** The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) **Penalty for alcohol concentration less than 0.15.** If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) **Penalty for alcohol concentration at least 0.15.** If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) **Penalty for refusing to take test.** If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

Upon its own motion or upon motion by a person, a court may find, on the record, that notice to the department under RCW 46.20.270 has been delayed for

three years or more as a result of a clerical or court error. If so, the court may order that the person's license, permit, or nonresident privilege shall not be revoked, suspended, or denied for that offense. The court shall send notice of the finding and order to the department and to the person. Upon receipt of the notice from the court, the department shall not revoke, suspend, or deny the license, permit, or nonresident privilege of the person for that offense.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) **Probation of driving privilege.** After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11) **Conditions of probation.** (a) In addition to any nonsuspendable and nondeferable jail sentence required by this section, whenever the court imposes up to three hundred sixty-four days in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of liability insurance or other financial responsibility for the future pursuant to RCW 46.30.020; (ii) not driving or being in physical control of a motor vehicle within this state while having an alcohol concentration of 0.08 or more or a THC concentration of 5.00 nanograms per milliliter of whole blood or higher, within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol or drug concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drug. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) **Waiver of electronic home monitoring.** A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system. However, if a court determines that an alcohol monitoring device utilizing wireless reporting

technology is reasonably available, the court may require the person to obtain such a device during the period of required electronic home monitoring;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, use of an ignition interlock device, the 24/7 sobriety program monitoring, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-four days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-four days.

(13) **Extraordinary medical placement.** An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(3).

(14) **Definitions.** For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.25.110 or an equivalent local ordinance;

(iv) A conviction for a violation of RCW 79A.60.040 or an equivalent local ordinance;

(v) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance;

(vi) A conviction for a violation of RCW 46.09.470(2) or an equivalent local ordinance;

(vii) A conviction for a violation of RCW 46.10.490(2) or an equivalent local ordinance;

(viii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.520 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ix) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.522 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(x) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(xi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (viii), (ix), or (x) of this subsection if committed in this state;

(xii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance;

(xiii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(xiv) A deferred prosecution granted in another state for a violation of driving or having physical control of a vehicle while under the influence of intoxicating liquor or any drug if the out-of-state deferred prosecution is equivalent to the deferred prosecution under chapter 10.05 RCW, including a requirement that the defendant participate in a chemical dependency treatment program; or

(xv) A deferred sentence imposed in a prosecution for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local ordinance, if the charge under which the deferred sentence was imposed was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or a violation of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Treatment" means alcohol or drug treatment approved by the department of social and health services;

(c) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(d) "Within ten years" means that the arrest for a prior offense occurred within ten years before or after the arrest for the current offense.

(15) All fines imposed by this section apply to adult offenders only.

Sec. 34. RCW 69.50.401 and 2013 c 3 s 19 are each amended to read as follows:

(1) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(2) Any person who violates this section with respect to:

(a) A controlled substance classified in Schedule I or II which is a narcotic drug or flunitrazepam, including its salts, isomers, and salts of isomers, classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more

kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(b) Amphetamine, including its salts, isomers, and salts of isomers, or methamphetamine, including its salts, isomers, and salts of isomers, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost;

(c) Any other controlled substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A substance classified in Schedule IV, except flunitrazepam, including its salts, isomers, and salts of isomers, is guilty of a class C felony punishable according to chapter 9A.20 RCW; or

(e) A substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3) The production, manufacture, processing, packaging, delivery, distribution, sale, or possession of marijuana in compliance with the terms set forth in RCW 69.50.360, 69.50.363, or 69.50.366 shall not constitute a violation of this section, this chapter, or any other provision of Washington state law.

(4) The fines in this section apply to adult offenders only.

Sec. 35. RCW 69.50.425 and 2002 c 175 s 44 are each amended to read as follows:

A person who is convicted of a misdemeanor violation of any provision of this chapter shall be punished by imprisonment for not less than twenty-four consecutive hours, and adult offenders shall be punished by a fine of not less than two hundred fifty dollars. On a second or subsequent conviction, the fine shall not be less than five hundred dollars for adult offenders. These fines shall be in addition to any other fine or penalty imposed on adult offenders. Unless the court finds that the imposition of the minimum imprisonment will pose a substantial risk to the defendant's physical or mental well-being or that local jail facilities are in an overcrowded condition, the minimum term of imprisonment shall not be suspended or deferred. If the court finds such risk or overcrowding exists, it shall sentence the defendant to a minimum of forty hours of community restitution. If a minimum term of imprisonment is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. Unless the court finds the person to be indigent, the minimum fine shall not be suspended or deferred.

Sec. 36. RCW 69.50.430 and 2003 c 53 s 345 are each amended to read as follows:

(1) Every ~~((person))~~ adult offender convicted of a felony violation of RCW 69.50.401 through 69.50.4013, 69.50.4015, 69.50.402, 69.50.403, 69.50.406, 69.50.407, 69.50.410, or 69.50.415 shall be fined one thousand dollars in addition to any other fine or penalty imposed. Unless the court finds the ~~((person))~~ adult offender to be indigent, this additional fine shall not be suspended or deferred by the court.

(2) On a second or subsequent conviction for violation of any of the laws listed in subsection (1) of this section, the ~~((person))~~ adult offender shall be fined two thousand dollars in addition to any other fine or penalty imposed. Unless the court finds the ~~((person))~~ adult offender to be indigent, this additional fine shall not be suspended or deferred by the court.

Sec. 37. RCW 69.50.435 and 2003 c 53 s 346 are each amended to read as follows:

(1) Any person who violates RCW 69.50.401 by manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver a controlled substance listed under RCW 69.50.401 or who violates RCW 69.50.410 by selling for profit any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana to a person:

- (a) In a school;
- (b) On a school bus;
- (c) Within one thousand feet of a school bus route stop designated by the school district;
- (d) Within one thousand feet of the perimeter of the school grounds;
- (e) In a public park;
- (f) In a public housing project designated by a local governing authority as a drug-free zone;
- (g) On a public transit vehicle;
- (h) In a public transit stop shelter;
- (i) At a civic center designated as a drug-free zone by the local governing authority; or
- (j) Within one thousand feet of the perimeter of a facility designated under (i) of this subsection, if the local governing authority specifically designates the one thousand foot perimeter

may be punished by a fine of up to twice the fine otherwise authorized by this chapter, but not including twice the fine authorized by RCW 69.50.406, or by imprisonment of up to twice the imprisonment otherwise authorized by this chapter, but not including twice the imprisonment authorized by RCW 69.50.406, or by both such fine and imprisonment. The provisions of this section shall not operate to more than double the fine or imprisonment otherwise authorized by this chapter for an offense.

(2) It is not a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place while in a school or school bus or within one thousand feet of the school or school bus route stop, in a public park, in a public housing project designated by a local governing authority as a drug-free zone, on a public transit vehicle, in a public transit stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated

under subsection (1)(i) of this section, if the local governing authority specifically designates the one thousand foot perimeter.

(3) It is not a defense to a prosecution for a violation of this section or any other prosecution under this chapter that persons under the age of eighteen were not present in the school, the school bus, the public park, the public housing project designated by a local governing authority as a drug-free zone, or the public transit vehicle, or at the school bus route stop, the public transit vehicle stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (1)(i) of this section, if the local governing authority specifically designates the one thousand foot perimeter at the time of the offense or that school was not in session.

(4) It is an affirmative defense to a prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, that no person under eighteen years of age or younger was present in such private residence at any time during the commission of the offense, and that the prohibited conduct did not involve delivering, manufacturing, selling, or possessing with the intent to manufacture, sell, or deliver any controlled substance in RCW 69.50.401 for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. This section shall not be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(5) In a prosecution under this section, a map produced or reproduced by any municipality, school district, county, transit authority engineer, or public housing authority for the purpose of depicting the location and boundaries of the area on or within one thousand feet of any property used for a school, school bus route stop, public park, public housing project designated by a local governing authority as a drug-free zone, public transit vehicle stop shelter, or a civic center designated as a drug-free zone by a local governing authority, or a true copy of such a map, shall under proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas if the governing body of the municipality, school district, county, or transit authority has adopted a resolution or ordinance approving the map as the official location and record of the location and boundaries of the area on or within one thousand feet of the school, school bus route stop, public park, public housing project designated by a local governing authority as a drug-free zone, public transit vehicle stop shelter, or civic center designated as a drug-free zone by a local governing authority. Any map approved under this section or a true copy of the map shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. This section shall not be construed as precluding the prosecution from introducing or relying upon any other evidence or testimony to establish any element of the offense. This section shall not be construed as precluding the use or admissibility of any map or diagram other than the one which has been approved by the governing body of a municipality, school district, county, transit authority, or public housing authority if the map or diagram is otherwise admissible under court rule.

(6) As used in this section the following terms have the meanings indicated unless the context clearly requires otherwise:

(a) "School" has the meaning under RCW 28A.150.010 or 28A.150.020. The term "school" also includes a private school approved under RCW 28A.195.010;

(b) "School bus" means a school bus as defined by the superintendent of public instruction by rule which is owned and operated by any school district and all school buses which are privately owned and operated under contract or otherwise with any school district in the state for the transportation of students. The term does not include buses operated by common carriers in the urban transportation of students such as transportation of students through a municipal transportation system;

(c) "School bus route stop" means a school bus stop as designated by a school district;

(d) "Public park" means land, including any facilities or improvements on the land, that is operated as a park by the state or a local government;

(e) "Public transit vehicle" means any motor vehicle, streetcar, train, trolley vehicle, or any other device, vessel, or vehicle which is owned or operated by a transit authority and which is used for the purpose of carrying passengers on a regular schedule;

(f) "Transit authority" means a city, county, or state transportation system, transportation authority, public transportation benefit area, public transit authority, or metropolitan municipal corporation within the state that operates public transit vehicles;

(g) "Stop shelter" means a passenger shelter designated by a transit authority;

(h) "Civic center" means a publicly owned or publicly operated place or facility used for recreational, educational, or cultural activities;

(i) "Public housing project" means the same as "housing project" as defined in RCW 35.82.020.

(7) The fines imposed by this section apply to adult offenders only.

Sec. 38. RCW 77.15.420 and 2014 c 48 s 16 are each amended to read as follows:

(1) If ~~((a person))~~ an adult offender is convicted of violating RCW 77.15.410 and that violation results in the death of wildlife listed in this section, the court shall require payment of the following amounts for each animal taken or possessed. This shall be a criminal wildlife penalty assessment that shall be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425.

- (a) Moose, mountain sheep, mountain goat, and all wildlife species classified as endangered by rule of the commission, except for mountain caribou and grizzly bear as listed under (d) of this subsection \$4,000
- (b) Elk, deer, black bear, and cougar \$2,000
- (c) Trophy animal elk and deer \$6,000

- (d) Mountain caribou, grizzly bear, and trophy animal mountain sheep \$12,000

(2)(a) For the purpose of this section a "trophy animal" is:

(i) A buck deer with four or more antler points on both sides, not including eyeguards;

(ii) A bull elk with five or more antler points on both sides, not including eyeguards; or

(iii) A mountain sheep with a horn curl of three-quarter curl or greater.

(b) For purposes of this subsection, "eyeguard" means an antler protrusion on the main beam of the antler closest to the eye of the animal.

(3) If two or more persons are convicted of illegally possessing wildlife in subsection (1) of this section, the criminal wildlife penalty assessment shall be imposed on them jointly and severally.

(4) The criminal wildlife penalty assessment shall be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this title. The criminal wildlife penalty assessment shall be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect. This section may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(5) A defaulted criminal wildlife penalty assessment may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

(6) A person assessed a criminal wildlife penalty assessment under this section shall have his or her hunting license revoked and all hunting privileges suspended until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed.

(7) The criminal wildlife penalty assessments provided in subsection (1) of this section shall be doubled in the following instances:

(a) When a person is convicted of spotlighting big game under RCW 77.15.450;

(b) When a person commits a violation that requires payment of a wildlife penalty assessment within five years of a prior gross misdemeanor or felony conviction under this title;

(c) When the trier of fact determines that the person took or possessed the animal in question with the intent of bartering, selling, or otherwise deriving economic profit from the animal or the animal's parts; or

(d) When the trier of fact determines that the person took the animal under the supervision of a licensed guide.

***NEW SECTION. Sec. 39.** The following acts or parts of acts are each repealed:

IRCW 13.40.145 (Payment of fees for legal services by publicly funded counsel—Hearing—Order or decree—Entering and enforcing judgments) and 1997 c 121 s 6, 1995 c 275 s 4, & 1984 c 86 s 1; and

(2) RCW 13.40.085 (Diversion services costs—Fees—Payment by parent or legal guardian) and 1993 c 171 s 1.

Section 39 was partially vetoed. See message at end of chapter.

Passed by the Senate April 16, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 14, 2015, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 14, 2015.

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

"I am returning herewith, without my approval as to Section 39(2), Engrossed Second Substitute Senate Bill No. 5564 entitled:

"AN ACT Relating to decreasing the barriers to successful community participation for individuals involved with the juvenile justice system."

This bill lowers the financial burden on juvenile offenders and their families, making it more likely that they will be able to turn their lives around and be productive members of society. Section 39(2) eliminates the legal financial obligation associated with a diversion program. The revenue from the financial obligation in section 39(2) provides substantial funding for Community Youth Services, a diversion program in Thurston county that is very successful in providing diversion services to juveniles. It is vital to continue to provide adequate funds for these diversion services.

For these reasons I have vetoed Section 39(2) of Engrossed Second Substitute Senate Bill No. 5564.

With the exception of Section 39(2), Engrossed Second Substitute Senate Bill No. 5564 is approved."

CHAPTER 266

[Substitute Senate Bill 5877]

ADULT FAMILY HOMES--DUE PROCESS

AN ACT Relating to adult family home due process; and amending RCW 70.128.160.

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

Sec. 1. RCW 70.128.160 and 2013 c 300 s 4 are each amended to read as follows:

(1) The department is authorized to take one or more of the actions listed in subsection (2) of this section in any case in which the department finds that an adult family home provider has:

(a) Failed or refused to comply with the requirements of this chapter or the rules adopted under this chapter;

(b) Operated an adult family home without a license or under a revoked license;

(c) Knowingly or with reason to know made a false statement of material fact on his or her application for license or any data attached thereto, or in any matter under investigation by the department; or

(d) Willfully prevented or interfered with any inspection or investigation by the department.

(2) When authorized by subsection (1) of this section, the department may take one or more of the following actions:

(a) Refuse to issue a license;

(b) Impose reasonable conditions on a license, such as correction within a specified time, training, and limits on the type of clients the provider may admit or serve;

(c) Impose civil penalties of at least one hundred dollars per day per violation;

(d) Impose civil penalties of up to three thousand dollars for each incident that violates adult family home licensing laws and rules, including, but not limited to, chapters 70.128, 70.129, 74.34, and 74.39A RCW and related rules. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty;

(e) Impose civil penalties of up to ten thousand dollars for a current or former licensed provider who is operating an unlicensed home;

(f) Suspend, revoke, or refuse to renew a license; or

(g) Suspend admissions to the adult family home by imposing stop placement.

(3) When the department orders stop placement, the facility shall not admit any person until the stop placement order is terminated. The department may approve readmission of a resident to the facility from a hospital or nursing home during the stop placement. The department shall terminate the stop placement only after: (a) The violations necessitating the stop placement have been corrected; and (b) the provider exhibits the capacity to maintain correction of the violations previously found deficient. However, if upon the revisit the department finds new violations that the department reasonably believes will result in a new stop placement, the previous stop placement shall remain in effect until the new stop placement is imposed. In order to protect the home's existing residents from potential ongoing neglect, when the provider has been cited for a violation that is repeated, uncorrected, pervasive, or presents a threat to the health, safety, or welfare of one or more residents, and the department has imposed a stop placement, the department shall also impose a condition on license or other remedy to facilitate or spur prompter compliance if the violation has not been corrected, and the provider has not exhibited the capacity to maintain correction, within sixty days of the stop placement.

(4) Nothing in subsection (3) of this section is intended to apply to stop placement imposed in conjunction with a license revocation or summary suspension or to prevent the department from imposing a condition on license or other remedy prior to sixty days after a stop placement, if the department considers it necessary to protect one or more residents' well-being. After a department finding of a violation for which a stop placement has been imposed, the department shall make an on-site revisit of the provider within fifteen working days from the request for revisit, to ensure correction of the violation. For violations that are serious or recurring or uncorrected following a previous citation, and create actual or threatened harm to one or more residents' well-being, including violations of residents' rights, the department shall make an on-site revisit as soon as appropriate to ensure correction of the violation. Verification of correction of all other violations may be made by either a department on-site revisit or by written or photographic documentation found by

the department to be credible. This subsection does not prevent the department from enforcing license suspensions or revocations. Nothing in this subsection shall interfere with or diminish the department's authority and duty to ensure that the provider adequately cares for residents, including to make departmental on-site revisits as needed to ensure that the provider protects residents, and to enforce compliance with this chapter.

(5) Chapter 34.05 RCW applies to department actions under this section, except that orders of the department imposing license suspension, stop placement, or conditions for continuation of a license are effective immediately upon notice and shall continue in effect pending ~~((any))~~ a hearing, which must commence no later than sixty days after receipt of a request for a hearing. The time for commencement of a hearing may be extended by agreement of the parties or by the presiding officer for good cause shown by either party, but must commence no later than one hundred twenty days after receipt of a request for a hearing.

(6) A separate adult family home account is created in the custody of the state treasurer. All receipts from civil penalties imposed under this chapter must be deposited into the account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. The department shall use the special account only for promoting the quality of life and care of residents living in adult family homes.

(7) The department shall by rule specify criteria as to when and how the sanctions specified in this section must be applied. The criteria must provide for the imposition of incrementally more severe penalties for deficiencies that are repeated, uncorrected, pervasive, or present a threat to the health, safety, or welfare of one or more residents. The criteria shall be tiered such that those homes consistently found to have deficiencies will be subjected to increasingly severe penalties. The department shall implement prompt and specific enforcement remedies without delay for providers found to have delivered care or failed to deliver care resulting in problems that are repeated, uncorrected, pervasive, or present a threat to the health, safety, or welfare of one or more residents. In the selection of remedies, the health, safety, and well-being of residents must be of paramount importance.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 267

[Substitute Senate Bill 5593]

INMATES--HEALTH CARE COSTS AND SERVICES

AN ACT Relating to the safe delivery of and reasonable payment for health care services by hospitals for inmates and persons detained by law enforcement; amending RCW 70.02.200 and 70.48.130; and adding a new chapter to Title 10 RCW.

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

NEW SECTION. Sec. 1. Any individual in custody for a violent offense or a sex offense as those terms are defined in RCW 9.94A.030 who is brought by, or accompanied by, an officer to a hospital must continue to be accompanied or otherwise secured by an officer during the time that the individual is receiving care at the hospital. However, this section does not apply to an individual being supervised by the department of corrections if the individual's custody is the result solely of a sanction imposed by the department of corrections, the indeterminate sentence review board, or the court, in response to a violation of conditions.

NEW SECTION. Sec. 2. (1) An individual receiving medical care under this section need not continue to be accompanied or otherwise secured if:

(a) The individual's medical care provider so indicates; or

(b) The officer determines, using his or her best judgment, that:

(i) The individual does not present an imminent and significant risk of causing physical harm to themselves or another person;

(ii) There is no longer sufficient evidentiary basis to maintain the individual in custody; or

(iii) In the interest of public safety, the presence of the officer is urgently required at another location and the officer determines, using his or her best judgment and in consultation with his or her supervisor, if available on duty, that the public safety interest outweighs the need to accompany or secure the individual in the hospital.

(2)(a) In the event that a medical care provider determines the individual need not be accompanied or otherwise secured pursuant to subsection (1)(a) of this section, the officer has no ongoing duty to accompany or otherwise secure the individual for the duration of their treatment by the hospital. When a medical care provider indicates that a person need not be accompanied or otherwise secured, the hospital must notify the officer or the officer's designee when the individual is expected to be released by the hospital.

(b) If, after a medical provider indicates that the individual need not be accompanied or otherwise secured pursuant to subsection (1)(a) of this section, the individual demonstrates behavior that presents an imminent and significant risk of causing physical harm to themselves or others and the physical condition of the individual renders the individual capable of causing physical harm to themselves or others, the hospital may request the presence of an officer to guard or otherwise accompany the individual, in which case subsection (1)(a) and (b) of this section still apply.

(3) In the event the officer determines the individual need not be accompanied or otherwise secured pursuant to subsection (1)(b)(i) or (ii) of this section, the officer must notify the medical care provider that the officer is leaving the individual unattended or unsecured, in which case the hospital has no duty to notify the officer when the individual is, or expected to be, released from the hospital.

(4) In the event that the officer is urgently required at another location pursuant to subsection (1)(b)(iii) of this section, the officer must notify the medical care provider or, if an immediate departure is required, other hospital staff member that the officer is leaving the individual unattended or unsecured and make a reasonable effort to ensure a replacement officer or other means of accompanying or securing the individual as soon as reasonably possible under

the circumstances. The hospital must notify the officer or the officer's designee if the individual is, or is expected to be, released from the hospital prior to the officer or a replacement officer returning to resume accompanying or otherwise securing the individual.

(5) Except for actions or omissions constituting gross negligence or willful misconduct, the hospital and health care providers as defined in chapter 18.130 RCW are immune from liability, including civil liability, professional conduct sanctions, and administrative actions resulting from the individual not being accompanied or secured.

NEW SECTION. **Sec. 3.** In a case where an individual accompanied or otherwise secured by an officer pursuant to this act is waiting for treatment in a hospital emergency department, the hospital shall see the patient in as expeditious a manner as possible, while taking into consideration best triage practices and federal and state legal obligations regarding appropriate screening and treatment of patients.

NEW SECTION. **Sec. 4.** The provisions of this act do not constitute a special relationship exception to the public duty doctrine. Officers and their employing departments and agencies and representatives are immune from civil liability arising out of the failure to comply with this act, unless it is shown that, in the totality of the circumstances, the officer, employing department, agency, or representative acted with gross negligence or bad faith.

NEW SECTION. **Sec. 5.** Nothing in this chapter changes the standards of care with regard to the use of restraints on pregnant women or youth in custody as codified in chapters 70.48 and 72.09 RCW.

NEW SECTION. **Sec. 6.** For purposes of this chapter, "officer" means a law enforcement officer, corrections officer, or guard supplied by a law enforcement or corrections agency.

Sec. 7. RCW 70.02.200 and 2014 c 220 s 7 are each amended to read as follows:

(1) In addition to the disclosures authorized by RCW 70.02.050 and 70.02.210, a health care provider or health care facility may disclose health care information, except for information and records related to sexually transmitted diseases and information related to mental health services which are addressed by RCW 70.02.220 through 70.02.260, about a patient without the patient's authorization, to:

(a) Any other health care provider or health care facility reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(b) Immediate family members of the patient, including a patient's state registered domestic partner, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(c) A health care provider or health care facility who is the successor in interest to the health care provider or health care facility maintaining the health care information;

(d) A person who obtains information for purposes of an audit, if that person agrees in writing to:

(i) Remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;

(e) Provide directory information, unless the patient has instructed the health care provider or health care facility not to make the disclosure;

(f) Fire, police, sheriff, or other public authority, that brought, or caused to be brought, the patient to the health care facility or health care provider if the disclosure is limited to the patient's name, residence, sex, age, occupation, condition, diagnosis, estimated or actual discharge date, or extent and location of injuries as determined by a physician, and whether the patient was conscious when admitted;

(g) Federal, state, or local law enforcement authorities and the health care provider, health care facility, or third-party payor believes in good faith that the health care information disclosed constitutes evidence of criminal conduct that occurred on the premises of the health care provider, health care facility, or third-party payor;

(h) Another health care provider, health care facility, or third-party payor for the health care operations of the health care provider, health care facility, or third-party payor that receives the information, if each entity has or had a relationship with the patient who is the subject of the health care information being requested, the health care information pertains to such relationship, and the disclosure is for the purposes described in RCW 70.02.010(17) (a) and (b); ~~(and)~~

(i) An official of a penal or other custodial institution in which the patient is detained; ~~and~~

(j) Any law enforcement officer, corrections officer, or guard supplied by a law enforcement or corrections agency who is accompanying a patient pursuant to section 1 of this act, only to the extent the disclosure is incidental to the fulfillment of the role of the law enforcement officer, corrections officer, or guard under section 1 of this act.

(2) In addition to the disclosures required by RCW 70.02.050 and 70.02.210, a health care provider shall disclose health care information, except for information related to sexually transmitted diseases and information related to mental health services which are addressed by RCW 70.02.220 through 70.02.260, about a patient without the patient's authorization if the disclosure is:

(a) To federal, state, or local law enforcement authorities to the extent the health care provider is required by law;

(b) To federal, state, or local law enforcement authorities, upon receipt of a written or oral request made to a nursing supervisor, administrator, or designated privacy official, in a case in which the patient is being treated or has been treated for a bullet wound, gunshot wound, powder burn, or other injury arising from or caused by the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument which federal, state, or local law enforcement authorities reasonably believe to have been intentionally inflicted

upon a person, or a blunt force injury that federal, state, or local law enforcement authorities reasonably believe resulted from a criminal act, the following information, if known:

- (i) The name of the patient;
- (ii) The patient's residence;
- (iii) The patient's sex;
- (iv) The patient's age;
- (v) The patient's condition;
- (vi) The patient's diagnosis, or extent and location of injuries as determined by a health care provider;
- (vii) Whether the patient was conscious when admitted;
- (viii) The name of the health care provider making the determination in (b)(v), (vi), and (vii) of this subsection;
- (ix) Whether the patient has been transferred to another facility; and
- (x) The patient's discharge time and date;
- (c) Pursuant to compulsory process in accordance with RCW 70.02.060.

Sec. 8. RCW 70.48.130 and 2011 1st sp.s. c 15 s 85 are each amended to read as follows:

(1) It is the intent of the legislature that all jail inmates receive appropriate and cost-effective emergency and necessary medical care. Governing units, the health care authority, and medical care providers shall cooperate to achieve the best rates consistent with adequate care.

(2) Payment for emergency or necessary health care shall be by the governing unit, except that the health care authority shall directly reimburse the provider pursuant to chapter 74.09 RCW, in accordance with the rates and benefits established by the authority, if the confined person is eligible under the authority's medical care programs as authorized under chapter 74.09 RCW. After payment by the authority, the financial responsibility for any remaining balance, including unpaid client liabilities that are a condition of eligibility or participation under chapter 74.09 RCW, shall be borne by the medical care provider and the governing unit as may be mutually agreed upon between the medical care provider and the governing unit. In the absence of mutual agreement between the medical care provider and the governing unit, the financial responsibility for any remaining balance shall be borne equally between the medical care provider and the governing unit. Total payments from all sources to providers for care rendered to confined persons eligible under chapter 74.09 RCW shall not exceed the amounts that would be paid by the authority for similar services provided under Title XIX medicaid, unless additional resources are obtained from the confined person.

(3) For inpatient, outpatient, and ancillary services for confined persons that are not paid by the medicaid program pursuant to subsection (2) of this section, unless other rates are agreed to by the governing unit and the hospital, providers of hospital services that are hospitals licensed under chapter 70.41 RCW must accept as payment in full by the governing units the applicable facility's percent of allowed charges rate or fee schedule as determined, maintained, and posted by the Washington state department of labor and industries pursuant to chapter 51.04 RCW.

(4) As part of the screening process upon booking or preparation of an inmate into jail, general information concerning the inmate's ability to pay for

medical care shall be identified, including insurance or other medical benefits or resources to which an inmate is entitled. The inmate may also be evaluated for medicaid eligibility and, if deemed potentially eligible, enrolled in medicaid. This information shall be made available to the authority, the governing unit, and any provider of health care services. To the extent that federal law allows, a jail or the jail's designee is authorized to act on behalf of a confined person for purposes of applying for medicaid.

~~((4))~~ (5) The governing unit or provider may obtain reimbursement from the confined person for the cost of health care services not provided under chapter 74.09 RCW, including reimbursement from any insurance program or from other medical benefit programs available to the confined person. Nothing in this chapter precludes civil or criminal remedies to recover the costs of medical care provided jail inmates or paid for on behalf of inmates by the governing unit. As part of a judgment and sentence, the courts are authorized to order defendants to repay all or part of the medical costs incurred by the governing unit or provider during confinement.

~~((5))~~ (6) To the extent that a confined person is unable to be financially responsible for medical care and is ineligible for the authority's medical care programs under chapter 74.09 RCW, or for coverage from private sources, and in the absence of an interlocal agreement or other contracts to the contrary, the governing unit may obtain reimbursement for the cost of such medical services from the unit of government whose law enforcement officers initiated the charges on which the person is being held in the jail: PROVIDED, That reimbursement for the cost of such services shall be by the state for state prisoners being held in a jail who are accused of either escaping from a state facility or of committing an offense in a state facility.

~~((6))~~ (7) There shall be no right of reimbursement to the governing unit from units of government whose law enforcement officers initiated the charges for which a person is being held in the jail for care provided after the charges are disposed of by sentencing or otherwise, unless by intergovernmental agreement pursuant to chapter 39.34 RCW.

~~((7))~~ (8) Under no circumstance shall necessary medical services be denied or delayed because of disputes over the cost of medical care or a determination of financial responsibility for payment of the costs of medical care provided to confined persons.

~~((8))~~ (9) Nothing in this section shall limit any existing right of any party, governing unit, or unit of government against the person receiving the care for the cost of the care provided.

NEW SECTION. Sec. 9. Sections 1 through 6 of this act constitute a new chapter in Title 10 RCW.

Passed by the Senate April 21, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 268

[Substitute Senate Bill 5600]

VULNERABLE ADULTS

AN ACT Relating to modifying certain definitions concerning vulnerable adults, including the definitions of abuse and sexual abuse; and amending RCW 74.34.020.

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

Sec. 1. RCW 74.34.020 and 2013 c 263 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) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual ~~((contact))~~ conduct, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse also includes any sexual ~~((contact))~~ conduct between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding~~((, or the use of chemical restraints or physical restraints unless the restraints are consistent with licensing requirements, and includes restraints that are otherwise being used inappropriately))~~.

(c) "Mental abuse" means ~~((any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating.))~~ a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

(d) "Personal exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(e) "Improper use of restraint" means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that: (i) Is inconsistent with federal or state licensing or certification

requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is not medically authorized; or (iii) otherwise constitutes abuse under this section.

(3) "Chemical restraint" means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

(4) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

~~((4))~~ (5) "Department" means the department of social and health services.

~~((5))~~ (6) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, assisted living facilities; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed or certified by the department.

~~((6))~~ (7) "Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. "Financial exploitation" includes, but is not limited to:

(a) The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with a vulnerable adult to obtain or use the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult;

(b) The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult; or

(c) Obtaining or using a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds.

~~((7))~~ (8) "Financial institution" has the same meaning as in RCW ((30.22.040 and 30.22.041)) 30A.22.040 and 30A.22.041. For purposes of this chapter only, "financial institution" also means a "broker-dealer" or "investment adviser" as defined in RCW 21.20.005.

~~((8))~~ (9) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW and any employee, agent, officer, director, or independent contractor thereof.

(10) "Incapacitated person" means a person who is at a significant risk of personal or financial harm under RCW 11.88.010(1) (a), (b), (c), or (d).

~~((9))~~ (11) "Individual provider" means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW.

~~((10))~~ (12) "Interested person" means a person who demonstrates to the court's satisfaction that the person is interested in the welfare of the vulnerable adult, that the person has a good faith belief that the court's intervention is

necessary, and that the vulnerable adult is unable, due to incapacity, undue influence, or duress at the time the petition is filed, to protect his or her own interests.

~~((11))~~ (13) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

~~((12))~~ (14) "Mechanical restraint" means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are (a) medically authorized, as required, and (b) used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW.

(15) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

~~((13))~~ (16) "Permissive reporter" means any person, including, but not limited to, an employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

~~((14))~~ (17) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include (a) briefly holding without undue force a vulnerable adult in order to calm or comfort him or her, or (b) holding a vulnerable adult's hand to safely escort him or her from one area to another.

(18) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

~~((15))~~ (19) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

~~((16))~~ (20) "Social worker" means:

(a) A social worker as defined in RCW 18.320.010(2); or

(b) Anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of vulnerable adults, or providing social services to vulnerable adults, whether in an individual capacity or as an employee or agent of any public or private organization or institution.

~~((47))~~ (21) "Vulnerable adult" includes a person:

(a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(b) Found incapacitated under chapter 11.88 RCW; or

(c) Who has a developmental disability as defined under RCW 71A.10.020; or

(d) Admitted to any facility; or

(e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(f) Receiving services from an individual provider; or

(g) Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

Passed by the Senate April 16, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 269

[Engrossed Second Substitute Senate Bill 5649]

INVOLUNTARY TREATMENT

AN ACT Relating to the involuntary treatment act; amending RCW 71.05.010, 71.05.050, 71.05.210, 71.24.035, 71.24.300, 71.24.300, 71.24.300, and 71.05.620; reenacting and amending RCW 71.05.153, 71.05.020, and 71.05.020; adding new sections to chapter 71.05 RCW; adding a new section to chapter 71.24 RCW; adding a new section to chapter 71.34 RCW; creating new sections; providing an effective date; providing expiration dates; and declaring an emergency.

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

Sec. 1. RCW 71.05.010 and 1998 c 297 s 2 are each amended to read as follows:

(1) The provisions of this chapter are intended by the legislature:

~~((4))~~ (a) To protect the health and safety of persons suffering from mental disorders and to protect public safety through use of the parens patriae and police powers of the state;

(b) To prevent inappropriate, indefinite commitment of mentally disordered persons and to eliminate legal disabilities that arise from such commitment;

~~((2))~~ (c) To provide prompt evaluation and timely and appropriate treatment of persons with serious mental disorders;

~~((3))~~ (d) To safeguard individual rights;

~~((4))~~ (e) To provide continuity of care for persons with serious mental disorders;

~~((5))~~ (f) To encourage the full use of all existing agencies, professional personnel, and public funds to prevent duplication of services and unnecessary expenditures; and

~~((6))~~ (g) To encourage, whenever appropriate, that services be provided within the community(~~(~~

~~(7) To protect the public safety)).~~

(2) When construing the requirements of this chapter the court must focus on the merits of the petition, except where requirements have been totally disregarded, as provided in *In re C.W.*, 147 Wn.2d 259, 281 (2002). A presumption in favor of deciding petitions on their merits furthers both public and private interests because the mental and physical well-being of individuals as well as public safety may be implicated by the decision to release an individual and discontinue his or her treatment.

NEW SECTION. Sec. 2. A new section is added to chapter 71.05 RCW to read as follows:

(1) The department may use a single bed certification process as outlined in rule to provide additional treatment capacity for a person suffering from a mental disorder for whom an evaluation and treatment bed is not available. The facility that is the proposed site of the single bed certification must be a facility that is willing and able to provide the person with timely and appropriate treatment either directly or by arrangement with other public or private agencies.

(2) A single bed certification must be specific to the patient receiving treatment.

(3) A designated mental health professional who submits an application for a single bed certification for treatment at a facility that is willing and able to provide timely and appropriate mental health treatment in good faith belief that the single bed certification is appropriate may presume that the single bed certification will be approved for the purpose of completing the detention process and responding to other emergency calls.

(4) The department may adopt rules implementing this section and continue to enforce rules it has already adopted except where inconsistent with this section.

NEW SECTION. Sec. 3. A new section is added to chapter 71.05 RCW to read as follows:

(1) A designated mental health professional shall make a report to the department when he or she determines a person meets detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or 71.34.710 and there are not any beds available at an evaluation and treatment facility, the person has not been provisionally accepted for admission by a facility, and the person cannot be served on a single bed certification or less restrictive alternative. Starting at the time when the designated mental health professional determines a person meets detention criteria and the investigation has been completed, the designated mental health professional has twenty-four hours to submit a completed report to the department.

(2) The report required under subsection (1) of this section must contain at a minimum:

- (a) The date and time that the investigation was completed;
- (b) The identity of the responsible regional support network or behavioral health organization;
- (c) The county in which the person met detention criteria;
- (d) A list of facilities which refused to admit the person; and

(e) Identifying information for the person, including age or date of birth.

(3) The department shall develop a standardized reporting form or modify the current form used for single bed certifications for the report required under subsection (2) of this section and may require additional reporting elements as it determines are necessary or supportive. The department shall also determine the method for the transmission of the completed report from the designated mental health professional to the department.

(4) The department shall create quarterly reports displayed on its web site that summarize the information reported under subsection (2) of this section. At a minimum, the reports must display data by county and by month. The reports must also include the number of single bed certifications granted by category. The categories must include all of the reasons that the department recognizes for issuing a single bed certification, as identified in rule.

(5) The reports provided according to this section may not display "protected health information" as that term is used in the federal health insurance portability and accountability act of 1996, nor information contained in "mental health treatment records" as that term is used in chapter 70.02 RCW or elsewhere in state law, and must otherwise be compliant with state and federal privacy laws.

(6) For purposes of this section, the term "single bed certification" means a situation in which an adult on a seventy-two hour detention, fourteen-day commitment, ninety-day commitment, or one hundred eighty-day commitment is detained to a facility that is:

(a) Not certified as an inpatient evaluation and treatment facility; or

(b) A certified inpatient evaluation and treatment facility that is already at capacity.

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

(1) The department shall promptly share reports it receives under section 3 of this act with the responsible regional support network or behavioral health organization. The regional support network or behavioral health organization receiving this notification must attempt to engage the person in appropriate services for which the person is eligible and report back within seven days to the department.

(2) The department shall track and analyze reports submitted under section 3 of this act. The department must initiate corrective action when appropriate to ensure that each regional support network or behavioral health organization has implemented an adequate plan to provide evaluation and treatment services. Corrective actions may include remedies under RCW 71.24.330 and 43.20A.894, including requiring expenditure of reserve funds. An adequate plan may include development of less restrictive alternatives to involuntary commitment such as crisis triage, crisis diversion, voluntary treatment, or prevention programs reasonably calculated to reduce demand for evaluation and treatment under this chapter.

Sec. 5. RCW 71.05.050 and 2000 c 94 s 3 are each amended to read as follows:

(1) Nothing in this chapter shall be construed to limit the right of any person to apply voluntarily to any public or private agency or practitioner for treatment

of a mental disorder, either by direct application or by referral. Any person voluntarily admitted for inpatient treatment to any public or private agency shall be released immediately upon his or her request. Any person voluntarily admitted for inpatient treatment to any public or private agency shall orally be advised of the right to immediate discharge, and further advised of such rights in writing as are secured to them pursuant to this chapter and their rights of access to attorneys, courts, and other legal redress. Their condition and status shall be reviewed at least once each one hundred eighty days for evaluation as to the need for further treatment or possible discharge, at which time they shall again be advised of their right to discharge upon request(~~(-PROVIDED HOWEVER, That)~~).

(2) If the professional staff of any public or private agency or hospital regards a person voluntarily admitted who requests discharge as presenting, as a result of a mental disorder, an imminent likelihood of serious harm, or is gravely disabled, they may detain such person for sufficient time to notify the ((~~county~~)) designated mental health professional of such person's condition to enable the ((~~county~~)) designated mental health professional to authorize such person being further held in custody or transported to an evaluation and treatment center pursuant to the provisions of this chapter, which shall in ordinary circumstances be no later than the next judicial day(~~(-PROVIDED FURTHER, That)~~).

(3) If a person is brought to the emergency room of a public or private agency or hospital for observation or treatment, the person refuses voluntary admission, and the professional staff of the public or private agency or hospital regard such person as presenting as a result of a mental disorder an imminent likelihood of serious harm, or as presenting an imminent danger because of grave disability, they may detain such person for sufficient time to notify the ((~~county~~)) designated mental health professional of such person's condition to enable the ((~~county~~)) designated mental health professional to authorize such person being further held in custody or transported to an evaluation treatment center pursuant to the conditions in this chapter, but which time shall be no more than six hours from the time the professional staff ((~~determine that an evaluation by~~)) notify the ((~~county~~)) designated mental health professional ((is necessary)) of the need for evaluation, not counting time periods prior to medical clearance.

(4) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated mental health professional has totally disregarded the requirements of this section.

Sec. 6. RCW 71.05.153 and 2011 c 305 s 8 and 2011 c 148 s 2 are each reenacted and amended to read as follows:

(1) When a designated mental health professional receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a mental disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or triage facility that has elected to operate as an involuntary facility by peace officers pursuant to subsection (2) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

(4) Within three hours (~~(of)~~) after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional. Within twelve hours of (~~arrival~~) notice of the need for evaluation, not counting time periods prior to medical clearance, the designated mental health professional must determine whether the individual meets detention criteria. If the individual is detained, the designated mental health professional shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the mental health provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

(5) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated mental health professional has totally disregarded the requirements of this section.

Sec. 7. RCW 71.05.210 and 2009 c 217 s 1 are each amended to read as follows:

Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility (1) shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by (a) a licensed physician who may be assisted by a physician assistant according to chapter 18.71A RCW and a mental health professional, (b) an advanced registered nurse practitioner according to chapter 18.79 RCW and a mental health professional, or (c) a licensed physician and a psychiatric advanced registered nurse practitioner and (2) shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.340, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (a) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (b) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to seventy-two hours, if, in the opinion of the

professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

If, after examination and evaluation, the mental health professional and licensed physician or psychiatric advanced registered nurse practitioner determine that the initial needs of the person would be better served by placement in a chemical dependency treatment facility, then the person shall be referred to an approved treatment program defined under RCW 70.96A.020.

An evaluation and treatment center admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated mental health professional and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

Sec. 8. RCW 71.24.035 and 2014 c 225 s 11 are each amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, tribal, and licensed service provider participation in developing the state mental health program, developing contracts with behavioral health organizations, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the behavioral health organization if the behavioral health organization fails to meet state minimum standards or refuses to exercise responsibilities under its contract or RCW 71.24.045, until such time as a new behavioral health organization is designated.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for adults and children with mental illness;

(b) Assure that any behavioral health organization or county community mental health program provides medically necessary services to medicaid recipients consistent with the state's medicaid state plan or federal waiver authorities, and nonmedicaid services consistent with priorities established by the department;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. These rules shall permit a county-operated mental health program to be licensed as a service provider subject to compliance with applicable statutes and rules. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by

recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Inpatient services, an adequate network of evaluation and treatment services and facilities under chapter 71.05 RCW to ensure access to treatment, resource management services, and community support services;

(d) Assure that the special needs of persons who are minorities, elderly, disabled, children, low-income, and parents who are respondents in dependency cases are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards which shall be used in contracting with behavioral health organizations. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;

(f) Establish, to the extent possible, a standardized auditing procedure which is designed to assure compliance with contractual agreements authorized by this chapter and minimizes paperwork requirements of behavioral health organizations and licensed service providers. The audit procedure shall focus on the outcomes of service as provided in RCW 43.20A.895, 70.320.020, and 71.36.025;

(g) Develop and maintain an information system to be used by the state and behavioral health organizations that includes a tracking method which allows the department and behavioral health organizations to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and chapter 70.02 RCW;

(h) License service providers who meet state minimum standards;

(i) Periodically monitor the compliance of behavioral health organizations and their network of licensed service providers for compliance with the contract between the department, the behavioral health organization, and federal and state rules at reasonable times and in a reasonable manner;

(j) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(k) Monitor and audit behavioral health organizations and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter;

(l) Adopt such rules as are necessary to implement the department's responsibilities under this chapter;

(m) License or certify crisis stabilization units that meet state minimum standards;

(n) License or certify clubhouses that meet state minimum standards; and

(o) License or certify triage facilities that meet state minimum standards.

(6) The secretary shall use available resources only for behavioral health organizations, except:

(a) To the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act; or

(b) To incentivize improved performance with respect to the client outcomes established in RCW 43.20A.895, 70.320.020, and 71.36.025,

integration of behavioral health and medical services at the clinical level, and improved care coordination for individuals with complex care needs.

(7) Each behavioral health organization and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A behavioral health organization or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may be subject to the behavioral health organization contractual remedies in RCW 43.20A.894 or may have its service provider certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any behavioral health organization or service provider from operating without a contract, certification, or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any behavioral health organization(~~(s) [organization]~~) or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a behavioral health organization or service provider without a contract, certification, or a license under this chapter.

(12) The standards for certification or licensure of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13) The standards for certification or licensure of crisis stabilization units shall include standards that:

(a) Permit location of the units at a jail facility if the unit is physically separate from the general population of the jail;

(b) Require administration of the unit by mental health professionals who direct the stabilization and rehabilitation efforts; and

(c) Provide an environment affording security appropriate with the alleged criminal behavior and necessary to protect the public safety.

(14) The standards for certification or licensure of a clubhouse shall at a minimum include:

(a) The facilities may be peeroperated and must be recoveryfocused;

(b) Members and employees must work together;

(c) Members must have the opportunity to participate in all the work of the clubhouse, including administration, research, intake and orientation, outreach, hiring, training and evaluation of staff, public relations, advocacy, and evaluation of clubhouse effectiveness;

(d) Members and staff and ultimately the clubhouse director must be responsible for the operation of the clubhouse, central to this responsibility is the engagement of members and staff in all aspects of clubhouse operations;

(e) Clubhouse programs must be comprised of structured activities including but not limited to social skills training, vocational rehabilitation, employment training and job placement, and community resource development;

(f) Clubhouse programs must provide inhouse educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community;

(g) Clubhouse programs must focus on strengths, talents, and abilities of its members;

(h) The workordered day may not include medication clinics, day treatment, or other therapy programs within the clubhouse.

(15) The department shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(16) The secretary shall assume all duties assigned to the nonparticipating behavioral health organizations under chapters 71.05 and 71.34 RCW and this chapter. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating behavioral health organizations.

The behavioral health organizations, or the secretary's assumption of all responsibilities under chapters 71.05 and 71.34 RCW and this chapter, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(17) The secretary shall:

(a) Disburse funds for the behavioral health organizations within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with behavioral health organizations. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Notify behavioral health organizations of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(d) Deny all or part of the funding allocations to behavioral health organizations based solely upon formal findings of noncompliance with the terms of the behavioral health organization's contract with the department. Behavioral health organizations disputing the decision of the secretary to withhold funding allocations are limited to the remedies provided in the department's contracts with the behavioral health organizations.

(18) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by freestanding evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

Sec. 9. RCW 71.24.300 and 2008 c 261 s 4 are each amended to read as follows:

(1) Upon the request of a tribal authority or authorities within a regional support network the joint operating agreement or the county authority shall allow for the inclusion of the tribal authority to be represented as a party to the regional support network.

(2) The roles and responsibilities of the county and tribal authorities shall be determined by the terms of that agreement including a determination of membership on the governing board and advisory committees, the number of tribal representatives to be party to the agreement, and the provisions of law and shall assure the provision of culturally competent services to the tribes served.

(3) The state mental health authority may not determine the roles and responsibilities of county authorities as to each other under regional support networks by rule, except to assure that all duties required of regional support networks are assigned and that counties and the regional support network do not duplicate functions and that a single authority has final responsibility for all available resources and performance under the regional support network's contract with the secretary.

(4) If a regional support network is a private entity, the department shall allow for the inclusion of the tribal authority to be represented as a party to the regional support network.

(5) The roles and responsibilities of the private entity and the tribal authorities shall be determined by the department, through negotiation with the tribal authority.

(6) Regional support networks shall submit an overall six-year operating and capital plan, timeline, and budget and submit progress reports and an updated two-year plan biennially thereafter, to assume within available resources all of the following duties:

(a) Administer and provide for the availability of all resource management services, residential services, and community support services.

(b) Administer and provide for the availability of an adequate network of evaluation and treatment services to ensure access to treatment, all investigation, transportation, court-related, and other services provided by the state or counties pursuant to chapter 71.05 RCW.

(c) Provide within the boundaries of each regional support network evaluation and treatment services for at least ninety percent of persons detained or committed for periods up to seventeen days according to chapter 71.05 RCW. Regional support networks may contract to purchase evaluation and treatment services from other networks if they are unable to provide for appropriate resources within their boundaries. Insofar as the original intent of serving persons in the community is maintained, the secretary is authorized to approve exceptions on a case-by-case basis to the requirement to provide evaluation and

treatment services within the boundaries of each regional support network. Such exceptions are limited to:

(i) Contracts with neighboring or contiguous regions; or

(ii) Individuals detained or committed for periods up to seventeen days at the state hospitals at the discretion of the secretary.

(d) Administer and provide for the availability of all other mental health services, which shall include patient counseling, day treatment, consultation, education services, employment services as ~~((defined))~~ described in RCW 71.24.035, and mental health services to children.

(e) Establish standards and procedures for reviewing individual service plans and determining when that person may be discharged from resource management services.

(7) A regional support network may request that any state-owned land, building, facility, or other capital asset which was ever purchased, deeded, given, or placed in trust for the care of the persons with mental illness and which is within the boundaries of a regional support network be made available to support the operations of the regional support network. State agencies managing such capital assets shall give first priority to requests for their use pursuant to this chapter.

(8) Each regional support network shall appoint a mental health advisory board which shall review and provide comments on plans and policies developed under this chapter, provide local oversight regarding the activities of the regional support network, and work with the regional support network to resolve significant concerns regarding service delivery and outcomes. The department shall establish statewide procedures for the operation of regional advisory committees including mechanisms for advisory board feedback to the department regarding regional support network performance. The composition of the board shall be broadly representative of the demographic character of the region and shall include, but not be limited to, representatives of consumers and families, law enforcement, and where the county is not the regional support network, county elected officials. Composition and length of terms of board members may differ between regional support networks but shall be included in each regional support network's contract and approved by the secretary.

(9) Regional support networks shall assume all duties specified in their plans and joint operating agreements through biennial contractual agreements with the secretary.

(10) Regional support networks may receive technical assistance from the housing trust fund and may identify and submit projects for housing and housing support services to the housing trust fund established under chapter 43.185 RCW. Projects identified or submitted under this subsection must be fully integrated with the regional support network six-year operating and capital plan, timeline, and budget required by subsection (6) of this section.

Sec. 10. RCW 71.24.300 and 2014 c 225 s 39 are each amended to read as follows:

(1) Upon the request of a tribal authority or authorities within a behavioral health organization the joint operating agreement or the county authority shall allow for the inclusion of the tribal authority to be represented as a party to the behavioral health organization.

(2) The roles and responsibilities of the county and tribal authorities shall be determined by the terms of that agreement including a determination of membership on the governing board and advisory committees, the number of tribal representatives to be party to the agreement, and the provisions of law and shall assure the provision of culturally competent services to the tribes served.

(3) The state mental health authority may not determine the roles and responsibilities of county authorities as to each other under behavioral health organizations by rule, except to assure that all duties required of behavioral health organizations are assigned and that counties and the behavioral health organization do not duplicate functions and that a single authority has final responsibility for all available resources and performance under the behavioral health organization's contract with the secretary.

(4) If a behavioral health organization is a private entity, the department shall allow for the inclusion of the tribal authority to be represented as a party to the behavioral health organization.

(5) The roles and responsibilities of the private entity and the tribal authorities shall be determined by the department, through negotiation with the tribal authority.

(6) Behavioral health organizations shall submit an overall six-year operating and capital plan, timeline, and budget and submit progress reports and an updated two-year plan biennially thereafter, to assume within available resources all of the following duties:

(a) Administer and provide for the availability of all resource management services, residential services, and community support services.

(b) Administer and provide for the availability of an adequate network of evaluation and treatment services to ensure access to treatment, all investigation, transportation, court-related, and other services provided by the state or counties pursuant to chapter 71.05 RCW.

(c) Provide within the boundaries of each behavioral health organization evaluation and treatment services for at least ninety percent of persons detained or committed for periods up to seventeen days according to chapter 71.05 RCW. Behavioral health organizations may contract to purchase evaluation and treatment services from other organizations if they are unable to provide for appropriate resources within their boundaries. Insofar as the original intent of serving persons in the community is maintained, the secretary is authorized to approve exceptions on a case-by-case basis to the requirement to provide evaluation and treatment services within the boundaries of each behavioral health organization. Such exceptions are limited to:

(i) Contracts with neighboring or contiguous regions; or

(ii) Individuals detained or committed for periods up to seventeen days at the state hospitals at the discretion of the secretary.

(d) Administer and provide for the availability of all other mental health services, which shall include patient counseling, day treatment, consultation, education services, employment services as described in RCW 71.24.035, and mental health services to children.

(e) Establish standards and procedures for reviewing individual service plans and determining when that person may be discharged from resource management services.

(7) A behavioral health organization may request that any state-owned land, building, facility, or other capital asset which was ever purchased, deeded, given, or placed in trust for the care of the persons with mental illness and which is within the boundaries of a behavioral health organization be made available to support the operations of the behavioral health organization. State agencies managing such capital assets shall give first priority to requests for their use pursuant to this chapter.

(8) Each behavioral health organization shall appoint a mental health advisory board which shall review and provide comments on plans and policies developed under this chapter, provide local oversight regarding the activities of the behavioral health organization, and work with the behavioral health organization to resolve significant concerns regarding service delivery and outcomes. The department shall establish statewide procedures for the operation of regional advisory committees including mechanisms for advisory board feedback to the department regarding behavioral health organization performance. The composition of the board shall be broadly representative of the demographic character of the region and shall include, but not be limited to, representatives of consumers and families, law enforcement, and where the county is not the behavioral health organization, county elected officials. Composition and length of terms of board members may differ between behavioral health organizations but shall be included in each behavioral health organization's contract and approved by the secretary.

(9) Behavioral health organizations shall assume all duties specified in their plans and joint operating agreements through biennial contractual agreements with the secretary.

(10) Behavioral health organizations may receive technical assistance from the housing trust fund and may identify and submit projects for housing and housing support services to the housing trust fund established under chapter 43.185 RCW. Projects identified or submitted under this subsection must be fully integrated with the behavioral health organization six-year operating and capital plan, timeline, and budget required by subsection (6) of this section.

NEW SECTION. Sec. 11. A new section is added to chapter 71.24 RCW to read as follows:

The department must collaborate with regional support networks or behavioral health organizations and the Washington state institute for public policy to estimate the capacity needs for evaluation and treatment services within each regional service area. Estimated capacity needs shall include consideration of the average occupancy rates needed to provide an adequate network of evaluation and treatment services to ensure access to treatment. A regional service network or behavioral health organization must develop and maintain an adequate plan to provide for evaluation and treatment needs.

NEW SECTION. Sec. 12. A new section is added to chapter 71.34 RCW to read as follows:

(1) The department may use a single bed certification process as outlined in rule to provide additional treatment capacity for a minor suffering from a mental disorder for whom an evaluation and treatment bed is not available. The facility that is the proposed site of the single bed certification must be a facility that is

willing and able to provide the person with timely and appropriate treatment either directly or by arrangement with other public or private agencies.

(2) A single bed certification must be specific to the minor receiving treatment.

(3) A designated mental health professional who submits an application for a single bed certification for treatment at a facility that is willing and able to provide timely and appropriate mental health treatment in good faith belief that the single bed certification is appropriate may presume that the single bed certification will be approved for the purpose of completing the detention process and responding to other emergency calls.

(4) The department may adopt rules implementing this section and continue to enforce rules it has already adopted except where inconsistent with this section.

Sec. 13. RCW 71.05.020 and 2011 c 148 s 1 and 2011 c 89 s 14 are each reenacted and amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(3) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(4) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(5) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(6) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(7) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(8) "Department" means the department of social and health services;

(9) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;

(10) "Designated crisis responder" means a mental health professional appointed by the county or the regional support network to perform the duties specified in this chapter;

(11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter;

(12) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(13) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(14) "Developmental disability" means that condition defined in RCW 71A.10.020(~~(3)~~) (5);

(15) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. The department may certify single beds as temporary evaluation and treatment beds under section 2 of this act. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(17) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(18) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(19) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

(20) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(22) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(23) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(24) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health service providers under RCW 71.05.130;

(25) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(26) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(27) "Mental health professional" means a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(28) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community mental health programs as defined in RCW

71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, and correctional facilities operated by state and local governments;

(29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(30) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

(31) "Professional person" means a mental health professional and shall also mean a physician, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(32) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(34) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(35) "Public agency" means any evaluation and treatment facility or institution, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

(36) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

(37) "Release" means legal termination of the commitment under the provisions of this chapter;

(38) "Resource management services" has the meaning given in chapter 71.24 RCW;

(39) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(40) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(41) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(42) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually

diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(43) "Triage facility" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(44) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others;

(45) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property;

(46) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated mental health professional.

Sec. 14. RCW 71.05.020 and 2014 c 225 s 79 are each reenacted and amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(3) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(4) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(5) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(6) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(7) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(8) "Department" means the department of social and health services;

(9) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;

(10) "Designated crisis responder" means a mental health professional appointed by the county or the behavioral health organization to perform the duties specified in this chapter;

(11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter;

(12) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(13) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(14) "Developmental disability" means that condition defined in RCW 71A.10.020((4)) (5);

(15) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. The department may certify single beds as temporary evaluation and treatment beds under section 2 of this act. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(17) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(18) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public

safety presented by the person being assisted as manifested by prior charged criminal conduct;

(19) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

(20) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(22) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(23) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(24) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health service providers under RCW 71.05.130;

(25) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(26) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(27) "Mental health professional" means a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(28) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community mental health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, and correctional facilities operated by state and local governments;

(29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(30) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

(31) "Professional person" means a mental health professional and shall also mean a physician, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(32) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(34) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(35) "Public agency" means any evaluation and treatment facility or institution, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

(36) "Registration records" include all the records of the department, behavioral health organizations, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

(37) "Release" means legal termination of the commitment under the provisions of this chapter;

(38) "Resource management services" has the meaning given in chapter 71.24 RCW;

(39) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(40) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(41) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(42) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(43) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health organizations, or a treatment facility if the notes or records are not available to others;

(44) "Triage facility" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(45) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property;

(46) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated mental health professional.

NEW SECTION. Sec. 15. (1) The Washington state institute for public policy is directed to complete a study by December 1, 2015, regarding the implementation of certain aspects of the involuntary treatment act under chapter 71.05 RCW. The study must include, but not be limited to:

(a) An assessment of the nonemergent detention process provided under RCW 71.05.150, which examines:

(i) The number of nonemergent petitions filed in each county by year;

(ii) The reasons for variation in the use of nonemergent detentions based on feedback from judicial officers, prosecutors, public defenders, and mental health professionals; and

(iii) Models in other states for handling civil commitments when imminent danger is not present.

(b) An analysis of less restrictive alternative orders under the involuntary treatment act including:

(i) Differences across counties with respect to: (A) The use of less restrictive alternatives and reasons why least restrictive alternatives may or may not be utilized in different jurisdictions; (B) monitoring practices; and (C) rates of, grounds for, and outcomes of petitions for revocation or modification;

(ii) A systematic review of the research literature on the effectiveness of alternatives to involuntary hospitalizations in reducing violence and rehospitalizations; and

(iii) Approaches used in other states to monitor and enforce least restrictive orders, including associated costs.

Sec. 16. RCW 71.05.620 and 2013 c 200 s 23 are each amended to read as follows:

(1) The files and records of court proceedings under this chapter and chapters 70.96A, 71.34, and 70.96B RCW shall be closed but shall be accessible to:

(a) The department;

(b) The state hospitals as defined in RCW 72.23.010;

(c) Any person who is the subject of a petition ~~((and to))~~;

(d) The person's attorney ~~((,))~~ or guardian ~~((ad litem,))~~;

(e) Resource management services ~~((, or))~~ for that person; and

(f) Service providers authorized to receive such information by resource management services.

(2) The department shall adopt rules to implement this section.

NEW SECTION. **Sec. 17.** If specific funding for the purposes of section 15 of this act, referencing section 15 of this act by bill or chapter number and section number, is not provided by June 30, 2015, in the omnibus appropriations act, section 15 of this act is null and void.

NEW SECTION. **Sec. 18.** (1) Sections 9 and 13 of this act expire April 1, 2016.

(2) Section 15 of this act expires June 30, 2016.

NEW SECTION. **Sec. 19.** Sections 10 and 14 of this act take effect April 1, 2016.

NEW SECTION. **Sec. 20.** Sections 1 through 9 and 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 immediately.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 270

[Senate Bill 5692]

DEPENDENT CHILDREN--PERMANENCY PLANS OF CARE

AN ACT Relating to permanency plans of care for dependent children; amending RCW 13.34.136; and reenacting and amending RCW 13.34.145.

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

Sec. 1. RCW 13.34.136 and 2014 c 163 s 2 are each amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the department's or supervising agency's proposed permanency plan must be provided to the department or supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption, including a tribal customary adoption as defined in RCW 13.38.040; guardianship; permanent legal custody; long-term relative or foster care, ~~((until))~~ if the child is between ages sixteen and eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. Although a permanency plan of care may only identify long-term relative or foster care for children between ages sixteen and eighteen, children under sixteen may remain placed with relatives or in foster care. The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130(8), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the supervising agency or the department will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the department or supervising agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The department's or supervising agency's plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(A) If the parent is incarcerated, the plan must address how the parent will participate in the case conference and permanency planning meetings and, where possible, must include treatment that reflects the resources available at the facility where the parent is confined. The plan must provide for visitation opportunities, unless visitation is not in the best interests of the child.

(B) If a parent has a developmental disability according to the definition provided in RCW 71A.10.020, and that individual is eligible for services provided by the developmental disabilities administration, the department shall make reasonable efforts to consult with the developmental disabilities administration to create an appropriate plan for services. For individuals who meet the definition of developmental disability provided in RCW 71A.10.020 and who are eligible for services through the developmental disabilities administration, the plan for services must be tailored to correct the parental deficiency taking into consideration the parent's disability and the department shall also determine an appropriate method to offer those services based on the parent's disability.

(ii)(A) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The supervising agency or department shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement.

(B) Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation.

(C) Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. When a parent or sibling has been identified as a suspect in an active criminal investigation for a violent crime that, if the allegations are true, would impact the safety of the child, the department shall make a concerted effort to consult with the assigned law enforcement officer in the criminal case before recommending any changes in parent/child or child/sibling contact. In the event that the law enforcement officer has information pertaining to the criminal case that may have serious implications for child safety or well-being, the law enforcement officer shall provide this information to the department during the consultation. The department may only use the information provided by law enforcement during the consultation to inform family visitation plans and may not share or otherwise distribute the information to any person or entity. Any information provided to the department by law enforcement during the consultation is considered investigative information and is exempt from public inspection pursuant to RCW 42.56.240. The results of the consultation shall be communicated to the court.

(D) The court and the department or supervising agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii)(A) The department, court, or caregiver in the out-of-home placement may not limit visitation or contact between a child and sibling as a sanction for a child's behavior or as an incentive to the child to change his or her behavior.

(B) Any exceptions, limitation, or denial of contacts or visitation must be approved by the supervisor of the department caseworker and documented. The child, parent, department, guardian ad litem, or court-appointed special advocate may challenge the denial of visits in court.

(iv) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(v) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department or supervising agency.

(vi) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vii) The supervising agency or department shall provide all reasonable services that are available within the department or supervising agency, or within the community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(8), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The department or supervising agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the earliest possible date. If the child has been in out-of-home care for fifteen of the most recent twenty-two months, and the court has not made a good cause exception, the court shall require the department or supervising agency to file a petition seeking termination of parental rights in accordance with RCW 13.34.145(4)(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(6) The court shall consider the child's relationships with the child's siblings in accordance with RCW 13.34.130(6). Whenever the permanency plan for a child is adoption, the court shall encourage the prospective adoptive parents, birth parents, foster parents, kinship caregivers, and the department or other supervising agency to seriously consider the long-term benefits to the child adoptee and his or her siblings of providing for and facilitating continuing postadoption contact between the siblings. To the extent that it is feasible, and when it is in the best interests of the child adoptee and his or her siblings, contact between the siblings should be frequent and of a similar nature as that which existed prior to the adoption. If the child adoptee or his or her siblings are represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child custody proceeding, the court shall inquire of each attorney and guardian ad litem regarding the potential benefits of continuing contact between the siblings and the potential detriments of severing contact. This section does not require the department of social and health services or other supervising agency to agree to any specific provisions in an open adoption agreement and does not create a new obligation for the department to provide supervision or transportation for visits between siblings separated by adoption from foster care.

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

Sec. 2. RCW 13.34.145 and 2013 c 332 s 3, 2013 c 206 s 1, and 2013 c 173 s 3 are each reenacted and amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed. Every effort shall be made to provide stability in long-term placement, and to avoid disruption of placement, unless the child is being returned home or it is in the best interest of the child.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) When the youth is at least age seventeen years but not older than seventeen years and six months, the department shall provide the youth with written documentation which explains the availability of extended foster care services and detailed instructions regarding how the youth may access such services after he or she reaches age eighteen years.

(4) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate. The court shall find, as of the date of the hearing, that the child's placement and plan of care is the best permanency plan for the child and provide compelling reasons why it continues to not be in the child's best interest to (i) return home; (ii) be placed for adoption; (iii) be placed with a legal guardian; or (iv) be placed with a fit and willing relative. If the child is present at the hearing, the court should ask the child about his or her desired permanency outcome.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the department or supervising agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to department or supervising agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home

visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the department or supervising agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

- (A) Being returned safely to his or her home;
- (B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;
- (C) Being placed for adoption;
- (D) Being placed with a guardian;
- (E) Being placed in the home of a fit and willing relative of the child; or
- (F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

(5) Following this inquiry, at the permanency planning hearing, the court shall order the department or supervising agency to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child.

(a) For purposes of this subsection, "good cause exception" includes but is not limited to the following:

- (i) The child is being cared for by a relative;
- (ii) The department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home;

(iii) The department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests; ((~~or~~))

(iv) The parent is incarcerated, or the parent's prior incarceration is a significant factor in why the child has been in foster care for fifteen of the last twenty-two months, the parent maintains a meaningful role in the child's life, and the department has not documented another reason why it would be otherwise appropriate to file a petition pursuant to this section;

(v) Until June 30, 2015, where a parent has been accepted into a dependency treatment court program or long-term substance abuse or dual diagnoses treatment program and is demonstrating compliance with treatment goals; or

(vi) Until June 30, 2015, where a parent who has been court ordered to complete services necessary for the child's safe return home files a declaration under penalty of perjury stating the parent's financial inability to pay for the same court-ordered services, and also declares the department was unwilling or unable to pay for the same services necessary for the child's safe return home.

(b) The court's assessment of whether a parent who is incarcerated maintains a meaningful role in the child's life may include consideration of the following:

- (i) The parent's expressions or acts of manifesting concern for the child, such as letters, telephone calls, visits, and other forms of communication with the child;

(ii) The parent's efforts to communicate and work with the department or supervising agency or other individuals for the purpose of complying with the service plan and repairing, maintaining, or building the parentchild relationship;

(iii) A positive response by the parent to the reasonable efforts of the department or the supervising agency;

(iv) Information provided by individuals or agencies in a reasonable position to assist the court in making this assessment, including but not limited to the parent's attorney, correctional and mental health personnel, or other individuals providing services to the parent;

(v) Limitations in the parent's access to family support programs, therapeutic services, and visiting opportunities, restrictions to telephone and mail services, inability to participate in foster care planning meetings, and difficulty accessing lawyers and participating meaningfully in court proceedings; and

(vi) Whether the continued involvement of the parent in the child's life is in the child's best interest.

(c) The constraints of a parent's current or prior incarceration and associated delays or barriers to accessing courtmandated services may be considered in rebuttal to a claim of aggravated circumstances under RCW 13.34.132(4)((~~g~~)) (h) for a parent's failure to complete available treatment.

(6)(a) If the permanency plan identifies independent living as a goal, the court at the permanency planning hearing shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care. The court will inquire whether the child has been provided information about extended foster care services.

(b) The permanency plan shall also specifically identify the services, including extended foster care services, where appropriate, that will be provided to assist the child to make a successful transition from foster care to independent living.

(c) The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(7) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall:

(a) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(6), and 13.34.096; and

(b) If the department or supervising agency is recommending a placement other than the child's current placement with a foster parent, relative, or other suitable person, enter a finding as to the reasons for the recommendation for a change in placement.

(8) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the supervising agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(9) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(10) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(11) If the court orders the child returned home, casework supervision by the department or supervising agency shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(12) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(13) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (12) of this section are met.

(14) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the department or supervising agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(15) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(16) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

Passed by the Senate April 16, 2015.

Passed by the House April 9, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 271

[Senate Bill 5693]

SPECIAL COMMITMENT CENTER--HEALTH CARE COSTS

AN ACT Relating to reducing the costs of state health care expenses for residents committed to the special commitment center operated by the department of social and health services; and amending RCW 71.09.085.

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

Sec. 1. RCW 71.09.085 and 2002 c 58 s 1 are each amended to read as follows:

(1) Notwithstanding any other provisions of law, the secretary may enter into contracts with health care practitioners, health care facilities, and other entities or agents as may be necessary to provide basic medical care to residents. The contracts shall not cause the termination of classified employees of the department rendering the services at the time the contract is executed.

(2) In contracting for services, the secretary is authorized to provide for indemnification of health care practitioners who cannot obtain professional liability insurance through reasonable effort, from liability on any action, claim, or proceeding instituted against them arising out of the good faith performance or failure of performance of services on behalf of the department. The contracts may provide that for the purposes of chapter 4.92 RCW only, those health care practitioners with whom the department has contracted shall be considered state employees.

(3) To the extent that federal law allows and financial participation is available, the secretary or secretary's designee is authorized to act on behalf of a civilly committed resident for the purposes of applying for medicare and medicaid benefits, veterans health benefits, or other health care benefits or reimbursement available as a result of participation in a health care exchange as defined by the affordable care act.

Passed by the Senate March 4, 2015.

Passed by the House April 22, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 272

[Engrossed Substitute Senate Bill 5743]

INSURANCE PRODUCERS, INSURERS, TITLE INSURANCE AGENTS--INCENTIVES

AN ACT Relating to insurance producers, insurers, and title insurance agents activities with customers and potential customers; amending RCW 48.30.140 and 48.30.150; and adding new sections to chapter 48.30 RCW.

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

Sec. 1. RCW 48.30.140 and 2009 c 329 s 1 are each amended to read as follows:

(1) Except to the extent provided for in an applicable filing with the commissioner then in effect, no insurer, insurance producer, or title insurance agent shall, as an inducement to insurance, or after insurance has been effected,

directly or indirectly, offer, promise, allow, give, set off, or pay to the insured or to any employee of the insured, any rebate, discount, abatement, or reduction of premium or any part thereof named in any insurance contract, or any commission thereon, or earnings, profits, dividends, or other benefit, or any other valuable consideration or inducement whatsoever which is not expressly provided for in the policy.

(2) Subsection (1) of this section shall not apply as to commissions paid to a licensed insurance producer, or title insurance agent for insurance placed on that person's own property or risks.

(3) This section shall not apply to the allowance by any marine insurer, or marine insurance producer, to any insured, in connection with marine insurance, of such discount as is sanctioned by custom among marine insurers as being additional to the insurance producer's commission.

(4) This section shall not apply to advertising or promotional programs conducted by insurers(~~(s)~~) or insurance producers(~~(s) or title insurance agents~~) whereby prizes, goods, wares, gift cards, gift certificates, or merchandise, not exceeding (~~twenty five~~) one hundred dollars in value per person in the aggregate in any twelve month period, are given to all insureds or prospective insureds under similar qualifying circumstances. This subsection does not apply to title insurers or title insurance agents.

(5) This section does not apply to an offset or reimbursement of all or part of a fee paid to an insurance producer as provided in RCW 48.17.270.

(6)(a) Subsection (1) of this section shall not be construed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract containing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW 48.43.005; and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

Sec. 2. RCW 48.30.150 and 2009 c 329 s 2 are each amended to read as follows:

(1) No insurer, insurance producer, title insurance agent, or other person shall, as an inducement to insurance, or in connection with any insurance transaction, provide in any policy for, or offer, or sell, buy, or offer or promise to buy or give, or promise, or allow to, or on behalf of, the insured or prospective insured in any manner whatsoever:

(a) Any shares of stock or other securities issued or at any time to be issued on any interest therein or rights thereto; or

(b) Any special advisory board contract, or other contract, agreement, or understanding of any kind, offering, providing for, or promising any profits or special returns or special dividends; or

(c) Any prizes, goods, wares, gift cards, gift certificates, or merchandise of an aggregate value in excess of (~~twenty five~~) one hundred dollars per person in the aggregate in any consecutive twelve-month period. This subsection (1)(c) does not apply to title insurers or title insurance agents.

(2) Subsection (1) of this section shall not be deemed to prohibit the sale or purchase of securities as a condition to or in connection with surety insurance insuring the performance of an obligation as part of a plan of financing found by the commissioner to be designed and operated in good faith primarily for the purpose of such financing, nor shall it be deemed to prohibit the sale of redeemable securities of a registered investment company in the same transaction in which life insurance is sold.

(3)(a) Subsection (1) of this section shall not be deemed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract providing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW 48.43.005; and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

NEW SECTION. Sec. 3. A new section is added to chapter 48.30 RCW to read as follows:

(1) An insurance producer may give to an individual, prizes, goods, wares, gift cards, gift certificates, or merchandise not exceeding one hundred dollars in value per person in any consecutive twelve-month period for the referral of insurance business to the insurance producer, if the giving of the prizes, goods, wares, gift cards, gift certificates, or merchandise is not conditioned upon the person who is referred applying for or obtaining insurance through the insurance producer.

(2) The payment for the referral must not be in cash, currency, bills, coins, check, or by money order.

(3) The provisions of RCW 48.30.140 and 48.30.150 do not apply to prizes, goods, wares, gift cards, gift certificates, or merchandise given to a person in compliance with subsections (1) and (2) of this section.

(4) Notwithstanding subsections (1) and (2) of this section, an insurance producer may pay to an unlicensed individual who is neither an insured nor a prospective insured a referral fee conditioned on the submission of an application if made in compliance with the provisions of RCW 48.17.490(4).

NEW SECTION. Sec. 4. A new section is added to chapter 48.30 RCW to read as follows:

(1) An insurance producer may sponsor events for, or make contributions to a bona fide charitable or nonprofit organization, if the sponsorship or contribution is not conditioned upon the organization applying for or obtaining insurance through the insurance producer.

(2) For purposes of this section, a bona fide charitable or nonprofit organization is:

(a) Any nonprofit corporation duly existing under the provisions of chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, cultural, athletic, scientific, agricultural, or horticultural purposes;

(b) Any professional, commercial, industrial, or trade association;

(c) Any organization duly existing under the provisions of chapter 24.12, 24.20, or 24.28 RCW;

(d) Any agricultural fair authorized under the provisions of chapter 15.76 or 36.37 RCW; or

(e) Any nonprofit organization, whether incorporated or otherwise, when determined by the commissioner to be organized and operated for one or more of the purposes described in (a) through (d) of this subsection.

(3) RCW 48.30.140 and 48.30.150 do not apply to sponsorships or charitable contributions that are provided or given in compliance with subsection (1) of this section.

Passed by the Senate March 10, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 273

[Engrossed Substitute Senate Bill 5884]

HUMAN TRAFFICKING--TASK FORCES--COMMITTEE--NOTICES

AN ACT Relating to the trafficking of persons; amending RCW 7.68.350 and 7.68.801; adding a new section to chapter 7.68 RCW; adding a new section to chapter 47.38 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. (1) The legislature has long been committed to increasing access to support services for human trafficking victims and promoting awareness of human trafficking throughout Washington state. In 2002, Washington was the first state to work on human trafficking by enacting new laws and by creating an antitrafficking task force. In 2003, Washington was the first state to enact a law making human trafficking a crime.

Since 2002, the Washington state legislature has enacted thirty-eight laws to combat human trafficking. In 2013 and 2014, Washington received top marks from two leading nongovernmental organizations for the strength of its antitrafficking laws. The polaris project gave Washington a perfect score of ten and Washington received an "A" report card from shared hope international's protected innocence challenge. In light of the 2010 winter olympic games taking place in Vancouver, British Columbia, the legislature enacted RCW 47.38.080, permitting an approved nonprofit to place informational human trafficking posters in restrooms located in rest areas along Interstate 5. Sporting events, such as the winter olympic games or the upcoming 2015 United States open golf tournament at Chambers Bay, provide lucrative opportunities for human traffickers to exploit adults and children for labor and sexual services. The legislature finds that an effective way to combat human trafficking is to increase awareness of human trafficking for both victims and the general public alike as well as who and how to contact for help and support services, for both victims and the general public alike.

(2) Human trafficking data are primarily obtained through a hotline reporting system in which victims and witnesses can report cases of human trafficking over the phone. Since 2007, there have been one thousand eight

hundred fifty human trafficking calls made through the human trafficking victim hotline system in Washington state, and a total of four hundred thirty-two human trafficking cases reported. It is the intent of the legislature to facilitate an even wider scope of communication with human trafficking victims and witnesses by requiring human trafficking information to be posted in all public restrooms.

NEW SECTION. Sec. 2. A new section is added to chapter 7.68 RCW to read as follows:

(1) The office of crime victims advocacy is designated as the single point of contact in state government regarding the trafficking of persons.

(2) The Washington state clearinghouse on human trafficking is created as an information portal to share and coordinate statewide efforts to combat the trafficking of persons. The clearinghouse will include an internet web site operated by the office of crime victims advocacy, and will serve the following functions:

(a) Coordinating information regarding all statewide task forces relating to the trafficking of persons including, but not limited to, sex trafficking, commercial sexual exploitation of children, and labor trafficking;

(b) Publishing the findings and legislative reports of all statewide task forces relating to the trafficking of persons;

(c) Providing a comprehensive directory of resources for victims of trafficking; and

(d) Collecting and disseminating up-to-date information regarding the trafficking of persons, including news and legislative efforts, both state and federal.

Sec. 3. RCW 7.68.350 and 2003 c 266 s 1 are each amended to read as follows:

(1) There is created the Washington state task force against the trafficking of persons.

(2)(a) The task force shall consist of the following members:

~~((a))~~ (i) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(ii) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

~~(iii)~~ The director of the office of ((community development)) crime victims advocacy, or the director's designee;

~~((b))~~ (iv) The secretary of the department of health, or the secretary's designee;

~~((c))~~ (v) The secretary of the department of social and health services, or the secretary's designee;

~~((d))~~ (vi) The director of the department of labor and industries, or the director's designee;

~~((e))~~ (vii) The commissioner of the employment security department, or the commissioner's designee;

~~((f) Nine))~~ (viii) The attorney general or the attorney general's designee;

(ix) The superintendent of public instruction or the superintendent of public instruction's designee;

(x) The director of the department of agriculture or the director's designee;

(xi) At least one member who is a survivor of human trafficking;

(xii) Eleven members, selected by the director of the office of ((community development)) crime victims advocacy, that represent public, community-based nonprofit, and private sector organizations ((that)), academic institutions, research-based organizations, faith-based organizations, including organizations that are diverse in viewpoint, geography, ethnicity, and culture, and in the populations served. The members must provide, directly or through their organizations, assistance to persons who are victims and survivors of trafficking, or who work on antitrafficking efforts as part of their organization's work, or both.

(b) Additional members may be selected as determined by the director of the office of crime victims advocacy to ensure representation of interested groups.

(3) The task force shall be chaired by the director of the office of ((community development)) crime victims advocacy, or the director's designee.

(4) The task force shall ((carry out)) determine the areas of focus and activity including, but not limited to, the following activities:

(a) Measure and evaluate the resource needs of victims and survivors of human trafficking and the progress of the state in trafficking prevention activities, as well as what is being done in other states and nationally to combat human trafficking;

(b) Identify available federal, state, and local programs that provide services to victims and survivors of trafficking that include, but are not limited to, health care, human services, housing, education, legal assistance, job training or preparation, interpreting services, English as a second language classes, and victim's compensation; ((and))

(c) Make recommendations on methods to provide a coordinated system of support and assistance to persons who are victims of trafficking; and

(d) Review the statutory response to human trafficking, analyze the impact and effectiveness of strategies contained in the current state laws, and make recommendations on legislation to further the state's antitrafficking efforts.

(5) The task force shall report its ((supplemental)) findings and make recommendations to the governor and legislature ((by June 30, 2004)) as needed.

(6) The office of ((community development)) crime victims advocacy shall provide necessary administrative and clerical support to the task force, within available resources.

(7) The members of the task force shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, within available resources.

(((8) The task force expires June 30, 2004.))

Sec. 4. RCW 7.68.801 and 2013 c 253 s 1 are each amended to read as follows:

(1) The commercially sexually exploited children statewide coordinating committee is established to address the issue of children who are commercially sexually exploited, to examine the practices of local and regional entities involved in addressing sexually exploited children, and to make recommendations on statewide laws and practices.

(2) The committee is convened by the office of the attorney general ((and)) with the department of commerce assisting with agenda planning and

administrative and clerical support. The committee consists of the following members:

(a) One member from each of the two largest caucuses of the house of representatives appointed by the speaker of the house;

(b) One member from each of the two largest caucuses of the senate appointed by the speaker of the senate;

(c) A representative of the governor's office appointed by the governor;

(d) The secretary of the children's administration or his or her designee;

(e) The secretary of the juvenile rehabilitation administration or his or her designee;

(f) The attorney general or his or her designee;

(g) The superintendent of public instruction or his or her designee;

(h) A representative of the administrative office of the courts appointed by the administrative office of the courts;

(i) The executive director of the Washington association of sheriffs and police chiefs or his or her designee;

(j) The executive director of the Washington state criminal justice training commission or his or her designee;

(k) A representative of the Washington association of prosecuting attorneys appointed by the association;

(l) The executive director of the office of public defense or his or her designee;

(m) Three representatives of community service providers that provide direct services to commercially sexually exploited children appointed by the attorney general;

(n) Two representatives of nongovernmental organizations familiar with the issues affecting commercially sexually exploited children appointed by the attorney general;

(o) The president of the superior court judges' association or his or her designee;

(p) The president of the juvenile court administrators or his or her designee;

(q) Any existing chairs of regional task forces on commercially sexually exploited children;

(r) A representative from the criminal defense bar;

(s) A representative of the center for children and youth justice;

(t) A representative from the office of crime victims advocacy; ~~(and)~~

(u) The executive director of the Washington coalition of sexual assault programs;

(v) A representative of an organization that provides in-patient chemical dependency treatment to youth, appointed by the attorney general;

(w) A representative of an organization that provides mental health treatment to youth, appointed by the attorney general; and

(x) A survivor of human trafficking, appointed by the attorney general.

(3) The duties of the committee include, but are not limited to:

(a) Overseeing and reviewing the implementation of the Washington state model protocol for commercially sexually exploited children at pilot sites;

(b) Receiving reports and data from local and regional entities regarding the incidence of commercially sexually exploited children in their areas as well as

data information regarding perpetrators, geographic data and location trends, and any other data deemed relevant;

(c) Receiving reports on local coordinated community response practices and results of the community responses;

(d) Reviewing recommendations from local and regional entities regarding policy and legislative changes that would improve the efficiency and effectiveness of local response practices;

(e) Making recommendations regarding policy and legislative changes that would improve the effectiveness of the state's response to and promote best practices for suppression of the commercial sexual exploitation of children;

(f) Making recommendations regarding data collection useful to understanding or addressing the problem of commercially sexually exploited children; ~~(and)~~

(g) Reviewing and making recommendations regarding strategic local investments or opportunities for federal and state funding to address the commercial sexual exploitation of children;

(h) Reviewing the extent to which chapter 289, Laws of 2010 (Engrossed Substitute Senate Bill No. 6476) is understood and applied by enforcement authorities; and

(i) Researching any barriers that exist to full implementation of chapter 289, Laws of 2010 (Engrossed Substitute Senate Bill No. 6476) throughout the state.

(4) The committee must meet no less than annually.

(5) The committee shall report its findings to the appropriate committees of the legislature and to any other known statewide committees addressing trafficking or the commercial sex trade by June 30(~~th of each year~~), 2017.

(6) In addition to its report under subsection (5) of this section, the committee shall report its findings regarding its duties under subsection (3)(h) and (i) of this section to the appropriate committees of the legislature by February 1, 2016.

(7) This section expires June 30, (~~2015~~) 2017.

NEW SECTION. Sec. 5. A new section is added to chapter 47.38 RCW to read as follows:

(1) Every establishment that maintains restrooms for use by the public may voluntarily, upon availability of the model notice as described in subsection (2) of this section, post a notice that complies with the requirements of this section in a conspicuous place within all restrooms of the establishment in clear view of the public and employees. The office of crime victims advocacy may work with businesses and other establishments and with human trafficking victim advocates to adopt policies for the placement of such notices.

(2)(a) The model notice that may be voluntarily posted pursuant to subsection (1) of this section may be in a variety of languages and include tollfree telephone numbers a person may call for assistance, including the number for the national human trafficking resource center and the number for the Washington state office of crime victims advocacy.

(b) The office of crime victims advocacy shall review and approve the initial form and content of the model notice to ensure the notice is appropriate for public display and likely to be an effective communication to reach human trafficking victims. The office of crime victims advocacy shall review the model notice on a yearly basis to ensure the information provided remains accurate.

(3) The cost of production, printing, and posting of the model notices shall be paid by a participating nonprofit at no cost to the state.

(4) The office of crime victims advocacy must provide a report to the appropriate committees of the legislature no later than December 31, 2016, regarding the voluntary participation in this effort.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 24, 2015.

Passed by the House April 23, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 274

[Engrossed Substitute House Bill 1449]

OIL TRANSPORTATION SAFETY

AN ACT Relating to oil transportation safety; amending RCW 90.56.005, 90.56.010, 90.56.200, 90.56.210, 90.56.500, 90.56.510, 88.40.011, 82.23B.010, 82.23B.020, 82.23B.030, 82.23B.040, 81.24.010, 81.53.010, 81.53.240, and 88.46.180; reenacting and amending RCW 88.46.010, 38.52.040, and 42.56.270; adding new sections to chapter 90.56 RCW; adding a new section to chapter 81.04 RCW; adding a new section to chapter 88.16 RCW; adding a new section to chapter 81.44 RCW; adding a new section to chapter 81.53 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:

Sec. 1. RCW 90.56.005 and 2010 1st sp.s. c 7 s 72 are each amended to read as follows:

(1) The legislature declares that waterborne 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. The movement of crude oil through rail corridors and over Washington waters creates safety and environmental risks. The sources and transport of crude oil bring risks to our communities along rail lines and to the Columbia river, Grays Harbor, and Puget Sound waters. These shipments are expected to increase in the coming years. Vessels and trains 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 independent 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; and

(i) To maintain the best achievable protection that can be obtained through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable.

Sec. 2. RCW 88.46.010 and 2011 c 122 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) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering:

- (a) The additional protection provided by the measures;
- (b) The technological achievability of the measures; and
- (c) The cost of the measures.

(2)(a) "Best achievable technology" means the technology that provides the greatest degree of protection taking into consideration:

(i) Processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development; and

(ii) Processes that are currently in use.

(b) In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(4) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, of three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(5) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(6) "Department" means the department of ecology.

(7) "Director" means the director of the department of ecology.

(8) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(9)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided under (b) of this subsection, a facility does not include any: (i) Railroad car, Motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; (iv) underground storage

tank regulated by the department or a local government under chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(10) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(11) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(12) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land. "Offshore facility" does not include a marine facility.

(13) "Oil" or "oils" means oil of any kind that is liquid at (~~atmospheric temperature~~) twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section (~~(101(14))~~) 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99499.

(14) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(15)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(16) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(17) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(18) "Race Rocks light" means the nautical landmark located southwest of the city of Victoria, British Columbia.

(19) "Regional vessels of opportunity response group" means a group of nondedicated vessels participating in a vessels of opportunity response system to respond when needed and available to spills in a defined geographic area.

(20) "Severe weather conditions" means observed nautical conditions with sustained winds measured at forty knots and wave heights measured between twelve and eighteen feet.

(21) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(22) "Spill" means an unauthorized discharge of oil into the waters of the state.

(23) "Strait of Juan de Fuca" means waters off the northern coast of the Olympic Peninsula seaward of a line drawn from New Dungeness light in Clallam county to Discovery Island light on Vancouver Island, British Columbia, Canada.

(24) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(25) "Umbrella plan holder" means a nonprofit corporation established consistent with this chapter for the purposes of providing oil spill response and contingency plan coverage.

(26) "Vessel emergency" means a substantial threat of pollution originating from a covered vessel, including loss or serious degradation of propulsion, steering, means of navigation, primary electrical generating capability, and seakeeping capability.

(27) "Vessels of opportunity response system" means nondedicated boats and operators, including fishing and other vessels, that are under contract with and equipped by contingency plan holders to assist with oil spill response activities, including on-water oil recovery in the near shore environment and the placement of oil spill containment booms to protect sensitive habitats.

(28) "Volunteer coordination system" means an oil spill response system that, before a spill occurs, prepares for the coordination of volunteers to assist with appropriate oil spill response activities, which may include shoreline protection and cleanup, wildlife recovery, field observation, light construction, facility maintenance, donations management, clerical support, and other aspects of a spill response.

(29) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(30) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

Sec. 3. RCW 90.56.010 and 2007 c 347 s 6 are each amended to read as follows:

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

(1) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best

achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering (a) the additional protection provided by the measures; (b) the technological achievability of the measures; and (c) the cost of the measures.

(2) "Best achievable technology" means the technology that provides the greatest degree of protection taking into consideration (a) processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development, and (b) processes that are currently in use. In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Board" means the pollution control hearings board.

(4) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(5) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(6) "Committee" means the preassessment screening committee established under RCW 90.48.368.

(7) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(8) "Department" means the department of ecology.

(9) "Director" means the director of the department of ecology.

(10) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(11)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided in (b) of this subsection, a facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) underground storage tank regulated by the department or a local government under chapter 90.76 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(12) "Fund" means the state coastal protection fund as provided in RCW 90.48.390 and 90.48.400.

(13) "Having control over oil" shall include but not be limited to any person using, storing, or transporting oil immediately prior to entry of such oil into the waters of the state, and shall specifically include carriers and bailees of such oil.

(14) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(15) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(16) "Necessary expenses" means the expenses incurred by the department and assisting state agencies for (a) investigating the source of the discharge; (b) investigating the extent of the environmental damage caused by the discharge; (c) conducting actions necessary to clean up the discharge; (d) conducting predamage and damage assessment studies; and (e) enforcing the provisions of this chapter and collecting for damages caused by a discharge.

(17) "Oil" or "oils" means oil of any kind that is liquid at (~~atmospheric temperature~~) twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section ~~((401(14)))~~ 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99499.

(18) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.

(19) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(20)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(21) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(22) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(23) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(24) "Spill" means an unauthorized discharge of oil or hazardous substances into the waters of the state.

(25) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(26) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(27) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

(28) "Crude oil" means any naturally occurring hydrocarbons coming from the earth that are liquid at twenty-five degrees Celsius and one atmosphere of pressure including, but not limited to, crude oil, bitumen and diluted bitumen, synthetic crude oil, and natural gas well condensate.

Sec. 4. RCW 90.56.200 and 2000 c 69 s 19 are each amended to read as follows:

(1) The owner or operator for each onshore and offshore facility, except as determined in subsection (3) of this section, shall prepare and submit to the department an oil spill prevention plan in conformance with the requirements of this chapter. The plans shall be submitted to the department in the time and manner directed by the department. The spill prevention plan may be consolidated with a spill contingency plan submitted pursuant to RCW 90.56.210. The department may accept plans prepared to comply with other state or federal law as spill prevention plans to the extent those plans comply with the requirements of this chapter. The department, by rule, shall establish standards for spill prevention plans.

(2) The spill prevention plan for an onshore or offshore facility shall:

(a) Establish compliance with the federal oil pollution act of 1990, if applicable, and financial responsibility requirements under federal and state law;

(b) Certify that supervisory and other key personnel in charge of transfer, storage, and handling of oil have received certification pursuant to RCW 90.56.220;

(c) Certify that the facility has an operations manual required by RCW 90.56.230;

(d) Certify the implementation of alcohol and drug use awareness programs;

(e) Describe the facility's maintenance and inspection program and contain a current maintenance and inspection record of the storage and transfer facilities and related equipment;

(f) Describe the facility's alcohol and drug treatment programs;

(g) Describe spill prevention technology that has been installed, including overflow alarms, automatic overflow cut-off switches, secondary containment facilities, and storm water retention, treatment, and discharge systems;

(h) Describe any discharges of oil to the land or the water of more than twenty-five barrels in the prior five years and the measures taken to prevent a reoccurrence;

(i) Describe the procedures followed by the facility to contain and recover any oil that spills during the transfer of oil to or from the facility;

(j) Provide for the incorporation into the facility during the period covered by the plan of those measures that will provide the best achievable protection for the public health and the environment; and

(k) Include any other information reasonably necessary to carry out the purposes of this chapter required by rules adopted by the department.

(3) Plan requirements in subsection (2) of this section are not applicable to railroad facility operators while transporting oil over rail lines of this state.

(4) The department shall only approve a prevention plan if it provides the best achievable protection from damages caused by the discharge of oil into the waters of the state and if it determines that the plan meets the requirements of this section and rules adopted by the department.

~~((4))~~ (5) Upon approval of a prevention plan, the department shall provide to the person submitting the plan a statement indicating that the plan has been approved, the facilities covered by the plan, and other information the department determines should be included.

~~((5))~~ (6) The approval of a prevention plan shall be valid for five years. An owner or operator of a facility shall notify the department in writing immediately of any significant change of which it is aware affecting its prevention plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a prevention plan as a result of these changes.

~~((6))~~ (7) The department by rule shall require prevention plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years.

~~((7))~~ (8) Approval of a prevention plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

~~((8))~~ (9) This section does not authorize the department to modify the terms of a collective bargaining agreement.

Sec. 5. RCW 90.56.210 and 2005 c 78 s 1 are each amended to read as follows:

(1) Each onshore and offshore facility shall have a contingency plan for the containment and cleanup of oil spills from the facility into the waters of the state and for the protection of fisheries and wildlife, shellfish beds, natural resources, and public and private property from such spills. The department shall by rule adopt and periodically revise standards for the preparation of contingency plans. The department shall require contingency plans, at a minimum, to meet the following standards:

(a) Include full details of the method of response to spills of various sizes from any facility which is covered by the plan;

(b) Be designed to be capable in terms of personnel, materials, and equipment, of promptly and properly, to the maximum extent practicable, as defined by the department removing oil and minimizing any damage to the environment resulting from a worst case spill;

(c) Provide a clear, precise, and detailed description of how the plan relates to and is integrated into relevant contingency plans which have been prepared by cooperatives, ports, regional entities, the state, and the federal government;

(d) Provide procedures for early detection of oil spills and timely notification of such spills to appropriate federal, state, and local authorities under applicable state and federal law;

(e) State the number, training preparedness, and fitness of all dedicated, prepositioned personnel assigned to direct and implement the plan;

(f) Incorporate periodic training and drill programs to evaluate whether personnel and equipment provided under the plan are in a state of operational readiness at all times;

(g) Describe important features of the surrounding environment, including fish and wildlife habitat, shellfish beds, environmentally and archaeologically sensitive areas, and public facilities. The departments of ecology, fish and wildlife, and natural resources, and the ~~((office))~~ department of archaeology and historic preservation, upon request, shall provide information that they have available to assist in preparing this description. The description of archaeologically sensitive areas shall not be required to be included in a contingency plan until it is reviewed and updated pursuant to subsection (9) of this section;

(h) State the means of protecting and mitigating effects on the environment, including fish, shellfish, marine mammals, and other wildlife, and ensure that implementation of the plan does not pose unacceptable risks to the public or the environment;

(i) Provide arrangements for the repositioning of oil spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site to promptly and properly remove the spilled oil;

(j) Provide arrangements for enlisting the use of qualified and trained cleanup personnel to implement the plan;

(k) Provide for disposal of recovered spilled oil in accordance with local, state, and federal laws;

(l) Until a spill prevention plan has been submitted pursuant to RCW 90.56.200, state the measures that have been taken to reduce the likelihood that a spill will occur, including but not limited to, design and operation of a facility, training of personnel, number of personnel, and backup systems designed to prevent a spill;

(m) State the amount and type of equipment available to respond to a spill, where the equipment is located, and the extent to which other contingency plans rely on the same equipment; and

(n) If the department has adopted rules permitting the use of dispersants, the circumstances, if any, and the manner for the application of the dispersants in conformance with the department's rules.

(2)(a) The following shall submit contingency plans to the department within six months after the department adopts rules establishing standards for contingency plans under subsection (1) of this section:

(i) Onshore facilities capable of storing one million gallons or more of oil; and

(ii) Offshore facilities.

(b) Contingency plans for all other onshore and offshore facilities shall be submitted to the department within eighteen months after the department has adopted rules under subsection (1) of this section. The department may adopt a schedule for submission of plans within the eighteen-month period.

(3) The department by rule shall determine the contingency plan requirements for railroads transporting oil in bulk. Federal oil spill response plans created pursuant to 33 U.S.C. Sec. 1321 may be submitted in lieu of contingency plans until state rules are adopted.

(4)(a) The owner or operator of a facility shall submit the contingency plan for the facility.

(b) A person who has contracted with a facility to provide containment and cleanup services and who meets the standards established pursuant to RCW 90.56.240, may submit the plan for any facility for which the person is contractually obligated to provide services. Subject to conditions imposed by the department, the person may submit a single plan for more than one facility.

~~((4))~~ (5) A contingency plan prepared for an agency of the federal government or another state that satisfies the requirements of this section and rules adopted by the department may be accepted by the department as a contingency plan under this section. The department shall ensure that to the greatest extent possible, requirements for contingency plans under this section are consistent with the requirements for contingency plans under federal law.

~~((5))~~ (6) In reviewing the contingency plans required by this section, the department shall consider at least the following factors:

(a) The adequacy of containment and cleanup equipment, personnel, communications equipment, notification procedures and call down lists, response time, and logistical arrangements for coordination and implementation of response efforts to remove oil spills promptly and properly and to protect the environment;

(b) The nature and amount of vessel traffic within the area covered by the plan;

(c) The volume and type of oil being transported within the area covered by the plan;

(d) The existence of navigational hazards within the area covered by the plan;

(e) The history and circumstances surrounding prior spills of oil within the area covered by the plan;

(f) The sensitivity of fisheries, shellfish beds, and wildlife and other natural resources within the area covered by the plan;

(g) Relevant information on previous spills contained in on-scene coordinator reports prepared by the department; and

(h) The extent to which reasonable, cost-effective measures to prevent a likelihood that a spill will occur have been incorporated into the plan.

~~((6))~~ (7) The department shall approve a contingency plan only if it determines that the plan meets the requirements of this section and that, if implemented, the plan is capable, in terms of personnel, materials, and equipment, of removing oil promptly and properly and minimizing any damage to the environment.

~~((7))~~ (8) The approval of the contingency plan shall be valid for five years. Upon approval of a contingency plan, the department shall provide to the person submitting the plan a statement indicating that the plan has been approved, the facilities or vessels covered by the plan, and other information the department determines should be included.

~~((8))~~ (9) An owner or operator of a facility shall notify the department in writing immediately of any significant change of which it is aware affecting its contingency plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a contingency plan as a result of these changes.

~~((9))~~ (10) The department by rule shall require contingency plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years.

~~((40))~~ (11) Approval of a contingency plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

Sec. 6. RCW 90.56.500 and 2009 c 11 s 9 are each amended to read as follows:

(1) The state oil spill response account is created in the state treasury. All receipts from RCW 82.23B.020(1) shall be deposited in the account. All costs reimbursed to the state by a responsible party or any other person for responding to a spill of oil shall also be deposited in the account. Moneys in the account shall be spent only after appropriation. The account is subject to allotment procedures under chapter 43.88 RCW.

(2)~~(a)~~ The account shall be used exclusively to pay for:

~~((+))~~ (i) The costs associated with the response to spills or imminent threats of spills of crude oil or petroleum products into the ~~((navigable))~~ waters of the state; and

~~((b))~~ (ii) The costs associated with the department's use of ~~((the))~~ an emergency response towing vessel ~~((as described in RCW 88.46.135))~~.

(b) During the 2015-2017 biennium, the legislature may transfer up to two million two hundred twenty-five thousand dollars from the account to the oil spill prevention account created in RCW 90.56.510.

(3) Payment of response costs under subsection (2)(a)~~(i)~~ of this section shall be limited to spills which the director has determined are likely to exceed ~~((fifty))~~ one thousand dollars.

(4) Before expending moneys from the account, but without delaying response activities, the director shall make reasonable efforts to obtain funding for response costs under subsection (2) of this section from the person responsible for the spill and from other sources, including the federal government.

(5) Reimbursement for response costs from this account shall be allowed only for costs which are not covered by funds appropriated to the agencies responsible for response activities. Costs associated with the response to spills of crude oil or petroleum products shall include:

(a) Natural resource damage assessment and related activities;

(b) Spill related response, containment, wildlife rescue, cleanup, disposal, and associated costs;

(c) Interagency coordination and public information related to a response; and

(d) Appropriate travel, goods and services, contracts, and equipment.

Sec. 7. RCW 90.56.510 and 2000 c 69 s 22 are each amended to read as follows:

(1) The oil spill prevention account is created in the state treasury. All receipts from RCW 82.23B.020(2) shall be deposited in the account. Moneys from the account may be spent only after appropriation. The account is subject to allotment procedures under chapter 43.88 RCW. If, on the first day of any calendar month, the balance of the oil spill response account is greater than nine

million dollars and the balance of the oil spill prevention account exceeds the unexpended appropriation for the current biennium, then the tax under RCW 82.23B.020(2) shall be suspended on the first day of the next calendar month until the beginning of the following biennium, provided that the tax shall not be suspended during the last six months of the biennium. If the tax imposed under RCW 82.23B.020(2) is suspended during two consecutive biennia, the department shall by November 1st after the end of the second biennium, recommend to the appropriate standing committees an adjustment in the tax rate. For the biennium ending June 30, 1999, and the biennium ending June 30, 2001, the state treasurer may transfer a total of up to one million dollars from the oil spill response account to the oil spill prevention account to support appropriations made from the oil spill prevention account in the omnibus appropriations act adopted not later than June 30, 1999.

(2) Expenditures from the oil spill prevention account shall be used exclusively for the administrative costs related to the purposes of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. In addition, until June 30, 2019, expenditures from the oil spill prevention account may be used, subject to amounts appropriated specifically for this purpose, for the development and annual review of local emergency planning committee emergency response plans in RCW 38.52.040(3). Starting with the 1995-1997 biennium, the legislature shall give activities of state agencies related to prevention of oil spills priority in funding from the oil spill prevention account. Costs of prevention include the costs of:

(a) Routine responses not covered under RCW 90.56.500;

(b) Management and staff development activities;

(c) Development of rules and policies and the statewide plan provided for in RCW 90.56.060;

(d) Facility and vessel plan review and approval, drills, inspections, investigations, enforcement, and litigation;

(e) Interagency coordination and public outreach and education;

(f) Collection and administration of the tax provided for in chapter 82.23B RCW; and

(g) Appropriate travel, goods and services, contracts, and equipment.

(3) Before expending moneys from the account for a response under subsection (2)(a) of this section, but without delaying response activities, the director shall make reasonable efforts to obtain funding for response costs under this section from the person responsible for the spill and from other sources, including the federal government.

NEW SECTION. Sec. 8. A new section is added to chapter 90.56 RCW to read as follows:

(1)(a) A facility that receives crude oil from a railroad car must provide advance notice to the department that the facility will receive crude oil from a railroad car, as provided in this section. The advance notice must include the route taken to the facility within the state, if known, and the scheduled time, location, volume, region per bill of lading, and gravity as measured by standards developed by the American petroleum institute, of crude oil received. Each week, a facility that provides advance notice under this section must provide the required information regarding the scheduled arrival of railroad cars carrying crude oil to be received by the facility in the succeeding seven-day period. A

facility is not required to provide advance notice when there is no receipt of crude oil from a railroad car scheduled for a seven-day period.

(b) Twice per year, pipelines that transport crude oil must report to the department the following information about the crude oil transported by the pipeline through the state: The volume of crude oil and the state or province of origin of the crude oil. This report must be submitted each year by July 31st for the period January 1st through June 30th and by January 31st for the period July 1st through December 31st.

(2) The department may share information provided by a facility through the advance notice system established in this section with the state emergency management division and any county, city, tribal, port, or local government emergency response agency upon request.

(3) The department must publish information collected under this section on a quarterly basis on the department's internet web site. With respect to the information reported under subsection (1)(a) of this section, the information published by the department must be aggregated on a statewide basis by route through the state, by week, and by type of crude oil. The report may also include other information available to the department including, but not limited to, place of origin, modes of transport, number of railroad cars delivering crude oil, and number and volume of spills during transport and delivery.

(4) A facility providing advance notice under this section is not responsible for meeting advance notice time frame requirements under subsection (1) of this section in the event that the schedule of arrivals of railroad cars carrying crude oil changes during a seven-day period.

(5) Consistent with the requirements of chapter 42.56 RCW, the department and any state, local, tribal, or public agency that receives information provided under this section may not disclose any such information to the public or to nongovernmental entities that contains proprietary, commercial, or financial information unless that information is aggregated. The requirement for aggregating information does not apply when information is shared by the department with emergency response agencies as provided in subsection (2) of this section.

(6) The department shall adopt rules to implement this section. The advance notice system required in this section must be consistent with the oil transfer reporting system adopted by the department pursuant to RCW 88.46.165.

Sec. 9. RCW 88.40.011 and 2007 c 347 s 4 are each amended to read as follows:

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

(1) "Barge" means a vessel that is not self-propelled.

(2) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel, fishing vessel, or a passenger vessel, of three hundred or more gross tons.

(3) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(4) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(5) "Department" means the department of ecology.

(6) "Director" means the director of the department of ecology.

(7)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from any vessel with an oil carrying capacity over two hundred fifty barrels or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; (iv) underground storage tank regulated by the department or a local government under chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(8) "Fishing vessel" means a self-propelled commercial vessel of three hundred or more gross tons that is used for catching or processing fish.

(9) "Gross tons" means tonnage as determined by the United States coast guard under 33 C.F.R. section 138.30.

(10) "Hazardous substances" means any substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section ~~((401(14)))~~ 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499. The following are not hazardous substances for purposes of this chapter:

(a) Wastes listed as F001 through F028 in Table 302.4; and

(b) Wastes listed as K001 through K136 in Table 302.4.

(11) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(12) "Oil" or "oils" means oil of any kind that is liquid at ~~((atmospheric temperature))~~ twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section ~~((401(14)))~~ 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

(13) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.

(14) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(15)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person

who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(16) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(17) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(18) "Spill" means an unauthorized discharge of oil into the waters of the state.

(19) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(20) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

NEW SECTION. Sec. 10. A new section is added to chapter 81.04 RCW to read as follows:

(1) The commission must require a railroad company that transports crude oil in Washington to submit information to the commission relating to the railroad company's ability to pay damages in the event of a spill or accident involving the transport of crude oil by the railroad company in Washington. The information submitted to the commission must include a statement of whether the railroad has the ability to pay for damages resulting from a reasonable worst case spill of oil, as calculated by multiplying the reasonable per barrel cleanup and damage cost of spilled oil times the reasonable worst case spill volume as measured in barrels. A railroad company must include the information in the annual report submitted to the commission pursuant to RCW 81.04.080.

(2) The commission may not use the information submitted by a railroad company under this section as a basis for engaging in economic regulation of a railroad company.

(3) The commission may not use the information submitted by a railroad company under this section as a basis for penalizing a railroad company.

(4) Nothing in this section may be construed as assigning liability to a railroad company or establishing liquidated damages for a spill or accident involving the transport of crude oil by a railroad company.

(5) The commission may adopt rules for implementing this section consistent with the requirements of RCW 81.04.080.

NEW SECTION. Sec. 11. A new section is added to chapter 90.56 RCW to read as follows:

(1) The department must complete an evaluation and assessment of vessel traffic management and vessel traffic safety within and near the mouth of the Columbia river. A draft evaluation and assessment must be completed and submitted to the legislature consistent with RCW 43.01.036 by December 15, 2017. A final evaluation and assessment must be completed by June 30, 2018. In

conducting this evaluation, the department must consult with the United States coast guard, the Oregon board of maritime pilots, Columbia river harbor safety committee, the Columbia river bar pilots, the Columbia river pilots, area tribes, public ports in Oregon and Washington, local governments, and other appropriate entities.

(2) The evaluation and assessment completed under subsection (1) of this section must include, but is not limited to, an assessment and evaluation of: (a) The need for tug escorts for oil tankers, articulated tug barges, and other towed waterborne vessels or barges; (b) best achievable protection; and (c) required tug capabilities to ensure safe escort of vessels on the waters that are the subject of focus for each water body evaluated under subsection (1) of this section.

(3) The assessment and evaluations submitted to the legislature under subsection (1) of this section must include recommendations for vessel traffic management and vessel traffic safety on the Columbia river, including recommendations for tug escort requirements for vessels transporting oil as bulk cargo.

(4) All requirements in this section are subject to the availability of amounts appropriated for the specific purposes described.

(5) This section expires June 30, 2019.

NEW SECTION. Sec. 12. A new section is added to chapter 88.16 RCW to read as follows:

(1) The board of pilotage commissioners may adopt rules to implement this section. The rules may include tug escort requirements and other safety measures for oil tankers of greater than forty thousand deadweight tons, all articulated tug barges, and other towed waterborne vessels or barges within a two-mile radius of the Grays Harbor pilotage district as defined in RCW 88.16.050.

(2)(a) Prior to proposing a draft rule, the board of pilotage commissioners must consult with the department of ecology, the United States coast guard, the Grays Harbor safety committee, area tribes, public ports, local governments, and other appropriate entities. The board of pilotage commissioners may not adopt rules under this section unless a state agency or a local jurisdiction, for a facility within Grays Harbor that is required to have a contingency plan pursuant to chapter 90.56 RCW:

(i) Makes a final determination or issues a final permit after January 1, 2015, to site a new facility; or

(ii) Provides authority to an existing facility to process or receive crude oil for the first time.

(b) This subsection does not apply to a transmission pipeline or railroad facility.

(3) A rule adopted under this section must:

(a) Be designed to achieve best achievable protection as defined in RCW 88.46.010;

(b) Ensure that any escort tugs used have an aggregate shaft horsepower equivalent to at least five percent of the deadweight tons of the escorted oil tanker or articulated tug barge; and

(c) Ensure that escort tugs have sufficient mechanical capabilities to provide for safe escort.

(4) The provisions adopted under this section may not include rules affecting pilotage. This section does not affect any existing authority to establish pilotage requirements.

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

(a) "Articulated tug barge" means a tank barge and a towing vessel joined by hinged or articulated fixed mechanical equipment affixed or connecting to the stern of the tank barge.

(b) "Oil tanker" means a self-propelled deep draft tank vessel designed to transport oil in bulk. "Oil tanker" does not include an articulated tug barge tank vessel.

(c) "Waterborne vessel or barge" means any ship, barge, or other watercraft capable of traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine.

Sec. 13. RCW 82.23B.010 and 1992 c 73 s 6 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Barrel" means a unit of measurement of volume equal to forty-two United States gallons of crude oil or petroleum product.

(2) "Crude oil" means any naturally occurring ~~((liquid))~~ hydrocarbons ~~((at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline))~~ coming from the earth that are liquid at twenty-five degrees Celsius and one atmosphere of pressure including, but not limited to, crude oil, bitumen and diluted bitumen, synthetic crude oil, and natural gas well condensate.

(3) "Department" means the department of revenue.

(4) "Marine terminal" means a facility of any kind, other than a waterborne vessel, that is used for transferring crude oil or petroleum products to or from a waterborne vessel or barge.

(5) "Navigable waters" means those waters of the state and their adjoining shorelines that are subject to the ebb and flow of the tide, including the Columbia and Snake rivers.

(6) "Person" has the meaning provided in RCW 82.04.030.

(7) "Petroleum product" means any liquid hydrocarbons at atmospheric temperature and pressure that are the product of the fractionation, distillation, or other refining or processing of crude oil, and that are used as, useable as, or may be refined as a fuel or fuel blendstock, including but not limited to, gasoline, diesel fuel, aviation fuel, bunker fuel, and fuels containing a blend of alcohol and petroleum.

(8) "Taxpayer" means the person owning crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine or bulk oil terminal in this state ~~((from a waterborne vessel or barge))~~ and who is liable for the taxes imposed by this chapter.

(9) "Waterborne vessel or barge" means any ship, barge, or other watercraft capable of ~~((travelling))~~ traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten

thousand gallons or more for purposes other than providing fuel for its motor or engine.

(10) "Bulk oil terminal" means a facility of any kind, other than a waterborne vessel, that is used for transferring crude oil or petroleum products from a tank car.

(11) "Tank car" means a rail car, the body of which consists of a tank for transporting liquids.

Sec. 14. RCW 82.23B.020 and 2006 c 256 s 2 are each amended to read as follows:

(1) An oil spill response tax is imposed on the privilege of receiving: (a) Crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state; or (b) crude oil or petroleum products at a bulk oil terminal within this state from a tank car. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine or bulk oil terminal from a tank car or waterborne vessel or barge at the rate of one cent per barrel of crude oil or petroleum product received.

(2) In addition to the tax imposed in subsection (1) of this section, an oil spill administration tax is imposed on the privilege of receiving: (a) Crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state; or (b) crude oil or petroleum products at a bulk oil terminal within this state from a tank car. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine or bulk oil terminal from a tank car or waterborne vessel or barge at the rate of four cents per barrel of crude oil or petroleum product.

(3) The taxes imposed by this chapter ~~((shall))~~ must be collected by the marine or bulk oil terminal operator from the taxpayer. If any person charged with collecting the taxes fails to bill the taxpayer for the taxes, or in the alternative has not notified the taxpayer in writing of the ~~((imposition of the))~~ taxes imposed, or having collected the taxes, fails to pay them to the department in the manner prescribed by this chapter, whether such failure is the result of the person's own acts or the result of acts or conditions beyond the person's control, he or she ~~((shall))~~, nevertheless, ~~((be))~~ is personally liable to the state for the amount of the taxes. Payment of the taxes by the owner to a marine or bulk oil terminal operator ~~((shall))~~ relieves the owner from further liability for the taxes.

(4) Taxes collected under this chapter ~~((shall))~~ must be held in trust until paid to the department. Any person collecting the taxes who appropriates or converts the taxes collected ~~((shall be))~~ is guilty of a gross misdemeanor if the money required to be collected is not available for payment on the date payment is due. The taxes required by this chapter to be collected ~~((shall))~~ must be stated separately from other charges made by the marine or bulk oil terminal operator in any invoice or other statement of account provided to the taxpayer.

(5) If a taxpayer fails to pay the taxes imposed by this chapter to the person charged with collection of the taxes and the person charged with collection fails to pay the taxes to the department, the department may, in its discretion, proceed directly against the taxpayer for collection of the taxes.

(6) The taxes (~~((shall be))~~ are due from the marine or bulk oil terminal operator, along with reports and returns on forms prescribed by the department, within twenty-five days after the end of the month in which the taxable activity occurs.

(7) The amount of taxes, until paid by the taxpayer to the marine or bulk oil terminal operator or to the department, (~~((shall))~~ constitutes a debt from the taxpayer to the marine or bulk oil terminal operator. Any person required to collect the taxes under this chapter who, with intent to violate the provisions of this chapter, fails or refuses to do so as required and any taxpayer who refuses to pay any taxes due under this chapter, (~~((shall be))~~ is guilty of a misdemeanor as provided in chapter 9A.20 RCW.

(8) Upon prior approval of the department, the taxpayer may pay the taxes imposed by this chapter directly to the department. The department (~~((shall))~~ must give its approval for direct payment under this section whenever it appears, in the department's judgment, that direct payment will enhance the administration of the taxes imposed under this chapter. The department (~~((shall))~~ must provide by rule for the issuance of a direct payment certificate to any taxpayer qualifying for direct payment of the taxes. Good faith acceptance of a direct payment certificate by a terminal operator (~~((shall))~~ relieves the marine or bulk oil terminal operator from any liability for the collection or payment of the taxes imposed under this chapter.

(9) All receipts from the tax imposed in subsection (1) of this section (~~((shall))~~ must be deposited into the state oil spill response account. All receipts from the tax imposed in subsection (2) of this section shall be deposited into the oil spill prevention account.

(10) Within forty-five days after the end of each calendar quarter, the office of financial management (~~((shall))~~ must determine the balance of the oil spill response account as of the last day of that calendar quarter. Balance determinations by the office of financial management under this section are final and (~~((shall))~~ may not be used to challenge the validity of any tax imposed under this chapter. The office of financial management (~~((shall))~~ must promptly notify the departments of revenue and ecology of the account balance once a determination is made. For each subsequent calendar quarter, the tax imposed by subsection (1) of this section shall be imposed during the entire calendar quarter unless:

(a) Tax was imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than nine million dollars; or

(b) Tax was not imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than eight million dollars.

Sec. 15. RCW 82.23B.030 and 1992 c 73 s 9 are each amended to read as follows:

The taxes imposed under this chapter (~~((shall))~~ only apply to the first receipt of crude oil or petroleum products at a marine or bulk oil terminal in this state and not to the later transporting and subsequent receipt of the same oil or petroleum product, whether in the form originally received at a marine or bulk oil terminal in this state or after refining or other processing.

Sec. 16. RCW 82.23B.040 and 1992 c 73 s 10 are each amended to read as follows:

Credit ~~((shall))~~ must be allowed against the taxes imposed under this chapter for any crude oil or petroleum products received at a marine or bulk oil terminal and subsequently exported from or sold for export from the state.

Sec. 17. RCW 38.52.040 and 2011 1st sp.s. c 21 s 27, 2011 c 336 s 789, and 2011 c 79 s 9 are each reenacted and amended to read as follows:

(1) There is hereby created the emergency management council (hereinafter called the council), to consist of not more than seventeen members who shall be appointed by the adjutant general. The membership of the council shall include, but not be limited to, representatives of city and county governments, sheriffs and police chiefs, the Washington state patrol, the military department, the department of ecology, state and local fire chiefs, seismic safety experts, state and local emergency management directors, search and rescue volunteers, medical professions who have expertise in emergency medical care, building officials, and private industry. The representatives of private industry shall include persons knowledgeable in emergency and hazardous materials management. The councilmembers shall elect a chair from within the council membership. The members of the council shall serve without compensation, but may be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The emergency management council shall advise the governor and the director on all matters pertaining to state and local emergency management. The council may appoint such ad hoc committees, subcommittees, and working groups as are required to develop specific recommendations for the improvement of emergency management practices, standards, policies, or procedures. The council shall ensure that the governor receives an annual assessment of statewide emergency preparedness including, but not limited to, specific progress on hazard mitigation and reduction efforts, implementation of seismic safety improvements, reduction of flood hazards, and coordination of hazardous materials planning and response activities. ~~((The council or a subcommittee thereof shall periodically convene in special session and serve during those sessions as the state emergency response commission required by P.L. 99-499, the emergency planning and community right to know act. When sitting in session as the state emergency response commission, the council shall confine its deliberations to those items specified in federal statutes and state administrative rules governing the coordination of hazardous materials policy.))~~ The council shall review administrative rules governing state and local emergency management practices and recommend necessary revisions to the director.

(3) The council or a council subcommittee shall serve and periodically convene in special session as the state emergency response commission required by the emergency planning and community right-to-know act (42 U.S.C. Sec. 11001 et seq.). The state emergency response commission shall conduct those activities specified in federal statutes and regulations and state administrative rules governing the coordination of hazardous materials policy including, but not limited to, review of local emergency planning committee emergency response plans for compliance with the planning requirements in the emergency planning

and community right-to-know act (42 U.S.C. Sec. 11001 et seq.). Committees shall annually review their plans to address changed conditions, and submit their plans to the state emergency response commission for review when updated, but not less than at least once every five years. The department may employ staff to assist local emergency planning committees in the development and annual review of these emergency response plans, with an initial focus on the highest risk communities through which trains that transport oil in bulk travel. By March 1, 2018, the department shall report to the governor and legislature on progress towards compliance with planning requirements. The report must also provide budget and policy recommendations for continued support of local emergency planning.

(4)(a) The intrastate mutual aid committee is created and is a subcommittee of the emergency management council. The intrastate mutual aid committee consists of not more than five members who must be appointed by the council chair from council membership. The chair of the intrastate mutual aid committee is the military department representative appointed as a member of the council. Meetings of the intrastate mutual aid committee must be held at least annually.

(b) In support of the intrastate mutual aid system established in chapter 38.56 RCW, the intrastate mutual aid committee shall develop and update guidelines and procedures to facilitate implementation of the intrastate mutual aid system by member jurisdictions, including but not limited to the following: Projected or anticipated costs; checklists and forms for requesting and providing assistance; recordkeeping; reimbursement procedures; and other implementation issues. These guidelines and procedures are not subject to the rule-making requirements of chapter 34.05 RCW.

Sec. 18. RCW 81.24.010 and 2007 c 234 s 21 are each amended to read as follows:

(1) Every company subject to regulation by the commission, except those listed in subsection (3) of this section, shall, on or before the date specified by the commission for filing annual reports under RCW 81.04.080, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year, or portion thereof, and pay to the commission a fee equal to one-tenth of one percent of the first fifty thousand dollars of gross operating revenue, plus two-tenths of one percent of any gross operating revenue in excess of fifty thousand dollars, except railroad companies which shall each pay to the commission a fee ~~((equal))~~ of up to ((one)) two and one-half percent of its intrastate gross operating revenue. However, a class three railroad that does not haul crude oil must pay a fee equal to one and one-half percent of its intrastate gross operating revenue. The commission may, by rule, set minimum fees that do not exceed the cost of collecting the fees. The commission may by rule waive any or all of the minimum fee established pursuant to this section. Any railroad association that qualifies as a nonprofit charitable organization under the federal internal revenue code section 501(c)(3) is exempt from the fee required under this subsection.

(2) The percentage rates of gross operating revenue to be paid in any one year may be decreased by the commission for any class of companies subject to the payment of such fees, by general order entered before March 1st of such year, and for such purpose railroad companies are classified as class two. Every other company subject to regulation by the commission, for which regulatory

fees are not otherwise fixed by law, shall pay fees as herein provided and shall constitute additional classes according to kinds of businesses engaged in.

(3) This section does not apply to private nonprofit transportation providers, auto transportation companies, charter party carriers and excursion service carriers, solid waste collection companies, motor freight carriers, household goods carriers, commercial ferries, and low-level radioactive waste storage facilities.

NEW SECTION. Sec. 19. A new section is added to chapter 81.44 RCW to read as follows:

Commission employees certified by the federal railroad administration to perform hazardous materials inspections may enter the property of any business that receives, ships, or offers for shipment hazardous materials by rail. Entry shall be at a reasonable time and in a reasonable manner. The purpose of entry is limited to performing inspections, investigations, or surveillance of equipment, records, and operations relating to the packaging, loading, unloading, or transportation of hazardous materials by rail, pursuant only to the state participation program outlined in 49 C.F.R. Part 212. The term "business" is all inclusive and is not limited to common carriers or public service companies.

Sec. 20. RCW 81.53.010 and 2013 c 23 s 302 are each amended to read as follows:

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

~~((The term))~~ (1) "Commission(;)" ~~((when used in this chapter,))~~ means the utilities and transportation commission of Washington.

~~((The term))~~ (2) "Highway(;)" ~~((when used in this chapter,))~~ includes all state and county roads, streets, alleys, avenues, boulevards, parkways, and other public places actually open and in use, or to be opened and used, for travel by the public.

~~((The term))~~ (3) "Railroad(;)" ~~((when used in this chapter,))~~ means every railroad, including interurban and suburban electric railroads, by whatsoever power operated, for the public use in the conveyance of persons or property for hire, with all bridges, ferries, tunnels, equipment, switches, spurs, sidings, tracks, stations, and terminal facilities of every kind, used, operated, controlled, managed, or owned by or in connection therewith. The ~~((said))~~ term ~~((shall))~~ also includes every logging and other industrial railway owned or operated primarily for the purpose of carrying the property of its owners or operators or of a limited class of persons, with all tracks, spurs, and sidings used in connection therewith. The ~~((said))~~ term ~~((shall))~~ does not include street railways operating within the limits of any incorporated city or town.

~~((The term))~~ (4) "Railroad company(;)" ~~((when used in this chapter,))~~ includes every corporation, company, association, joint stock association, partnership, or person, its, their, or his or her lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling, or managing any railroad ~~((, as that term is defined in this section)).~~

~~((The term))~~ (5) "Over-crossing(;)" ~~((when used in this chapter,))~~ means any point or place where a highway crosses a railroad by passing above the same. "Over-crossing" also means any point or place where one railroad crosses another railroad not at grade.

~~((The term)) (6) "Under-crossing((;))" ((when used in this chapter,)) means any point or place where a highway crosses a railroad by passing under the same. "Under-crossing" also means any point or place where one railroad crosses another railroad not at grade.~~

~~((The term "over-crossing" or "under-crossing," shall also mean any point or place where one railroad crosses another railroad not at grade.~~

~~The term)) (7) "Grade crossing((;))" ((when used in this chapter,)) means any point or place where a railroad crosses a highway or a highway crosses a railroad or one railroad crosses another, at a common grade.~~

~~(8) "Private crossing" means any point or place where a railroad crosses a private road at grade or a private road crosses a railroad at grade, where the private road is not a highway.~~

Sec. 21. RCW 81.53.240 and 1984 c 7 s 375 are each amended to read as follows:

(1) Except to the extent necessary to permit participation by firstclass cities in the grade crossing protective fund, when an election to participate is made as provided in RCW 81.53.261 through 81.53.291, or to the extent a first-class city requests to participate in the commission's crossing safety inspection program within the city, this chapter ((81.53 RCW)) is not operative within the limits of firstclass cities, and does not apply to street railway lines operating on or across any street, alley, or other public place within the limits of any city, except that a streetcar line outside of cities of the first class shall not cross a railroad at grade without express authority from the commission. The commission may not change the location of a state highway without the approval of the secretary of transportation, or the location of any crossing thereon adopted or approved by the department of transportation, or grant a railroad authority to cross a state highway at grade without the consent of the secretary of transportation.

(2) Within thirty days of the effective date of this section, first-class cities must provide to the commission a list of all existing public crossings within the limits of a first-class city, including over and under-crossings, including the United States department of transportation number for the crossing. Within thirty days of modifying, closing, or opening a grade crossing within the limits of a first-class city, the city must notify the commission in writing of the action taken, identifying the crossing by United States department of transportation number.

NEW SECTION. Sec. 22. A new section is added to chapter 81.53 RCW to read as follows:

(1) To address the potential public safety hazards presented by private crossings in the state and by the transportation of hazardous materials in the state, including crude oil, the commission is authorized to and must adopt rules governing safety standards for private crossings along the railroad tracks over which crude oil is transported in the state. The commission is also authorized to conduct inspections of the private crossings subject to this section, to order the railroads to make improvements at the private crossings, and enforce the orders.

(2) The commission must adopt rules governing private crossings along railroad tracks over which crude oil is transported in the state, establishing:

(a) Minimum safety standards for the private crossings subject to this section, including, but not limited to, requirements for signage; and

(b) Criteria for prioritizing the inspection and improvements of the private crossings subject to this section.

(3) Nothing in this section modifies existing agreements between the railroad company and the landowner governing liability for injuries or damages occurring at the private crossing.

Sec. 23. RCW 88.46.180 and 2011 c 122 s 2 are each amended to read as follows:

(1) The department shall evaluate and update planning standards for oil spill response equipment required under contingency plans required by this chapter, including aerial surveillance, in order to ensure access in the state to equipment that represents the best achievable protection to respond to a worst case spill and provide for continuous operation of oil spill response activities to the maximum extent practicable and without jeopardizing crew safety, as determined by the incident commander or the unified command.

(2) The department shall by rule update the planning standards at five-year intervals to ensure the maintenance of best available protection over time. Rule updates to covered nontank vessels shall minimize potential impacts to discretionary cargo moved through the state.

~~((3) The department shall evaluate and update planning standards for tank vessels by December 31, 2012.))~~

Sec. 24. RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and 2014 c 144 s 6 are each reenacted and amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), marijuana producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to

the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information; ~~((and))~~

(21) Market share data submitted by a manufacturer under RCW 70.95N.190(4); ~~((and))~~

(22) Financial information supplied to the department of financial institutions or to a portal under RCW 21.20.883, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under RCW 21.20.880 or when filed by or on behalf of an investor for the purpose of purchasing such securities; and

(23) Unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information, submitted to the department of ecology pursuant to section 8(1)(a) of this act, and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the notice pursuant to section 8 of this act.

NEW SECTION. Sec. 25. A new section is added to chapter 90.56 RCW to read as follows:

(1) The department must provide to the relevant policy and fiscal committees of the senate and house of representatives:

(a) A review of all state geographic response plans and any federal requirements as needed in contingency plans required under RCW 90.56.210 and 88.46.060 by December 31, 2015; and

(b) Updates every two years, beginning December 31, 2017, and ending December 31, 2021, consistent with the requirements of RCW 43.01.036, as to the progress made in completing state and federal geographic response plans as needed in contingency plans required under RCW 90.56.060, 90.56.210, and 88.46.060.

(2) The department must contract, if practicable, with eligible independent third parties to ensure completion by December 1, 2017, of at least fifty percent of the geographic response plans as needed in contingency plans required under RCW 90.56.210 and 88.46.060 for the state.

(3) All requirements in this section are subject to the availability of amounts appropriated for the specific purposes described.

NEW SECTION. Sec. 26. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of ecology shall provide grants to emergency responders to assist with oil spill and hazardous materials response and firefighting equipment and resources needed to meet the requirements of this act.

(2) For the purposes of determining grant allocations, the department of ecology, in consultation with emergency first responders, oil spill response cooperatives, representatives from the oil and rail industries, and businesses that are recipients of liquid bulk crude oil shall: (a) Conduct an evaluation of oil spill and hazardous materials response and firefighting equipment and resources currently available for oil spill and hazardous materials response activities throughout the state; (b) review the local emergency management coordinating efforts for oil spill and hazardous materials response; (c) determine the need for additional, new, or updated equipment and resources; and (d) identify areas or regions of the state that are in greatest need of resources and oil spill and hazardous materials response and firefighting equipment.

(3) The department of ecology, in consultation with emergency first responders, oil spill response cooperatives, representatives from the oil and rail industries, and businesses that are recipients of liquid bulk crude oil shall review grant applications to prioritize grant awards using the evaluation of availability of oil spill and hazardous materials response and firefighting equipment and resources as determined in subsection (2) of this section.

(a) The application review must include evaluation of equipment and resource requests, funding requirements, and coordination with existing equipment and resources in the area.

(b) Funding must be prioritized for applicants from areas where the need for firefighting and oil spill and hazardous materials response equipment is the greatest as determined in subsection (2) of this section.

(c) Grants must be coordinated to maximize currently existing equipment and resources that have been put in place by first responders and industry.

NEW SECTION. Sec. 27. Before the start of the 2016 legislative session, the senate energy, environment, and telecommunications committee and the house of representatives environment committee must hold at least one joint meeting on oil spill prevention and response activities for international transport of liquid bulk crude oil. The committees may invite representatives of affected parties from the United States and Canada to address issues including but not limited to the following:

(1) Cooperative prevention and emergency response activities between shared international and state borders;

(2) Expected risks posed by the transport of liquid bulk crude oil throughout the Pacific Northwest region; and

(3) An update of the status of marine transport of liquid bulk crude oil through the Pacific Northwest region.

NEW SECTION. Sec. 28. A new section is added to chapter 90.56 RCW to read as follows:

To the extent practicable and consistent with RCW 88.46.180, the department shall periodically evaluate and update planning standards for oil spill response equipment required under contingency plans required by this chapter in order to ensure access in the state to equipment that represents the best achievable protection to respond to a worst case spill and provide for continuous operation of oil spill response activities to the maximum extent practicable and without jeopardizing crew safety, as determined by the incident commander or the unified command. The department must coordinate evaluation and update planning requirements under this section with requirements under RCW 88.46.180 to eliminate duplication.

NEW SECTION. Sec. 29. 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, 2015.

NEW SECTION. Sec. 30. By July 31, 2015, the state treasurer shall transfer two million two hundred twenty-five thousand dollars from the oil spill response account created in RCW 90.56.500 to the oil spill prevention account created in RCW 90.56.510.

NEW SECTION. Sec. 31. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House April 24, 2015.

Passed by the Senate April 24, 2015.

Approved by the Governor May 14, 2015.

Filed in Office of Secretary of State May 14, 2015.

CHAPTER 275

[Substitute Senate Bill 5631]

DOMESTIC VIOLENCE VICTIM SERVICES--DOMESTIC VIOLENCE PREVENTION ACCOUNT

AN ACT Relating to the administration of a statewide network of community-based domestic violence victim services by the department of social and health services; amending RCW 70.123.010, 70.123.020, 70.123.030, 70.123.040, 70.123.070, 70.123.075, 70.123.080, 70.123.090, 70.123.110, 70.123.150, 36.18.016, 43.235.020, 43.235.040, 10.99.080, and 26.50.110; and repealing RCW 70.123.050 and 70.123.130.

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

Sec. 1. RCW 70.123.010 and 1979 ex.s. c 245 s 1 are each amended to read as follows:

(1) The legislature finds that domestic violence is an issue of ~~((growing))~~ serious concern at all levels of society and government and that there is a

~~((present and growing)) pressing need ((to develop)) for innovative strategies to address and prevent domestic violence and to strengthen services which will ameliorate and reduce the trauma of domestic violence and enhance survivors' resiliency and autonomy. ((Research findings show that domestic violence constitutes a significant percentage of homicides, aggravated assaults, and assaults and batteries in the United States. Domestic violence is a disruptive influence on personal and community life and is often interrelated with a number of other family problems and stresses.))~~

(2) The legislature finds that there are a wide range of consequences to domestic violence, including deaths, injuries, hospitalizations, homelessness, employment problems, property damage, and lifelong physical and psychological impacts on victims and their children. These impacts also affect victims' friends and families, neighbors, employers, landlords, law enforcement, the courts, the health care system, and Washington state and society as a whole. Advocacy and shelters for victims of domestic violence are essential to provide ((protection)) support to victims ((from)) in preventing further abuse ((and physical harm)) and to help ((the victim find)) victims assess and plan for their immediate and longer term safety, including finding long-range alternative living situations, if requested. ((Shelters provide safety, refuge, advocacy, and helping resources to victims who may not have access to such things if they remain in abusive situations.))

~~The legislature therefore recognizes the need for the statewide development and expansion of shelters for victims of domestic violence.))~~

(3) Thus, it is the intent of the legislature to:

(a) Provide for a statewide network of supportive services, emergency shelter services, and advocacy for victims of domestic violence and their dependents;

(b) Provide for culturally relevant and appropriate services for victims of domestic violence and their children from populations that have been traditionally unserved or underserved;

(c) Provide for a statewide domestic violence information and referral resource;

(d) Assist communities in efforts to increase public awareness about, and primary and secondary prevention of domestic violence;

(e) Provide for the collection, analysis, and dissemination of current information related to emerging issues and model and promising practices related to preventing and intervening in situations involving domestic violence; and

(f) Provide for ongoing training and technical assistance for individuals working with victims in community-based domestic violence programs and other persons seeking such training and technical assistance.

Sec. 2. RCW 70.123.020 and 2008 c 6 s 303 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

~~(1) "Shelter" means ((a place of temporary refuge, offered on a twenty-four hour, seven day per week basis))~~ temporary lodging and supportive services,

offered by community-based domestic violence programs to victims of domestic violence and their children.

(2) "Domestic violence" ~~((is))~~ means the infliction or threat of physical harm against an intimate partner, and includes physical, sexual, and psychological abuse against the partner, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that intimate partner. It may include, but is not limited to, a categorization of offenses, as defined in RCW 10.99.020, committed by one ((cohabitant)) intimate partner against another.

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

(4) "Victim" means ~~((a cohabitant))~~ an intimate partner who has been subjected to domestic violence.

(5) ~~((Co)habitant))~~ "Intimate partner" means a person who is or was married, in a state registered domestic partnership, or ~~((cohabiting with another person))~~ in an intimate or dating relationship with another person at the present or at sometime in the past. Any person who has one or more children in common with another person, regardless of whether they have been married, in a domestic partnership with each other, or lived together at any time, shall be treated as ~~((a cohabitant))~~ an intimate partner.

(6) "Community advocate" means a person employed or supervised by a ~~((local))~~ community-based domestic violence program who is trained to provide ongoing assistance ((to)) and advocacy for victims of domestic violence in assessing and planning for safety needs, ((documenting the incidents and the extent of violence for possible use in the legal system.)) making appropriate social service, legal, and housing referrals, ((and developing protocols and)) providing community education, maintaining ((ongoing)) contacts necessary for prevention efforts, and developing protocols for local systems coordination.

(7) "Domestic violence program" means an agency ~~((that provides shelter, advocacy, and counseling for domestic violence victims in a supportive environment))~~, organization, or program with a primary purpose and a history of effective work in providing advocacy, safety assessment and planning, and self-help services for domestic violence in a supportive environment, and includes, but is not limited to, a community-based domestic violence program, emergency shelter, or domestic violence transitional housing program.

(8) "Legal advocate" means a person employed by a domestic violence program or court system to advocate for victims of domestic violence, within the criminal and civil justice systems, by attending court proceedings, assisting in document and case preparation, and ensuring linkage with the community advocate.

(9) "Secretary" means the secretary of the department of social and health services or the secretary's designee.

(10) "Community-based domestic violence program" means a nonprofit program or organization that provides, as its primary purpose, assistance and advocacy for domestic violence victims. Domestic violence assistance and advocacy includes crisis intervention, individual and group support, information and referrals, and safety assessment and planning. Domestic violence assistance and advocacy may also include, but is not limited to: Provision of shelter, emergency transportation, self-help services, culturally specific services, legal advocacy, economic advocacy, community education, primary and secondary

prevention efforts, and accompaniment and advocacy through medical, legal, immigration, human services, and financial assistance systems. Domestic violence programs that are under the auspices of, or the direct supervision of, a court, law enforcement or prosecution agency, or the child protective services section of the department as defined in RCW 26.44.020, are not considered community-based domestic violence programs.

(11) "Emergency shelter" means a place of supportive services and safe, temporary lodging offered on a twenty-four hour, seven-day per week basis to victims of domestic violence and their children.

(12) "Domestic violence coalition" means a statewide nonprofit domestic violence organization that has a membership that includes the majority of the primary purpose, community-based domestic violence programs in the state, has board membership that is representative of community-based, primary purpose domestic violence programs, and has as its purpose to provide education, support, and technical assistance to such community-based, primary purpose domestic violence programs and to assist the programs in providing shelter, advocacy, supportive services, and prevention efforts for victims of domestic violence and dating violence and their dependents.

Sec. 3. RCW 70.123.030 and 2005 c 374 s 4 are each amended to read as follows:

The department of social and health services, in consultation with ((the state department of health, and individuals or groups having experience and knowledge of the problems of victims of domestic violence)) relevant state departments, the domestic violence coalition, and individuals or groups having experience and knowledge of the prevention of, and the problems facing victims of domestic violence, including those with experience providing culturally appropriate services to populations that have traditionally been underserved or unserved, shall:

(1) Develop and maintain a plan for delivering domestic violence victim services, prevention efforts, and access to emergency shelter across the state. In developing the plan under this section, the department shall consider the distribution of community-based domestic violence programs and emergency shelter programs in a particular geographic area, population density, and specific population needs, including the needs in rural and urban areas, the availability and existence of domestic violence outreach and prevention activities, and the need for culturally and linguistically appropriate services. The department shall also develop and maintain a plan for providing a statewide toll-free information and referral hotline or other statewide accessible information and referral service for victims of domestic violence;

(2) Establish minimum standards for ((shelters)) community-based domestic violence programs, emergency shelter programs, programs providing culturally or linguistically specific services, programs providing prevention and intervention services to children or youth, and programs conducting domestic violence outreach and prevention activities applying for grants from the department under this chapter((- Classifications may be made dependent upon size, geographic location, and population needs));

((2)) (3) Receive grant applications for the development and establishment of ((shelters for victims of domestic violence)) community-based domestic violence programs, emergency shelter programs, and culturally or linguistically

specific services for victims of domestic violence, programs providing prevention and intervention services to children who have been exposed to domestic violence or youth who have been victims of dating violence, and programs conducting domestic violence outreach and prevention activities;

~~((3))~~ (4) Distribute funds~~(, within forty-five days after approval,)~~ to those ~~((shelters))~~ community-based domestic violence programs, emergency shelter programs, programs providing culturally or linguistically specific services, programs providing prevention and intervention services to children or youth, and programs conducting domestic violence outreach and prevention activities meeting departmental standards;

~~((4))~~ (5) Evaluate biennially each ~~((shelter))~~ community-based domestic violence program, emergency shelter program, program providing culturally or linguistically specific services, program providing prevention and intervention services to children or youth, and program conducting domestic violence outreach and prevention activities receiving departmental funds for compliance with the established minimum standards;

~~((5))~~ (6) Review the minimum standards each biennium to ensure applicability to community and client needs; ~~(and~~

~~(6))~~ (7) Administer funds available from the domestic violence prevention account under RCW 70.123.150 ~~((and establish minimum standards for preventive, nonshelter community-based services receiving funds administered by the department. Preventive, nonshelter community-based services include services for victims of domestic violence from communities that have been traditionally underserved or unserved and services for children who have witnessed domestic violence))~~ to provide for:

(a) Culturally specific prevention efforts and culturally appropriate community-based domestic violence services for victims of domestic violence from populations that have been traditionally underserved or unserved;

(b) Age appropriate prevention and intervention services for children who have been exposed to domestic violence or youth who have been victims of dating violence; and

(c) Outreach and education efforts by community-based domestic violence programs designed to increase public awareness about, and primary and secondary prevention of, domestic and dating violence; and

(8) Receive applications from, and award grants or issue contracts to, eligible nonprofit groups or organizations with experience and expertise in the field of domestic violence and a statewide perspective for:

(a) Providing resources, ongoing training opportunities, and technical assistance relating to domestic violence for community-based domestic violence programs across the state to develop effective means for preventing domestic violence and providing effective and supportive services and interventions for victims of domestic violence;

(b) Providing resource information, technical assistance, and collaborating to develop model policies and protocols to improve the capacity of individuals, governmental entities, and communities to prevent domestic violence and to provide effective, supportive services and interventions to address domestic violence; and

(c) Providing opportunities to persons working in the area of domestic violence to exchange information and resources.

Sec. 4. RCW 70.123.040 and 2006 c 259 s 3 are each amended to read as follows:

(1) The department shall establish minimum standards that ensure that community-based domestic violence programs provide client-centered advocacy and services designed to enhance immediate and longer term safety, victim autonomy, and security by means such as, but not limited to, safety assessment and planning, information and referral, legal advocacy, culturally and linguistically appropriate services, access to shelter, and client confidentiality.

(2) Minimum standards established by the department under RCW 70.123.030 shall ensure that emergency shelter((s)) programs receiving grants under this chapter provide services meeting basic survival needs, where not provided by other means, such as, but not limited to, food, clothing, housing, ((safety,)) emergency transportation, child care assistance, safety assessment and planning, and security((— client advocaey, client confidentiality, and counseling)). Emergency shelters receiving grants under this chapter shall also provide client-centered advocacy and services designed to enhance client autonomy, client confidentiality, and immediate and longer term safety. These services shall be problem-oriented and designed to provide necessary assistance to the victims of domestic violence and their children.

~~((2) The department shall establish minimum standards that ensure that nonshelter community-based services for victims of domestic violence funded under RCW 70.123.150 provide services designed to enhance safety and security by means such as, but not limited to, client advocacy, client confidentiality, and counseling.))~~

(3) In establishing minimum standards for programs providing culturally relevant prevention efforts and culturally appropriate services, priority for funding must be given to agencies or organizations that have a demonstrated history and expertise of serving domestic violence victims from the relevant populations that have traditionally been underserved or unserved.

(4) In establishing minimum standards for age appropriate prevention and intervention services for children who have been exposed to domestic violence, or youth who have been victims of dating violence, priority for funding must be given to programs with a documented history of effective work in providing advocacy and services to victims of domestic violence or dating violence, or an agency with a demonstrated history of effective work with children and youth partnered with a domestic violence program.

Sec. 5. RCW 70.123.070 and 1979 ex.s. c 245 s 7 are each amended to read as follows:

~~((Shelters))~~ (1) Community-based domestic violence programs receiving state funds under this chapter shall:

(a) Provide a location to assist victims of domestic violence who have a need for community advocacy or support services;

(b) Make available confidential services, advocacy, and prevention programs to victims of domestic violence and to their children within available resources;

(c) Require that persons employed by or volunteering services for a community-based domestic violence program protect the confidentiality and privacy of domestic violence victims and their families in accordance with this chapter and RCW 5.60.060(8);

(d) Recruit, to the extent feasible, persons who are former victims of domestic violence to work as volunteers or staff personnel. An effort shall also be made to recruit staff and volunteers from relevant communities to provide culturally and linguistically appropriate services;

(e) Ensure that all employees or volunteers providing intervention or prevention programming to domestic violence victims or their children have completed or will complete sufficient training in connection with domestic violence; and

(f) Refrain from engaging in activities that compromise the safety of victims or their children.

(2) Emergency shelter programs receiving state funds under this chapter shall:

~~((1) Make available))~~ (a) Provide intake for and access to safe shelter services to any person who is a victim of domestic violence and to that person's children, within available resources. Priority for emergency shelter shall be made for victims who are in immediate risk of harm or imminent danger from domestic violence;

~~((2) Encourage victims, with the financial means to do so, to reimburse the shelter for the services provided;~~

~~(3))~~ (b) Require that persons employed by or volunteering services for an emergency shelter protect the confidentiality and privacy of domestic violence victims and their families in accordance with this chapter and RCW 5.60.060(8);

(c) Recruit, to the extent feasible, persons who are former victims of domestic violence to work as volunteers or staff personnel. An effort shall also be made to ~~((provide bilingual services))~~ recruit staff and volunteers from relevant communities to provide culturally and linguistically appropriate services;

~~((4) Provide prevention and treatment programs to victims of domestic violence, their children and, where possible, the abuser;~~

~~(5) Provide a day program or drop-in center to assist victims of domestic violence who have found other shelter but who have a need for support services.))~~ (d) Ensure that all employees or volunteers providing intervention or prevention programming to domestic violence victims or their children have completed or will complete sufficient training in connection with domestic violence; and

(e) Refrain from engaging in activities that compromise the safety of victims or their children.

Sec. 6. RCW 70.123.075 and 1994 c 233 s 1 are each amended to read as follows:

(1) Client records maintained by domestic violence programs shall not be subject to discovery in any judicial proceeding unless:

(a) A written pretrial motion is made to a court stating that discovery is requested of the client's domestic violence records;

(b) The written motion is accompanied by an affidavit or affidavits setting forth specifically the reasons why discovery is requested of the domestic violence program's records;

(c) The court reviews the domestic violence program's records in camera to determine whether the domestic violence program's records are relevant and whether the probative value of the records is outweighed by the victim's privacy

interest in the confidentiality of such records, taking into account the further trauma that may be inflicted upon the victim or the victim's children by the disclosure of the records; and

(d) The court enters an order stating whether the records or any part of the records are discoverable and setting forth the basis for the court's findings. The court shall further order that the parties are prohibited from further dissemination of the records or parts of the records that are discoverable, and that any portion of any domestic violence program records included in the court file be sealed.

(2) For purposes of this section, "domestic violence program" means a program that provides shelter, advocacy, or counseling services for domestic violence victims.

(3) Disclosure of domestic violence program records is not a waiver of the victim's rights or privileges under statutes, rules of evidence, or common law.

(4) If disclosure of a victim's records is required by court order, the domestic violence program shall make reasonable attempts to provide notice to the recipient affected by the disclosure, and shall take steps necessary to protect the privacy and safety of the persons affected by the disclosure of the information.

Sec. 7. RCW 70.123.080 and 1979 ex.s. c 245 s 8 are each amended to read as follows:

The department shall consult in all phases with key stakeholders in the implementation of this chapter, including relevant state departments, the domestic violence coalition, individuals or groups who have experience providing culturally appropriate services to populations that have traditionally been underserved or unserved, and other persons and organizations having experience and expertise in the field of domestic violence.

Sec. 8. RCW 70.123.090 and 1979 ex.s. c 245 s 9 are each amended to read as follows:

The department is authorized, under this chapter and the rules adopted to effectuate its purposes, to make available grants awarded on a contract basis to public or private nonprofit agencies, organizations, or individuals providing community-based domestic violence services, emergency shelter services, domestic violence hotline or information and referral services, and prevention efforts meeting minimum standards established by the department. Consideration as to need, geographic location, population ratios, the needs of specific underserved and cultural populations, and the extent of existing services shall be made in the award of grants. The department shall provide ~~((technical assistance))~~ consultation to any nonprofit organization desiring to apply for the contracts if the organization does not possess the resources and expertise necessary to develop and transmit an application without assistance.

Sec. 9. RCW 70.123.110 and 2011 1st sp.s. c 36 s 16 are each amended to read as follows:

Aged, blind, or disabled assistance benefits, essential needs and housing support benefits, pregnant women assistance 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, an emergency shelter, 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. 10. RCW 70.123.150 and 2005 c 374 s 3 are each amended to read as follows:

The domestic violence prevention account is created in the state treasury. All receipts from fees imposed for deposit in the domestic violence prevention account under RCW 36.18.016 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 funding ~~((nonshelter community-based services for victims of domestic violence))~~ the following:

(1) Culturally specific prevention efforts and culturally appropriate community-based domestic violence services for victims of domestic violence from populations that have been traditionally underserved or unserved;

(2) Age appropriate prevention and intervention services for children who have been exposed to domestic violence or youth who have been victims of dating violence; and

(3) Outreach and education efforts by community-based domestic violence programs designed to increase public awareness about, and primary and secondary prevention of, domestic and dating violence.

Sec. 11. RCW 36.18.016 and 2009 c 417 s 2 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2)(a) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, and any party filing a counterclaim, cross-claim, or third-party claim in any such action, a fee of thirty-six dollars must be paid.

(b) The party filing the first or initial petition for dissolution, legal separation, or declaration concerning the validity of marriage shall pay, at the time and in addition to the filing fee required under RCW 36.18.020, a fee of ~~((thirty))~~ fifty-four dollars. The clerk of the superior court shall transmit monthly ~~((twenty-four))~~ forty-eight dollars of the ~~((thirty))~~ fifty-four dollar fee collected under this subsection to the state treasury for deposit in the domestic violence prevention account. The remaining six dollars shall be retained by the county for the purpose of supporting community-based domestic violence services within the county ~~((for victims of domestic violence))~~, except for five percent of the six dollars, which may be retained by the court for administrative purposes. On or before December 15th of each year, the county shall report to the department of social and health services revenues associated with this section and community-based domestic violence services expenditures. The department of social and health services shall develop a reporting form to be utilized by counties for uniform reporting purposes.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional one hundred twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of one hundred twenty-five dollars for a jury of six, or two hundred fifty dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing a certified copy of an instrument on file or of record in the clerk's office, for the first page or portion of the first page, a fee of five dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of two dollars for each additional seal affixed must be charged. For preparing a copy of an instrument on file or of record in the clerk's office without a seal, a fee of fifty cents per page must be charged. When copying a document without a seal or file that is in an electronic format, a fee of twenty-five cents per page must be charged. For copies made on a compact disc, an additional fee of twenty dollars for each compact disc must be charged.

(5) For executing a certificate, with or without a seal, a fee of two dollars must be charged.

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of twenty dollars must be charged.

(7) For filing a supplemental proceeding, a fee of twenty dollars must be charged.

(8) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(9) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of five dollars.

(10) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(11) For clerk's services such as performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed thirty dollars per hour.

(12) For processing ex parte orders, the clerk may collect a fee of thirty dollars.

(13) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape or other electronic storage medium.

(14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of twenty dollars must be charged.

(15) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of two hundred dollars must be charged. When the extension of judgment is at the request of the clerk, the two hundred dollar charge may be imposed as court costs under RCW 10.46.190.

(16) A facilitator surcharge of up to twenty dollars must be charged as authorized under RCW 26.12.240.

(17) For filing (~~a water rights statement~~) an adjudication claim under RCW 90.03.180, a fee of twenty-five dollars must be charged.

(18) For filing a claim of frivolous lien under RCW 60.04.081, a fee of thirty-five dollars must be charged.

(19) For preparation of a change of venue, a fee of twenty dollars must be charged by the originating court in addition to the per page charges in subsection (4) of this section.

(20) A service fee of five dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(21) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

(22) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(23) Investment service charge and earnings under RCW 36.48.090 must be charged.

(24) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

(25) For filing a request for mandatory arbitration, a filing fee may be assessed against the party filing a statement of arbitrability not to exceed two hundred twenty dollars as established by authority of local ordinance. This charge shall be used solely to offset the cost of the mandatory arbitration program.

(26) For filing a request for trial de novo of an arbitration award, a fee not to exceed two hundred fifty dollars as established by authority of local ordinance must be charged.

(27) A public agency may not charge a fee to a law enforcement agency, for preparation, copying, or mailing of certified copies of the judgment and sentence, information, affidavit of probable cause, and/or the notice of requirement to register, of a sex offender convicted in a Washington court, when such records are necessary for risk assessment, preparation of a case for failure to register, or maintenance of a sex offender's registration file.

(28) For the filing of a will or codicil under the provisions of chapter 11.12 RCW, a fee of twenty dollars must be charged.

(29) For the collection of unpaid legal financial obligations, the clerk may impose an annual fee of up to one hundred dollars, pursuant to RCW 9.94A.780.

(30) A surcharge of up to twenty dollars may be charged in dissolution and legal separation actions as authorized by RCW 26.12.260.

The revenue to counties from the fees established in this section shall be deemed to be complete reimbursement from the state for the state's share of benefits paid to the superior court judges of the state prior to July 24, 2005, and no claim shall lie against the state for such benefits.

Sec. 12. RCW 43.235.020 and 2011 c 105 s 1 are each amended to read as follows:

(1) The department is authorized, subject to the availability of state funds, ((the department shall contract with)) to make available grants awarded on a contract basis to an entity with expertise in domestic violence policy and education and with a statewide perspective to gather and maintain data relating to and coordinate review of domestic violence fatalities.

(2) The coordinating entity shall be authorized to:

- (a) Convene regional review panels;
- (b) Convene statewide issue-specific review panels;
- (c) Gather information for use of regional or statewide issue-specific review panels;
- (d) Provide training and technical assistance to regional or statewide issue-specific review panels;

(e) Compile information and issue reports with recommendations; and

(f) Establish a protocol that may be used as a guideline for identifying domestic violence related fatalities, forming review panels, convening reviews, and selecting which cases to review. The coordinating entity may also establish protocols for data collection and preservation of confidentiality.

~~((2))~~ (3)(a) The coordinating entity may convene a regional or statewide issue-specific domestic violence fatality review panel to review any domestic violence fatality.

(b) Private citizens may request a review of a particular death by submitting a written request to the coordinating entity within two years of the death. Of these, the appropriate regional review panel may review those cases which fit the criteria set forth in the protocol for the project.

Sec. 13. RCW 43.235.040 and 2012 c 223 s 6 are each amended to read as follows:

(1) An oral or written communication or a document shared with the coordinating entity or within or produced by a domestic violence fatality review panel related to a domestic violence fatality review is confidential and not subject to disclosure or discoverable by a third party. An oral or written communication or a document provided by a third party to the coordinating entity or a domestic violence fatality review panel, or between a third party and a domestic violence fatality review panel, related to a domestic violence fatality review is confidential and not subject to disclosure or discovery by a third party. Notwithstanding the foregoing, recommendations from the domestic violence fatality review panel and the coordinating entity generally may be disclosed minus personal identifiers.

(2) The coordinating entity and review panels, only to the extent otherwise permitted by law or court rule, shall have access to information and records regarding the domestic violence victims and perpetrators under review held by domestic violence perpetrators' treatment providers; dental care providers; hospitals, medical providers, and pathologists; coroners and medical examiners; mental health providers; lawyers; the state and local governments; the courts; and employers. The coordinating entity and the review panels shall maintain the confidentiality of such information to the extent required by any applicable law.

(3) The coordinating entity or review panels shall review, only to the extent otherwise permitted by law or court rule when determined to be relevant and necessary to an investigation, guardian ad litem reports, parenting evaluations, and victim impact statements; probation information; mental health evaluations done for court; presentence interviews and reports, and any recommendations made regarding bail and release on own recognizance; child protection services, welfare, and other information held by the department; any law enforcement incident documentation, such as incident reports, dispatch records, victim, witness, and suspect statements, and any supplemental reports, probable cause statements, and 911 call taker's reports; corrections and postsentence supervision reports; and any other information determined to be relevant to the review. The coordinating entity and the review panels shall maintain the confidentiality of such information to the extent required by any applicable law.

Sec. 14. RCW 10.99.080 and 2004 c 15 s 2 are each amended to read as follows:

(1) All superior courts, and courts organized under Title 3 or 35 RCW, may impose a penalty of one hundred dollars, plus an additional fifteen dollars on any person convicted of a crime involving domestic violence; in no case shall a penalty assessment ((not to)) exceed one hundred fifteen dollars on any person convicted of a crime involving domestic violence. The assessment shall be in addition to, and shall not supersede, any other penalty, restitution, fines, or costs provided by law.

(2) Revenue from the:

(a) One hundred dollar assessment shall be used solely for the purposes of establishing and funding domestic violence advocacy and domestic violence prevention and prosecution programs in the city or county of the court imposing the assessment. Such revenue from the assessment shall not be used for indigent criminal defense. If the city or county does not have domestic violence advocacy or domestic violence prevention and prosecution programs, cities and counties may use the revenue collected from the assessment to contract with recognized community-based domestic violence program providers.

(b) Fifteen dollar assessment must be remitted monthly to the state treasury for deposit in the domestic violence prevention account.

(3) The one hundred dollar assessment imposed under this section shall not be subject to any state or local remittance requirements under chapter 3.46, 3.50, 3.62, 7.68, 10.82, or 35.20 RCW.

(4) For the purposes of this section, "convicted" includes a plea of guilty, a finding of guilt regardless of whether the imposition of the sentence is deferred or any part of the penalty is suspended, or the levying of a fine. For the purposes of this section, "domestic violence" has the same meaning as that term is defined under RCW 10.99.020 and includes violations of equivalent local ordinances.

(5) When determining whether to impose a penalty assessment under this section, judges are encouraged to solicit input from the victim or representatives for the victim in assessing the ability of the convicted offender to pay the penalty, including information regarding current financial obligations, family circumstances, and ongoing restitution.

Sec. 15. RCW 26.50.110 and 2013 c 84 s 31 are each amended to read as follows:

(1)(a) Whenever an order is granted under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;

(ii) A provision excluding the person from a residence, workplace, school, or day care;

(iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;

(iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner,

respondent, or a minor child residing with either the petitioner or the respondent;
or

(v) A provision of a foreign protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court:

(i) May require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall 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 convicted person to pay for electronic monitoring.

(ii) Shall impose a fine of fifteen dollars, in addition to any penalty or fine imposed, for a violation of a domestic violence protection order issued under this chapter. Revenue from the fifteen dollar fine must be remitted monthly to the state treasury for deposit in the domestic violence prevention account.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, the court may issue

an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

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

1RCW 70.123.050 (Contracts with nonprofit organizations—Purposes) and 1979 ex.s. c 245 s 5; and

2RCW 70.123.130 (Technical assistance grant program—Local communities) and 1991 c 301 s 11.

Passed by the Senate April 22, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 276

[Senate Bill 5227]

INTERNATIONAL COMMERCIAL ARBITRATION

AN ACT Relating to international commercial arbitration; and adding a new chapter to Title 7 RCW.

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

NEW SECTION. Sec. 1. SCOPE OF APPLICATION. (1) This chapter applies to international commercial arbitration, subject to any agreement between the United States and any other country or countries.

(2) The provisions of this chapter, except sections 9, 10, 26, 27, 28, 46, and 47 of this act, apply only if the place of arbitration is in the territory of this state.

(3) An arbitration is international if:

(a) The parties to an arbitration agreement have, at the time of the conclusion of that agreement, their places of business in different countries;

(b) One of the following places is situated outside the country or countries in which the parties have their places of business:

(i) The place of arbitration if determined in, or pursuant to, the arbitration agreement; or

(ii) Any place where a substantial part of the obligations of the commercial relationship is to be performed or the place with which the subject matter of the dispute is most closely connected; or

(c) The parties have expressly agreed that the subject matter of the arbitration agreement relates to more than one country.

(4) For the purposes of subsection (3) of this section:

(a) If a party has more than one place of business, the place of business is that which has the closest relationship to the arbitration agreement; and

(b) If a party does not have a place of business, reference is to be made to the party's habitual residence.

(5) This chapter shall not affect any other law of this state by virtue of which certain disputes may not be submitted to arbitration or may be submitted to arbitration only according to provisions other than those of this chapter.

NEW SECTION. **Sec. 2.** DEFINITIONS AND RULES OF INTERPRETATION. (1) For the purpose of this chapter:

(a) "Arbitration" means any arbitration whether or not administered by a permanent arbitral institution.

(b) "Arbitral tribunal" means a sole arbitrator or a panel of arbitrators.

(c) "Commercial" means matters arising from all relationships of a commercial nature, whether contractual or not, including, but not limited to, any of the following transactions:

(i) A transaction for the supply or exchange of goods or services;

(ii) A distribution agreement;

(iii) A commercial representation or agency;

(iv) An exploitation agreement or concession;

(v) A joint venture or other related form of industrial or business cooperation;

(vi) The carriage of goods or passengers by air, sea, rail, or road;

(vii) Construction;

(viii) Insurance;

(ix) Licensing;

(x) Factoring;

(xi) Leasing;

(xii) Consulting;

(xiii) Engineering;

(xiv) Financing;

(xv) Banking;

(xvi) The transfer of data or technology;

(xvii) Intellectual or industrial property, including trademarks, patents, copyrights, and software programs; and

(xviii) Professional services.

(d) "Court" means a body or organ of the judicial system of this state.

(2) Where a provision of this chapter, except section 39 of this act, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorize a third party, including an institution, to make that determination.

(3) Where a provision of this chapter refers to the fact that the parties have agreed, that they may agree, or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to in that agreement.

(4) Where a provision of this chapter, other than in sections 36(1) and 43(2)(a) of this act, refers to a claim, it also applies to a counter-claim, and where it refers to a defense, it also applies to a defense to such counter-claim.

NEW SECTION. **Sec. 3.** INTERNATIONAL ORIGIN AND GENERAL PRINCIPLES. (1) In the interpretation of this chapter, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

(2) Questions concerning matters governed by this chapter which are not expressly settled in it are to be settled in conformity with the general principles on which this chapter is based.

NEW SECTION. **Sec. 4.** RECEIPT OF WRITTEN COMMUNICATIONS. (1) Unless otherwise agreed by the parties:

(a) Any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at the addressee's place of business, habitual residence, or mailing address. If none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence, or mailing address by registered letter or any other means which provides a record of the attempt to deliver it; and

(b) The communication is deemed to have been received on the day it is so delivered.

(2) The provisions of this section do not apply to communications in court proceedings.

NEW SECTION. **Sec. 5.** WAIVER OF RIGHT TO OBJECT. A party who knows that any provision of this chapter from which the parties may derogate or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating the party's objection to such noncompliance without undue delay or, if a time limit is provided therefore, within such period of time, shall be deemed to have waived the party's right to object.

NEW SECTION. **Sec. 6.** EXTENT OF COURT INTERVENTION. In matters governed by this chapter, no court shall intervene except where so provided in this chapter.

NEW SECTION. **Sec. 7.** COURT AUTHORITY FOR CERTAIN FUNCTIONS OF ARBITRATION ASSISTANCE AND SUPERVISION. (1) The functions referred to in sections 12 (3) and (4), 14(3), 15, 17(3), and 45(2) of this act shall be performed by the superior court of the county in which the agreement to arbitrate is to be performed or was made.

(2) If the arbitration agreement does not specify a county where the agreement to arbitrate is to be performed and the agreement was not made in any county in the state of Washington, the functions referred to in sections 12 (3) and (4), 14(3), 15, 17(3), and 45(2) of this act shall be performed in the county where any party to the court proceeding resides or has a place of business.

(3) In any case not covered by subsections (1) or (2) of this section, the functions referred to in sections 12 (3) and (4), 14(3), 15, 17(3), and 45(2) of this act shall be performed in any county in the state of Washington.

NEW SECTION. **Sec. 8.** DEFINITION AND FORM OF ARBITRATION AGREEMENT. (1) For the purposes of this chapter, "arbitration agreement" is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

(2) The arbitration agreement shall be in writing.

(3) An arbitration agreement is in writing if its content is recorded in any form, whether or not the arbitration agreement or contract has been concluded orally, by conduct, or by other means.

(4) The requirement that an arbitration agreement be in writing is met by an electronic communication if the information contained therein is accessible so as

to be useable for subsequent reference. For the purposes of this section, "electronic communication" means any communication that the parties make by means of data messages; and "data message" means information generated, sent, received, or stored by electronic, magnetic, optical, or similar means, including, but not limited to, electronic data interchange (EDI), electronic mail, telegram, telex, or teletype.

(5) An arbitration agreement is in writing if it is contained in an exchange of statements of claim and defense in which the existence of an agreement is alleged by one party and not denied by the other.

(6) The reference in a contract to any document containing an arbitration clause constitutes an arbitration agreement in writing, provided that the reference is such as to make that clause part of the contract.

NEW SECTION. Sec. 9. ARBITRATION AGREEMENT AND SUBSTANTIVE CLAIM BEFORE COURT. (1) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting the party's first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative, or incapable of being performed.

(2) Where an action referred to in subsection (1) of this section has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award made, while the issue is pending before the court.

NEW SECTION. Sec. 10. ARBITRATION AGREEMENT AND INTERIM MEASURES BY COURT. It is not incompatible with an arbitration agreement for a party to request, before or during arbitral proceedings, from a court an interim measure of protection and for a court to grant such measure.

NEW SECTION. Sec. 11. NUMBER OF ARBITRATORS; IMMUNITY.

(1) The parties are free to determine the number of arbitrators.

(2) Failing such determination, the number of arbitrators shall be three.

(3) An arbitrator has the immunity of a judicial officer from civil liability when acting in the capacity of arbitrator under any statute or contract. The immunity afforded by this section shall supplement, and not supplant, any otherwise applicable common law or statutory immunity.

NEW SECTION. Sec. 12. APPOINTMENT OF ARBITRATORS. (1) No person shall be precluded by reason of the person's nationality from acting as an arbitrator, unless otherwise agreed by the parties.

(2) The parties are free to agree on a procedure of appointing the arbitrator or arbitrators, subject to the provisions of subsections (4) and (5) of this section.

(3) Failing such agreement:

(a) In an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of a party, by the court specified in section 7 of this act; and

(b) In an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, the arbitrator shall be appointed, upon request of a party, by the court specified in section 7 of this act.

- (4) Where, under an appointment procedure agreed upon by the parties:
- (a) A party fails to act as required under such procedure;
 - (b) The parties, or two arbitrators, are unable to reach an agreement expected of them under such procedure; or
 - (c) A third party, including an institution, fails to perform any function entrusted to it under such procedure;

Any party may request the court specified in section 7 of this act to take the necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment.

(5) A decision on a matter entrusted by subsection (3) or (4) of this section to the court specified in section 7 of this act shall be subject to no appeal. The court, in appointing an arbitrator, shall have due regard to any qualifications required of the arbitrator by the agreement of the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and, in the case of a sole or third arbitrator, shall take into account as well the advisability of appointing an arbitrator of a nationality other than those of the parties.

NEW SECTION. Sec. 13. GROUNDS FOR CHALLENGE. (1) When a person is approached in connection with the person's possible appointment as an arbitrator, the person shall disclose any circumstances likely to give rise to justifiable doubts as to the person's impartiality or independence. An arbitrator, from the time of the arbitrator's appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by the arbitrator.

(2) An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence, or if the arbitrator does not possess qualifications agreed to by the parties. A party may challenge an arbitrator appointed by the party, or in whose appointment the party has participated, only for reasons of which the party becomes aware after the appointment has been made.

NEW SECTION. Sec. 14. CHALLENGE PROCEDURE. (1) The parties are free to agree on a procedure for challenging an arbitrator, subject to the provisions of subsection (3) of this section.

(2) Failing such agreement, a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstance referred to in section 13(2) of this act, send a written statement of the reasons for the challenge to the arbitral tribunal. Unless the challenged arbitrator withdraws from the arbitrator's office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

(3) If a challenge under any procedure agreed upon by the parties or under the procedure of subsection (2) of this section is not successful, the challenging party may request, within thirty days after having received notice of the decision rejecting the challenge, the court specified in section 7 of this act to decide on the challenge, which decision shall be subject to no appeal. While such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.

NEW SECTION. Sec. 15. FAILURE OR IMPOSSIBILITY TO ACT. (1)

If an arbitrator becomes *de jure* or *de facto* unable to perform the arbitrator's functions or for other reasons fails to act without undue delay, the arbitrator's mandate terminates if the arbitrator withdraws from the arbitrator's office or if the parties agree on the termination. Otherwise, if a controversy remains concerning any of these grounds, any party may request the court specified in section 7 of this act to decide on the termination of the mandate, which decision shall be subject to no appeal.

(2) If, under this section or section 14(2) of this act, an arbitrator withdraws from the arbitrator's office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of any ground referred to in this section or section 13(2) of this act.

NEW SECTION. Sec. 16. APPOINTMENT OF SUBSTITUTE ARBITRATOR. Where the mandate of an arbitrator terminates under section 14 or 15 of this act or because of the arbitrator's withdrawal from office for any other reason or because of the revocation of the arbitrator's mandate by agreement of the parties or in any other case of termination of the arbitrator's mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

NEW SECTION. Sec. 17. COMPETENCE of ARBITRAL TRIBUNAL TO RULE ON ITS OWN JURISDICTION.(1) The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.

(2) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defense. A party is not precluded from raising such a plea by the fact that the party has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.

(3) The arbitral tribunal may rule on a plea referred to in subsection (2) of this section either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, any party may request, within thirty days after having received notice of that ruling, the court specified in section 7 of this act to decide the matter, which decision shall be subject to no appeal. While such a request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award.

NEW SECTION. Sec. 18. POWER OF ARBITRAL TRIBUNAL TO ORDER INTERIM MEASURES. (1) Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, grant interim measures.

(2) An interim measure is any temporary measure, whether in the form of an award or in another form, by which, at any time prior to the issuance of the

award by which the dispute is finally decided, the arbitral tribunal orders a party to:

- (a) Maintain or restore the status quo pending determination of the dispute;
- (b) Take action that would prevent, or refrain from taking action that is likely to cause, current or imminent harm or prejudice to the arbitral process itself;
- (c) Provide a means of preserving assets out of which a subsequent award may be satisfied; or
- (d) Preserve evidence that may be relevant and material to the resolution of the dispute.

NEW SECTION. Sec. 19. CONDITIONS OF GRANTING INTERIM MEASURES. (1) The party requesting an interim measure under section 18(2) (a), (b), and (c) of this act shall satisfy the arbitral tribunal that:

(a) Harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted; and

(b) There is a reasonable possibility that the requesting party will succeed on the merits of the claim. The determination on this possibility shall not affect the discretion of the arbitral tribunal in making any subsequent determination.

(2) With regard to a request for an interim measure under section 18(2)(d) of this act, the requirements in subsection (1)(a) and (b) of this section shall apply only to the extent the tribunal considers appropriate.

NEW SECTION. Sec. 20. APPLICATION FOR PRELIMINARY ORDERS AND CONDITIONS FOR GRANTING PRELIMINARY ORDERS.

(1) Unless otherwise agreed by the parties, a party may, without notice to any other party, make a request for an interim measure together with an application for a preliminary order directing a party not to frustrate the purpose of the interim measure requested.

(2) The arbitral tribunal may grant a preliminary order provided it considers that prior disclosure of the request for the interim measure to the party against whom it is directed risks frustrating the purpose of the measure.

(3) The conditions defined under section 19 of this act apply to any preliminary order, provided that the harm to be assessed under section 19(1)(a) of this act is the harm likely to result from the order being granted or not.

NEW SECTION. Sec. 21. SPECIFIC REGIME FOR PRELIMINARY ORDERS.

(1) Immediately after the arbitral tribunal has made a determination in respect of an application for a preliminary order, the arbitral tribunal shall give notice to all parties of the request for the interim measure, the application for the preliminary order, the preliminary order, if any, and all other communications, including by indicating the content of any oral communication, between any party and the arbitral tribunal in relation thereto.

(2) At the same time, the arbitral tribunal shall give an opportunity to any party against whom a preliminary order is directed to present its case at the earliest practicable time.

(3) The arbitral tribunal shall decide promptly on any objection to the preliminary order.

(4) A preliminary order shall expire after twenty days from the date on which it was issued by the arbitral tribunal. However, the arbitral tribunal may issue an interim measure adopting or modifying the preliminary order after the party against whom the preliminary order is directed has been given notice and an opportunity to present its case.

(5) A preliminary order shall be binding on the parties but shall not be subject to enforcement by a court. Such a preliminary order does not constitute an award.

NEW SECTION. Sec. 22. MODIFICATION, SUSPENSION, TERMINATION. The arbitral tribunal may modify, suspend, or terminate an interim measure or a preliminary order it has granted upon application of any party or, in exceptional circumstances and upon prior notice to the parties, on the arbitral tribunal's own initiative.

NEW SECTION. Sec. 23. PROVISION OF SECURITY. (1) The arbitral tribunal may require the party requesting an interim measure to provide appropriate security in connection with the measure.

(2) The arbitral tribunal shall require the party applying for a preliminary order to provide security in connection with the order unless the arbitral tribunal considers it inappropriate to do so.

NEW SECTION. Sec. 24. DISCLOSURE. (1) The arbitral tribunal may require any party promptly to disclose any material change in the circumstances on the basis of which the measure was requested or granted.

(2) The party applying for a preliminary order shall disclose to the arbitral tribunal all circumstances that are likely to be relevant to the arbitral tribunal's determination whether to grant or maintain the order, and such obligation shall continue until the party against whom the order has been requested has had an opportunity to present its case. Thereafter, subsection (1) of this section shall apply.

NEW SECTION. Sec. 25. COSTS AND DAMAGES. The party requesting an interim measure or applying for a preliminary order shall be liable for any costs and damages caused by the measure or the order to any party if the arbitral tribunal later determines that, in the circumstances, the measure or the order should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.

NEW SECTION. Sec. 26. RECOGNITION AND ENFORCEMENT. (1) An interim measure issued by an arbitral tribunal shall be recognized as binding and, unless otherwise provided by the arbitral tribunal, enforced upon application to the superior court, irrespective of the country in which it was issued, subject to the provisions of section 27 of this act.

(2) The party who is seeking or has obtained recognition or enforcement of an interim measure shall promptly inform the court of any termination, suspension, or modification of that interim measure.

(3) The court of the state where recognition or enforcement is sought may, if it considers it proper, order the requesting party to provide appropriate security if the arbitral tribunal has not already made a determination with respect to security or where such a decision is necessary to protect the rights of third parties.

NEW SECTION. Sec. 27. GROUNDS FOR REFUSING RECOGNITION AND ENFORCEMENT. (1) Recognition or enforcement of an interim award may be refused only:

(a) At the request of the party against whom it is invoked if the court is satisfied that:

(i) Such refusal is warranted on the grounds set forth in section 47(1)(a) (i), (ii), (iii), or (iv) of this act;

(ii) The arbitral tribunal's decision with respect to the provision of security in connection with the interim measure issued by the arbitral tribunal has not been complied with; or

(iii) The interim measure has been terminated or suspended by the arbitral tribunal or, where so empowered, by the court of the state in which the arbitration takes place or under the law of which that interim measure was granted; or

(b) If the court finds that:

(i) The interim measure is incompatible with the powers conferred upon the court unless the court decides to reformulate the interim measure to the extent necessary to adapt it to its own powers and procedures for the purposes of enforcing that interim measure and without modifying its substance; or

(ii) Any of the grounds set forth in section 47(1)(b) (i) or (ii) of this act apply to the recognition and enforcement of the interim measure.

(2) Any determination made by the court on any ground in subsection (1) of this section shall be effective only for the purposes of the application to recognize and enforce the interim measure. The court where recognition or enforcement is sought shall not, in making that determination, undertake a review of the substance of the interim measure.

NEW SECTION. Sec. 28. COURT ORDERED INTERIM MEASURES. A court shall have the same power of issuing an interim measure in relation to arbitration proceedings, irrespective of whether their place is in the territory of this state, as it has in relation to proceedings in courts. The court shall exercise such power in accordance with its own procedures in consideration of the specific features of international arbitration.

NEW SECTION. Sec. 29. EQUAL TREATMENT OF PARTIES. The parties shall be treated with equality, and each party shall be given a full opportunity of presenting its case.

NEW SECTION. Sec. 30. DETERMINATION OF RULES AND PROCEDURE. (1) Subject to the provisions of this chapter, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.

(2) Failing such agreement, the arbitral tribunal may, subject to the provisions of this chapter, conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to determine the admissibility, relevance, materiality, and weight of any evidence.

NEW SECTION. Sec. 31. PLACE OF ARBITRATION. (1) The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(2) Notwithstanding the provisions of subsection (1) of this section, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts, or the parties, or for inspection of goods, other property, or documents.

NEW SECTION. Sec. 32. COMMENCEMENT OF ARBITRAL PROCEEDINGS. Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

NEW SECTION. Sec. 33. LANGUAGE. (1) The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any written statement by a party, any hearing, and any award, decision, or other communication by the arbitral tribunal.

(2) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

NEW SECTION. Sec. 34. STATEMENT OF CLAIM AND DEFENSE. (1) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting its claim, the point at issue, and the relief or remedy sought, and the respondent shall state its defense in respect of these particulars, unless the parties have otherwise agreed as to the required elements of such statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

(2) Unless otherwise agreed by the parties, either party may amend or supplement its claims or defenses during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it.

NEW SECTION. Sec. 35. HEARINGS AND WRITTEN PROCEEDINGS. (1) Subject to any contrary agreement by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party.

(2) The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of goods, other property, or documents.

(3) All statements, documents, or other information supplied to the arbitral tribunal by one party shall be communicated to the other party. Any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

NEW SECTION. Sec. 36. DEFAULT OF A PARTY. Unless otherwise agreed by the parties, if, without showing sufficient cause:

(1) The claimant fails to communicate its statement of claim in accordance with section 34(1) of this act, the arbitral tribunal shall terminate the proceedings;

(2) The respondent fails to communicate its statements of defense in accordance with section 34(1) of this act, the arbitral tribunal shall continue the proceedings without treating such failure in itself as an admission of the claimant's allegations; and

(3) Any party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.

NEW SECTION. Sec. 37. EXPERT APPOINTED BY ARBITRAL TRIBUNAL. (1) Unless otherwise agreed by the parties, the arbitral tribunal:

(a) May appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal; and

(b) May require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods, or other property for the expert's inspection.

(2) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of the expert's written or oral report, participate in a hearing where the parties have the opportunity to put questions to the expert and to present expert witnesses in order to testify on the points at issue.

NEW SECTION. Sec. 38. COURT ASSISTANCE IN TAKING EVIDENCE; CONSOLIDATION. (1) The arbitral tribunal or a party with the approval of the arbitral tribunal may request from the superior court assistance in taking evidence. The court may execute the request within its competence and according to its rules on taking evidence.

(2) When the parties to two or more arbitration agreements have agreed in their respective arbitration agreements or otherwise, the superior court may, on application by one party with the consent of all other parties to those arbitration agreements, do one or more of the following:

(a) Order the arbitration proceedings arising out of those arbitration agreements to be consolidated on terms the court considers just and necessary;

(b) Where all parties cannot agree on an arbitral tribunal for the consolidated arbitration, appoint an arbitral tribunal in accordance with section 12(4) of this act; and

(c) Where the parties cannot agree on any other matter necessary to conduct the consolidated arbitration, make any other order it considers necessary.

NEW SECTION. Sec. 39. RULES APPLICABLE TO SUBSTANCE OF DISPUTE. (1) The arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute. Any designation of the law or legal system of a given state shall be construed, unless otherwise expressed, as directly referring to the substantive law of that state and not to its conflict of laws rules.

(2) Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

(3) The arbitral tribunal shall decide *ex aequo et bono* or as *amiable compositeur* only if the parties have expressly authorized it to do so.

(4) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

NEW SECTION. Sec. 40. DECISION MAKING BY PANEL OF ARBITRATORS. In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members. However, questions of procedure may be decided by a presiding arbitrator, if so authorized by the parties or all members of the arbitral tribunal.

NEW SECTION. Sec. 41. SETTLEMENT. (1) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

(2) An award on agreed terms shall be made in accordance with the provisions of section 42 of this act and shall state that it is an award. Such an award has the same status and effect as any other award on the merits of the case.

NEW SECTION. Sec. 42. FORM AND CONTENTS OF AWARD. (1) The award shall be made in writing and shall be signed by the arbitrator or arbitrators. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated.

(2) The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms under section 41 of this act.

(3) The award shall state its date and the place of arbitration as determined in accordance with section 31(1) of this act. The award shall be deemed to have been made at that place.

(4) After the award is made, a copy signed by the arbitrators in accordance with subsection (1) of this section shall be delivered to each party.

NEW SECTION. Sec. 43. TERMINATION OF PROCEEDINGS. (1) The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal in accordance with subsection (2) of this section.

(2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when:

(a) The claimant withdraws its claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on the respondent's part in obtaining a final settlement of the dispute;

(b) The parties agree on the termination of the proceedings; or

(c) The arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

(3) The mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings, subject to the provisions of sections 44 and 45(4) of this act.

NEW SECTION. Sec. 44. CORRECTION AND INTERPRETATION OF AWARD; ADDITIONAL AWARD. (1) Within thirty days of receipt of the award, unless another period of time has been agreed upon by the parties:

(a) A party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature;

(b) If so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award; and

(c) If the arbitral tribunal considers the request to be justified, it shall make the correction or give the interpretation within thirty days of receipt of the request. The interpretation shall form part of the award.

(2) The arbitral tribunal may correct any error of the type referred to in subsection (1)(a) of this section on its own initiative within thirty days of the date of the award.

(3) Unless otherwise agreed by the parties, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within sixty days.

(4) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, interpretation, or an additional award under subsection (1) or (3) of this section.

(5) The provisions of section 42 of this act shall apply to a correction or interpretation of the award or to an additional award.

NEW SECTION. Sec. 45. APPLICATION FOR SETTING ASIDE AS EXCLUSIVE RECOURSE AGAINST ARBITRAL AWARD. (1) Recourse to the superior court against an arbitral award may be made only by an application for setting aside in accordance with subsections (2) and (3) of this section.

(2) An arbitral award may be set aside by the superior court only if:

(a) The party making the application furnishes proof that:

(i) A party to the arbitration agreement referred to in section 8 of this act was under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of this state;

(ii) The party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present its case;

(iii) The award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside; or

(iv) The composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this chapter from which the parties cannot derogate, or, failing such agreement, was not in accordance with this chapter; or

(b) The court finds that:

(i) The subject matter of the dispute is not capable of settlement by arbitration under the law of this state; or

(ii) The award is in conflict with the public policy of this state.

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the award or, if a request had been made under section 44 of this act, from the date on which that request had been disposed of by the arbitral tribunal.

(4) The court, when asked to set aside an award, may, where appropriate and so requested by a party, suspend the setting aside proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside.

NEW SECTION. Sec. 46. RECOGNITION AND ENFORCEMENT. (1) An arbitral award, irrespective of the country in which it was made, shall be recognized as binding and, upon application in writing to the superior court, shall be enforced subject to the provisions of this section and of section 47 of this act.

(2) The party relying on an award or applying for its enforcement shall supply the original award or a copy thereof. If the award is not made in English, the court may request the party to supply a translation thereof into English.

NEW SECTION. Sec. 47. GROUNDS FOR REFUSING RECOGNITION OR ENFORCEMENT. (1) Recognition or enforcement of an arbitral award, irrespective of the country in which it was made, may be refused only:

(a) At the request of the party against whom it is invoked, if that party furnishes to the competent court where recognition or enforcement is sought proof that:

(i) A party to the arbitration agreement referred to in section 8 of this act was under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made;

(ii) The party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present its case;

(iii) The award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced;

(iv) The composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(v) The award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made; or

(b) The court finds that:

(i) The subject matter of the dispute is not capable of settlement by arbitration under the law of this state; or

(ii) The recognition or enforcement of the award would be contrary to the public policy of this state.

(2) If an application for setting aside or suspension of an award has been made to a court referred to in subsection (1)(a)(v) of this section, the court where recognition or enforcement is sought may, if it considers it proper, adjourn its decision and may also, on the application of the party claiming recognition or enforcement of the award, order the other party to provide appropriate security.

NEW SECTION. Sec. 48. Sections 1 through 47 of this act constitute a new chapter in Title 7 RCW.

Passed by the Senate March 4, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 277

[Engrossed Senate Bill 5419]

COMMON SCHOOL PROVISIONS--STUDENT PRIVACY

AN ACT Relating to the student user privacy in education rights act; adding a new chapter to Title 28A RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. SHORT TITLE. This act may be known and cited as the student user privacy in education rights act or SUPER act.

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

(1) "School service" means a web site, mobile application, or online service that: (a) Is designed and marketed primarily for use in a K-12 school; (b) is used at the direction of teachers or other employees of a K-12 school; and (c) collects, maintains, or uses student personal information. A "school service" does not include a web site, mobile application, or online service that is designed and marketed for use by individuals or entities generally, even if also marketed to a United States K-12 school.

(2) "School service provider" means an entity that operates a school service to the extent it is operating in that capacity.

(3) "Student personal information" means information collected through a school service that personally identifies an individual student or other information collected and maintained about an individual student that is linked to information that identifies an individual student.

(4) "Students" means students of K-12 schools in Washington state.

(5) "Targeted advertising" means sending advertisements to a student where the advertisement is selected based on information obtained or inferred from that student's online behavior, usage of applications, or student personal information. It does not include (a) advertising to a student at an online location based upon that student's current visit to that location without the collection and retention of a student's online activities over time or (b) adaptive learning, personalized learning, or customized education.

NEW SECTION. Sec. 3. OBLIGATIONS OF SCHOOL SERVICE PROVIDERS—TRANSPARENCY. (1) School service providers shall provide clear and easy to understand information about the types of student personal

information they collect and about how they use and share the student personal information.

(2) School service providers shall provide prominent notice before making material changes to their privacy policies for school services.

(3) School service providers shall facilitate access to and correction of student personal information by students or their parent or guardian either directly or through the relevant educational institution or teacher.

(4) Where the school service is offered to an educational institution or teacher, information required by subsections (1) and (2) of this section may be provided to the educational institution or teacher.

(5) The provisions of this section do not apply to the education data center established under RCW 43.41.400, but do apply to any subcontractors of the education data center.

NEW SECTION. Sec. 4. OBLIGATIONS OF SCHOOL SERVICE PROVIDERS—CHOICE AND CONTROL.(1) School service providers may collect, use, and share student personal information only for purposes authorized by the relevant educational institution or teacher, or with the consent of the student or the student's parent or guardian.

(2) School service providers may not sell student personal information. This prohibition does not apply to the purchase, merger, or other type of acquisition of a school service provider, or any assets of a school service provider by another entity, as long as the successor entity continues to be subject to the provisions of this section with respect to previously acquired student personal information to the extent that the school service provider was regulated by this chapter with regard to its acquisition of student personal information.

(3) School service providers may not use or share any student personal information for purposes of targeted advertising to students.

(4) School service providers may not use student personal information to create a personal profile of a student other than for supporting purposes authorized by the relevant educational institution or teacher, or with the consent of the student or the student's parent or guardian.

(5) School service providers must obtain consent before using student personal information in a manner that is materially inconsistent with the school service provider's privacy policy or school contract for the applicable school service in effect at the time of collection.

(6) The provisions of subsections (1), (2), (4), and (5) of this section may not apply to the use or disclosure of personal information by a school service provider to:

(a) Protect the security or integrity of its web site, mobile application, or online service;

(b) Ensure legal or regulatory compliance or to take precautions against liability;

(c) Respond to or participate in judicial process;

(d) Protect the safety of users or others on the web site, mobile application, or online service;

(e) Investigate a matter related to public safety; or

(f) A subcontractor, if the school service provider: (i) Contractually prohibits the subcontractor from using any student personal information for any purpose other than providing the contracted service to, or on behalf of, the

school service provider; (ii) prohibits the subcontractor from disclosing any student personal information provided by the school service provider to subsequent third parties unless the disclosure is expressly permitted by (a) through (e) of this subsection or by sections 6 and 7 of this act; and (iii) requires the subcontractor to comply with the requirements of this chapter.

NEW SECTION. Sec. 5. OBLIGATIONS OF SCHOOL SERVICE PROVIDERS—SAFEGUARDS.(1) School service providers must maintain a comprehensive information security program that is reasonably designed to protect the security, privacy, confidentiality, and integrity of student personal information. The information security program should make use of appropriate administrative, technological, and physical safeguards.

(2) School service providers must delete student personal information within a reasonable period of time if the relevant educational institution requests deletion of the data under the control of the educational institution unless:

(a) The school service provider has obtained student consent or the consent of the student's parent or guardian to retain information related to that student; or

(b) The student has transferred to another educational institution and that educational institution has requested that the school service provider retain information related to that student.

NEW SECTION. Sec. 6. ADAPTIVE LEARNING AND CUSTOMIZED EDUCATION.Notwithstanding sections 2 through 7 of this act, nothing in this chapter is intended to prohibit the use of student personal information for purposes of:

(1) Adaptive learning or personalized or customized education;

(2) Maintaining, developing, supporting, improving, or diagnosing the school service provider's web site, mobile application, online service, or application;

(3) Providing recommendations for school, educational, or employment purposes within a school service without the response being determined in whole or in part by payment or other consideration from a third party; or

(4) Responding to a student's request for information or for feedback without the information or response being determined in whole or in part by payment or other consideration from a third party.

NEW SECTION. Sec. 7. This chapter adopts and does not modify existing law regarding consent, including consent from minors and employees on behalf of educational institutions.

NEW SECTION. Sec. 8. This chapter shall not be construed to:

(1) Impose a duty upon a provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230, to review or enforce compliance with this section by third-party content providers;

(2) Apply to general audience internet web sites, general audience mobile applications, or general audience online services even if login credentials created for a school service provider's web site, mobile application, or online service may be used to access those general audience web sites, mobile applications, or online services;

(3) Impede the ability of students to download, export, or otherwise save or maintain their own student data or documents;

(4) Limit internet service providers from providing internet connectivity to schools or students and their families;

(5) Prohibit a school service provider from marketing educational products directly to parents so long as the marketing did not result from use of student personal information obtained by the school service provider through the provision of its web site, mobile application, or online service; or

(6) Impose a duty on a school service provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance with this chapter on those applications or software.

NEW SECTION. Sec. 9. TRANSITIONAL PROVISIONS. If a school service provider entered into a signed, written contract with an educational institution or teacher before the effective date of this section, the school service provider is not liable for the requirements of sections 2 through 6 of this act with respect to that contract until the next renewal date of the contract.

NEW SECTION. Sec. 10. Sections 1 through 9 and 11 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 11. EFFECTIVE DATE. This act takes effect July 1, 2016.

Passed by the Senate March 11, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 278

[House Bill 1059]

SEXUALLY VIOLENT PREDATORS--COMMITMENT PROCEEDINGS

AN ACT Relating to sexually violent predators; amending RCW 71.09.070, 71.09.020, and 71.09.096; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 71.09.070 and 2011 2nd sp.s. c 7 s 1 are each amended to read as follows:

(1) Each person committed under this chapter shall have a current examination of his or her mental condition made by the department ~~((of social and health services))~~ at least once every year. ~~((The annual report shall include))~~

(2) The evaluator must prepare a report that includes consideration of whether:

(a) The committed person currently meets the definition of a sexually violent predator ~~((and whether))~~;

(b) Conditional release to a less restrictive alternative is in the best interest of the person; and

(c) Conditions can be imposed that would adequately protect the community.

(3) The department, on request of the committed person, shall allow a record of the annual review interview to be preserved by audio recording and made available to the committed person.

(4) The evaluator must indicate in the report whether the committed person participated in the interview and examination.

(5) The department ((of social and health services)) shall file ((this periodic)) the report with the court that committed the person under this chapter. The report shall be in the form of a declaration or certification in compliance with the requirements of RCW 9A.72.085 and shall be prepared by a professionally qualified person as defined by rules adopted by the secretary. A copy of the report shall be served on the prosecuting agency involved in the initial commitment and upon the committed person and his or her counsel.

(6)(a) The committed person may retain, or if he or she is indigent and so requests, the court may appoint a qualified expert or a professional person to examine him or her, and such expert or professional person shall have access to all records concerning the person.

((2)) (b) Any report prepared by the expert or professional person and any expert testimony on the committed person's behalf is not admissible in a proceeding pursuant to RCW 71.09.090, unless the committed person participated in the most recent interview and evaluation completed by the department.

(7) If an unconditional release trial is ordered pursuant to RCW 71.09.090, this section is suspended until the completion of that trial. If the individual is found either by jury or the court to continue to meet the definition of a sexually violent predator, the department must conduct an examination pursuant to this section no later than one year after the date of the order finding that the individual continues to be a sexually violent predator. The examination must comply with the requirements of this section.

(8) During any period of confinement pursuant to a criminal conviction, or for any period of detention awaiting trial on criminal charges, this section is suspended. Upon the return of the person committed under this chapter to the custody of the department, the department shall initiate an examination of the person's mental condition. The examination must comply with the requirements of subsection (1) of this section.

Sec. 2. RCW 71.09.020 and 2009 c 409 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) "Department" means the department of social and health services.

(2) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, federally approved renal dialysis center or facility, or federally approved blood bank.

(3) "Health care practitioner" means an individual or firm licensed or certified to engage actively in a regulated health profession.

(4) "Health care services" means those services provided by health professionals licensed pursuant to RCW 18.120.020(4).

(5) "Health profession" means those licensed or regulated professions set forth in RCW 18.120.020(4).

(6) "Less restrictive alternative" means court-ordered treatment in a setting less restrictive than total confinement which satisfies the conditions set forth in

RCW 71.09.092. A less restrictive alternative may not include placement in the community protection program as pursuant to RCW 71A.12.230.

(7) "Likely to engage in predatory acts of sexual violence if not confined in a secure facility" means that the person more probably than not will engage in such acts if released unconditionally from detention on the sexually violent predator petition. Such likelihood must be evidenced by a recent overt act if the person is not totally confined at the time the petition is filed under RCW 71.09.030.

(8) "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.

(9) "Personality disorder" means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has onset in adolescence or early adulthood, is stable over time and leads to distress or impairment. Purported evidence of a personality disorder must be supported by testimony of a licensed forensic psychologist or psychiatrist.

(10) "Predatory" means acts directed towards: (a) Strangers; (b) individuals with whom a relationship has been established or promoted for the primary purpose of victimization; or (c) persons of casual acquaintance with whom no substantial personal relationship exists.

(11) "Prosecuting agency" means the prosecuting attorney of the county where the person was convicted or charged or the attorney general if requested by the prosecuting attorney, as provided in RCW 71.09.030.

(12) "Recent overt act" means any act, threat, or combination thereof that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm in the mind of an objective person who knows of the history and mental condition of the person engaging in the act or behaviors.

(13) "Risk potential activity" or "risk potential facility" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. Risk potential activities and facilities include: Public and private schools, school bus stops, licensed day care and licensed preschool facilities, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others identified by the department following the hearings on a potential site required in RCW 71.09.315. For purposes of this chapter, "school bus stops" does not include bus stops established primarily for public transit.

(14) "Secretary" means the secretary of social and health services or the secretary's designee.

(15) "Secure facility" means a residential facility for persons civilly confined under the provisions of this chapter that includes security measures sufficient to protect the community. Such facilities include total confinement facilities, secure community transition facilities, and any residence used as a court-ordered placement under RCW 71.09.096.

(16) "Secure community transition facility" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under this chapter. A secure community transition facility has

supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facility established pursuant to RCW 71.09.250(1)(a)(i) and any community-based facilities established under this chapter and operated by the secretary or under contract with the secretary.

(17) "Sexually violent offense" means an act committed on, before, or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as rape in the first degree, rape in the second degree by forcible compulsion, rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties by forcible compulsion, indecent liberties against a child under age fourteen, incest against a child under age fourteen, or child molestation in the first or second degree; (b) a felony offense in effect at any time prior to July 1, 1990, that is comparable to a sexually violent offense as defined in (a) of this subsection, or any federal or out-of-state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this subsection; (c) an act of murder in the first or second degree, assault in the first or second degree, assault of a child in the first or second degree, kidnapping in the first or second degree, burglary in the first degree, residential burglary, or unlawful imprisonment, which act, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this chapter, has been determined beyond a reasonable doubt to have been sexually motivated, as that term is defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the felonies designated in (a), (b), or (c) of this subsection.

(18) "Sexually violent predator" means any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.

(19) "Total confinement facility" means a secure facility that provides supervision and sex offender treatment services in a total confinement setting. Total confinement facilities include the special commitment center and any similar facility designated as a total confinement facility by the secretary.

(20) "Treatment" means the sex offender specific treatment program at the special commitment center or a specific course of sex offender treatment pursuant to RCW 71.09.092 (1) and (2).

Sec. 3. RCW 71.09.096 and 2009 c 409 s 10 are each amended to read as follows:

(1) If the court or jury determines that conditional release to a less restrictive alternative is in the best interest of the person and includes conditions that would adequately protect the community, and the court determines that the minimum conditions set forth in RCW 71.09.092 and in this section are met, the court shall enter judgment and direct a conditional release.

(2) The court shall impose any additional conditions necessary to ensure compliance with treatment and to protect the community. If the court finds that conditions do not exist that will both ensure the person's compliance with treatment and protect the community, then the person shall be remanded to the custody of the department of social and health services for control, care, and treatment in a secure facility as designated in RCW 71.09.060(1).

(3) If the service provider designated by the court to provide inpatient or outpatient treatment or to monitor or supervise any other terms and conditions of a person's placement in a less restrictive alternative is other than the department of social and health services or the department of corrections, then the service provider so designated must agree in writing to provide such treatment, monitoring, or supervision in accord with this section. Any person providing or agreeing to provide treatment, monitoring, or supervision services pursuant to this chapter may be compelled to testify and any privilege with regard to such person's testimony is deemed waived.

(4) Prior to authorizing any release to a less restrictive alternative, the court shall impose such conditions upon the person as are necessary to ensure the safety of the community. The court shall order the department of corrections to investigate the less restrictive alternative and recommend any additional conditions to the court. These conditions shall include, but are not limited to the following: Specification of residence, prohibition of contact with potential or past victims, prohibition of alcohol and other drug use, participation in a specific course of inpatient or outpatient treatment that may include monitoring by the use of polygraph and plethysmograph, monitoring through the use of global positioning satellite technology, supervision by a department of corrections community corrections officer, a requirement that the person remain within the state unless the person receives prior authorization by the court, and any other conditions that the court determines are in the best interest of the person or others. A copy of the conditions of release shall be given to the person and to any designated service providers.

(5)(a) Prior to authorizing release to a less restrictive alternative, the court shall consider whether it is appropriate to release the person to the person's county of commitment. To ensure equitable distribution of releases, and prevent the disproportionate grouping of persons subject to less restrictive orders in any one county, or in any one jurisdiction or community within a county, the legislature finds it is appropriate for releases to a less restrictive alternative to occur in the person's county of commitment, unless the court determines that the person's return to his or her county of commitment would be inappropriate considering any court-issued protection orders, victim safety concerns, the availability of appropriate treatment or facilities that would adequately protect the community, negative influences on the person, or the location of family or other persons or organizations offering support to the person. When the department or court assists in developing a placement under this section which is outside of the county of commitment, and there are two or more options for placement, it shall endeavor to develop the placement in a manner that does not have a disproportionate effect on a single county.

(b) If the committed person is not conditionally released to his or her county of commitment, the department shall provide the law and justice council of the county in which the person is conditionally released with notice and a written explanation.

(c) For purposes of this section, the person's county of commitment means the county of the court which ordered the person's commitment.

(d) This subsection (5) does not apply to releases to a secure community transition facility under RCW 71.09.250.

(6) Any service provider designated to provide inpatient or outpatient treatment shall monthly, or as otherwise directed by the court, submit to the court, to the department of social and health services facility from which the person was released, to the prosecuting agency, and to the supervising community corrections officer, a report stating whether the person is complying with the terms and conditions of the conditional release to a less restrictive alternative.

~~((6))~~ (7) Each person released to a less restrictive alternative shall have his or her case reviewed by the court that released him or her no later than one year after such release and annually thereafter until the person is unconditionally discharged. Review may occur in a shorter time or more frequently, if the court, in its discretion on its own motion, or on motion of the person, the secretary, or the prosecuting agency so determines. The sole question to be determined by the court is whether the person shall continue to be conditionally released to a less restrictive alternative. The court in making its determination shall be aided by the periodic reports filed pursuant to subsection ~~((5))~~ (6) of this section and the opinions of the secretary and other experts or professional persons.

NEW SECTION. Sec. 4. Sections 1 and 2 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, 2015.

Passed by the House April 20, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 279

[Second Substitute House Bill 1281]

SEXUAL EXPLOITATION OF MINORS--CHILD RESCUE FUND

AN ACT Relating to sexual exploitation of minors; adding new sections to chapter 9.68A RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds that sexual abuse and exploitation of children robs victims of their childhood and irrevocably interferes with their emotional and psychological development. Victims of child pornography often experience severe and lasting harm from the permanent memorialization of the crimes committed against them. Child victims endure depression, withdrawal, anger, and other psychological disorders. Victims also experience feelings of guilt and responsibility for the sexual abuse as well as feelings of betrayal, powerlessness, worthlessness, and low self-esteem. Each and every time such an image is viewed, traded, printed, or downloaded, the child in that image is victimized again.

The legislature finds that the expansion of the internet and computer-related technologies have led to a dramatic increase in the availability of child pornography by simplifying how it can be created, distributed, and collected. Investigators and prosecutors report dramatic increases in the number and violent character of the sexually abusive images of children being trafficked through the internet. Between 2005 and 2009, the national center for missing and

exploited children's child victim identification program has seen a four hundred thirty-two percent increase in child pornography films and files submitted for identification of the children depicted. The United States department of justice estimates that pornographers have recorded the abuse of more than one million children in the United States alone. Furthermore, a well-known study conducted by crimes against children research center for the national center for missing and exploited children concluded that an estimated forty percent of those who possess child pornography have also directly victimized a child and fifteen percent have attempted to entice a child over the internet.

The legislature finds that due to a lack of dedicated resources, only two percent of known child exploitation offenders are being investigated. The legislature finds that additional funding sources are needed to ensure that law enforcement agencies can adequately investigate and prosecute offenders and victims can receive necessary services, including mental health treatment. Finally, the legislature finds that offenders convicted of crimes relating to child pornography should bear the high cost of investigations and prosecutions of these crimes and also the cost of providing services to victims.

NEW SECTION. Sec. 2. A new section is added to chapter 9.68A RCW to read as follows:

(1) In addition to penalties set forth in RCW 9.68A.070, a person who is convicted of violating RCW 9.68A.070 shall be assessed a fee of one thousand dollars for each depiction or image of visual or printed matter that constitutes a separate conviction.

(2) Fees assessed under this section shall be collected by the clerk of the court and remitted to the state treasurer for deposit into the child rescue fund created in section 3 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 9.68A RCW to read as follows:

(1) The child rescue fund is created in the custody of the state treasurer. All receipts from fees collected under section 2 of this act must be deposited into the fund.

(2) Only the attorney general for the state of Washington or the attorney general's designee may authorize expenditures from the fund.

(3) The attorney general or his or her designee must make any expenditures from the fund according to the following schedule:

(a) Twenty-five percent of receipts for grants to child advocacy centers, as defined in RCW 26.44.020; and

(b) Seventy-five percent of receipts for grants to the Washington internet crimes against children task force for use in investigations and prosecutions of crimes against children.

(4) The fund is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Passed by the House April 20, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 280

[Substitute House Bill 1575]

PUBLIC CONTRACTS--RETAINAGE BONDS

AN ACT Relating to retainage bonds on public contracts; and amending RCW 60.28.011.

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

Sec. 1. RCW 60.28.011 and 2013 c 113 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, public improvement contracts must provide, and public bodies must reserve, a contract retainage not to exceed five percent of the moneys earned by the contractor as a trust fund for the protection and payment of: (i) The claims of any person arising under the contract; and (ii) the state with respect to taxes, increases, and penalties imposed pursuant to Titles 50, 51, and 82 RCW which may be due from such contractor.

(b) Public improvement contracts funded in whole or in part by federal transportation funds must rely upon the contract bond as referred to in chapter 39.08 RCW for the protection and payment of: (i) The claims of any person or persons arising under the contract to the extent such claims are provided for in RCW 39.08.010; and (ii) the state with respect to taxes, increases, and penalties incurred on the public improvement project under Titles 50, 51, and 82 RCW which may be due. The contract bond must remain in full force and effect until, at a minimum, all claims filed in compliance with chapter 39.08 RCW are resolved.

(2) Every person performing labor or furnishing supplies toward the completion of a public improvement contract has a lien upon moneys reserved by a public body under the provisions of a public improvement contract. However, the notice of the lien of the claimant must be given within forty-five days of completion of the contract work, and in the manner provided in RCW 39.08.030.

(3) The contractor at any time may request the contract retainage be reduced to one hundred percent of the value of the work remaining on the project.

(a) After completion of all contract work other than landscaping, the contractor may request that the public body release and pay in full the amounts retained during the performance of the contract, and sixty days thereafter the public body must release and pay in full the amounts retained (other than continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of chapters 39.12 and 60.28 RCW.

(b) Sixty days after completion of all contract work the public body must release and pay in full the amounts retained during the performance of the contract subject to the provisions of chapters 39.12 and 60.28 RCW.

(4) The moneys reserved by a public body under the provisions of a public improvement contract, at the option of the contractor, must be:

(a) Retained in a fund by the public body;

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association. Interest on moneys reserved by a public body under the provision of a public improvement contract must be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body. When the moneys reserved are placed in escrow, the public body must issue a check

representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. This check must be converted into bonds and securities chosen by the contractor and approved by the public body and the bonds and securities must be held in escrow. Interest on the bonds and securities must be paid to the contractor as the interest accrues.

(5) The contractor or subcontractor may withhold payment of not more than five percent from the moneys earned by any subcontractor or sub-subcontractor or supplier contracted with by the contractor to provide labor, materials, or equipment to the public project. Whenever the contractor or subcontractor reserves funds earned by a subcontractor or sub-subcontractor or supplier, the contractor or subcontractor must pay interest to the subcontractor or sub-subcontractor or supplier at a rate equal to that received by the contractor or subcontractor from reserved funds.

(6) A contractor may submit a bond for all or any portion of the contract retainage in a form acceptable to the public body and from ~~((a bonding company meeting standards established by the public body))~~ an authorized surety insurer. The public body may require that the authorized surety have a minimum A.M. Best financial strength rating so long as that minimum rating does not exceed A-. The public body must ~~((accept a bond meeting these requirements unless the public body can demonstrate good cause for refusing to accept it))~~ comply with the provisions of RCW 48.28.010. This bond and any proceeds therefrom are subject to all claims and liens and in the same manner and priority as set forth for retained percentages in this chapter. The public body must release the bonded portion of the retained funds to the contractor within thirty days of accepting the bond from the contractor. Whenever a public body accepts a bond in lieu of retained funds from a contractor, the contractor must accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor must then release the funds retained from the subcontractor or supplier to the subcontractor or supplier within thirty days of accepting the bond from the subcontractor or supplier.

(7) If the public body administering a contract, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in this case any amounts retained and accumulated under this section must be held for a period of sixty days following the completion. In the event that the work is terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter are exclusive and supersede all provisions and regulations in conflict herewith.

(8) Whenever the department of transportation has contracted for the construction of two or more ferry vessels, sixty days after completion of all contract work on each ferry vessel, the department must release and pay in full the amounts retained in connection with the construction of the vessel subject to the provisions of RCW 60.28.021 and chapter 39.12 RCW. However, the

department of transportation may at its discretion condition the release of funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes may be certified or claims filed for work on the ferry after a period of sixty days following completion of the ferry; and if taxes are certified or claims filed, recovery may be had on the bond by the department of revenue, the employment security department, the department of labor and industries, and the material suppliers and laborers filing claims.

(9) Except as provided in subsection (1) of this section, reservation by a public body for any purpose from the moneys earned by a contractor by fulfilling its responsibilities under public improvement contracts is prohibited.

(10) Contracts on projects funded in whole or in part by farmers home administration and subject to farmers home administration regulations are not subject to subsections (1) through (9) of this section.

(11) This subsection applies only to a public body that has contracted for the construction of a facility using the general contractor/construction manager procedure, as defined under RCW 39.10.210. If the work performed by a subcontractor on the project has been completed within the first half of the time provided in the general contractor/construction manager contract for completing the work, the public body may accept the completion of the subcontract. The public body must give public notice of this acceptance. After a forty-five day period for giving notice of liens, and compliance with the retainage release procedures in RCW 60.28.021, the public body may release that portion of the retained funds associated with the subcontract. Claims against the retained funds after the forty-five day period are not valid.

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

(a) "Contract retainage" means an amount reserved by a public body from the moneys earned by a person under a public improvement contract.

(b) "Person" means a person or persons, mechanic, subcontractor, or material person who performs labor or provides materials for a public improvement contract, and any other person who supplies the person with provisions or supplies for the carrying on of a public improvement contract.

(c) "Public body" means the state, or a county, city, town, district, board, or other public body.

(d) "Public improvement contract" means a contract for public improvements or work, other than for professional services, or a work order as defined in RCW 39.10.210.

Passed by the House March 5, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 281

[Substitute House Bill 1586]

ROYAL SLOPE RAILROAD

AN ACT Relating to the Royal Slope railroad; amending RCW 47.76.290; adding a new section to chapter 47.76 RCW; 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 47.76 RCW to read as follows:

(1) The department must transfer, at no cost, to the Port of Royal Slope the Royal Slope railroad right-of-way, and any materials, equipment, and supplies purchased as a part of the Royal Slope rehabilitation project (L1000053).

(2) The Port of Royal Slope must maintain the Royal Slope railroad right-of-way and contract with an operator to provide service.

(3)(a) If the Port of Royal Slope is unable to secure an operator for any continuous five-year period, the right-of-way and any materials, equipment, and remaining supplies revert to the department.

(b) If ownership of the right-of-way reverts to the department under this subsection, the property must be in at least substantially the same condition as when the right-of-way was initially transferred under this section.

(4) Any operator agreement entered into under this section must not limit the state's ability to enter into a franchise agreement on the rail line. If the state enters into such a franchise agreement, the agreement must allow any person operating on that rail line pursuant to a valid contract to continue to operate under the terms of the contract.

Sec. 2. RCW 47.76.290 and 2011 c 161 s 2 are each amended to read as follows:

(1) If real property acquired by the department under this chapter that is essential for the operation of the rail service contemplated in RCW 47.76.280 is not sold or leased to a public or private entity authorized to operate rail service within six years of its acquisition by the department, the department may sell or lease the property at fair market value, except as provided in section 1 of this act, to any of the following governmental entities or persons:

(a) Any other state agency;

(b) The city or county in which the property is situated;

(c) Any other municipal corporation;

(d) The former owner, heir, or successor of the property from whom the property was acquired; or

(e) Any abutting private owner or owners.

(2)(a) Real property acquired by the department under this chapter that is not essential for the operation of the rail service contemplated in RCW 47.76.280 may be leased or sold at fair market value, at any time following acquisition, to any entity or person in the following priority order:

(i) The current tenant or lessee of the real property or real property abutting the property being sold;

(ii) An abutting private owner, but only after each other abutting private owner, if any, as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the real property within fifteen days after receiving

notice of the proposed sale, the real property must be sold at public auction in the manner provided in RCW 47.76.320 (2) through (4);

(iii) Any other state agency;

(iv) The city or county in which the real property is situated;

(v) Any other municipal corporation; or

(vi) The former owner, heir, or successor of the real property from whom the real property was acquired.

(b) If the department intends to sell or lease property under this subsection to an entity or person that is not the entity or person with the highest priority status under this subsection, the department must give written notice to each entity or person with higher priority status under this subsection that is reasonably considered to have an interest in the property. The entity with the highest priority status, willing to enter into a sale or lease at fair market value, must be given right of first refusal to buy or lease the property.

(3) Notice of intention to sell under this section shall be given by publication in one or more newspapers of general circulation in the area in which the property is situated not less than thirty days prior to the intended date of sale.

(4) Sales to purchasers under this section may, at the department's option, be for cash or by real estate contract, except that any such property of the Palouse River and Coulee City rail lines that was purchased with bond proceeds in November 2004 may be sold only for cash at fair market value.

(5) Conveyances made under this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

(6) All moneys received under this section shall be deposited in the essential rail assistance account created in RCW 47.76.250. Any moneys deposited under this subsection from sales or leases of property that are related, in any way, to the Palouse River and Coulee City rail lines must be used and, in the case of moneys received from sales, expended within two years of receipt, only for the refurbishment or improvement of the Palouse River and Coulee City rail lines.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 16, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 282

[Engrossed Substitute House Bill 1844]

FERRY VESSELS AND TERMINALS--PUBLIC WORKS CONTRACTING

AN ACT Relating to work performed by state forces on ferry vessels and terminals; amending RCW 47.28.030; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 47.28.030 and 2014 c 222 s 701 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 rightofway purposes may be

repaired or renovated pending the use of such rightofway 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.

(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 veteran, 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:

(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

(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

(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, 2014, through June 30, 2015,)~~ Work for less than one hundred ((twenty)) thousand dollars may be performed on ferry vessels and terminals by state forces.

(b) When the estimated cost of work to be performed on ferry vessels and terminals is between one hundred thousand dollars and two hundred thousand dollars, the department shall contact, by mail or electronic mail, contractors that appear on the department's small works roster as created pursuant to procedures in chapter 39.04 RCW to do specific work the contractors are qualified to do to determine if any contractor is interested and capable of doing the work. If there is a response of interest within seventy-two hours, the small works roster procedures commence. If no qualified contractors respond with interest and availability to do the work, the department may use its regular contracting

procedures. If the secretary determines that the work to be completed is an emergency, procedures governing emergencies apply.

(c) 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.

~~((e))~~ (d) 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))~~ (e) 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.

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, 2015.

Passed by the House April 23, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 283

[Substitute House Bill 1879]

MEDICAID--FOSTER YOUTH SERVICES

AN ACT Relating to directing the health care authority to issue a request for proposals for integrated managed health and behavioral health services for foster children; amending RCW 74.09.490; and adding a new section to chapter 74.09 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 74.09 RCW to read as follows:

The authority shall issue a request for proposals to provide integrated managed health and behavioral health care for foster children receiving care through the medical assistance program. Behavioral health services provided under chapters 71.24, 71.34, and 70.96A RCW must be integrated into the managed health care plan for foster children beginning October 1, 2018. The request for proposals must address the program elements described in section 110, chapter 225, Laws of 2014, including development of a service delivery system, benefit design, reimbursement mechanisms, incorporation or coordination of services currently provided by the regional support networks, and standards for contracting with health plans. The request for proposals must be issued and completed in time for services under the integrated managed care plan to begin on October 1, 2016.

Sec. 2. RCW 74.09.490 and 2011 1st sp.s. c 15 s 23 are each amended to read as follows:

(1) The authority, in consultation with the evidence-based practice institute established in RCW 71.24.061, shall develop and implement policies to improve prescribing practices for treatment of emotional or behavioral disturbances in children, improve the quality of children's mental health therapy through increased use of evidence-based and researchbased practices and reduced variation in practice, improve communication and care coordination between primary care and mental health providers, and prioritize care in the family home or care which integrates the family where outofhome placement is required.

(2) The authority shall identify those children with emotional or behavioral disturbances who may be at high risk due to offlabel use of prescription medication, use of multiple medications, high medication dosage, or lack of coordination among multiple prescribing providers, and establish one or more mechanisms to evaluate the appropriateness of the medication these children are using, including but not limited to obtaining second opinions from experts in child psychiatry.

(3) The authority shall review the psychotropic medications of all children under five and establish one or more mechanisms to evaluate the appropriateness of the medication these children are using, including but not limited to obtaining second opinions from experts in child psychiatry.

(4) Within existing funds, the authority shall require a second opinion review from an expert in psychiatry for all prescriptions of one or more antipsychotic medications of all children under eighteen years of age in the foster care system. Thirty days of a prescription medication may be dispensed pending the second opinion review. The second opinion feedback must include discussion of the psychosocial interventions that have been or will be offered to the child and caretaker if appropriate in order to address the behavioral issues brought to the attention of the prescribing physician.

(5) The authority shall track prescriptive practices with respect to psychotropic medications with the goal of reducing the use of medication.

~~((5))~~ (6) The authority shall ~~(encourage the)~~ promote the appropriate use of cognitive behavioral therapies and other treatments which are empirically supported or evidence-based, in addition to or in the place of prescription medication where appropriate and such interventions are available.

Passed by the House April 23, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 284

[Engrossed House Bill 1890]

HEALTH PLAN ISSUERS--PAYMENTS

AN ACT Relating to a second-party payment process for paying insurers; adding a new section to chapter 48.43 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature recognizes that under regulations implementing the federal patient protection and affordable care act, issuers offering individual market qualified health plans are required to accept third-party premium and cost-sharing payments from the Ryan White HIV/AIDS program under Title XXVI of the public health service act, Indian tribes, tribal organizations or urban Indian organizations, and state and federal government programs. However, federal regulators have stated that they have serious concerns about payments made on a third-party basis by hospitals, health care providers, and other commercial entities using their own funds because of the potential that such payments could cause distortions in the insurance market.

(2) The legislature intends to clarify that an entity that makes premium payments from accounts that are owned and controlled by the covered person do not constitute a third party for the purposes of acceptance of premium payments by an issuer. The legislature does not intend to impact third-party payment programs required under federal law, including, but not limited to, federal guidance implementing the federal patient protection and affordable care act.

NEW SECTION. Sec. 2. A new section is added to chapter 48.43 RCW to read as follows:

(1) For the purposes of this section, "second-party payment process" means a process in which: (a) An individual has an account under his or her name maintained with a financial institution and is either managed by the financial institution or an entity that, with the express agreement with the individual, has established the account on behalf of the individual with a financial institution; (b) the account is funded with funds from the individual or his or her family members or in a manner otherwise consistent with federal law including, but not limited to, federal guidance implementing the federal patient protection and affordable care act; and (c) the account is under the control of the covered person, such that the covered person may authorize payments from the account.

(2) All issuers must accept any payments made by a second-party payment process; however, no issuer need accept payment by a second-party payment process if the second-party payer is controlled by or receives funding from any entity where such entity may be reimbursed by an issuer for providing health care services or if the account under the control of the covered person is funded by any such entity, except those thirdparty entities from whom federal law requires such issuer to accept payment.

(3) Payments made under subsection (2) of this section may be made with any legal tender denominated in United States dollars.

Passed by the House March 9, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 285

[Substitute House Bill 1896]

ELECTRICITY CONSUMERS--PRIVACY POLICY

AN ACT Relating to providing a statewide minimum privacy policy for disclosure of customer energy use information; amending RCW 19.29A.010 and 19.29A.020; and adding new sections to chapter 19.29A RCW.

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

Sec. 1. RCW 19.29A.010 and 2000 c 213 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) "Biomass generation" means electricity derived from burning solid organic fuels 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-chrome-arsenic.

(2) "Bonneville power administration system mix" means a generation mix sold by the Bonneville power administration that is net of any resource specific sales and that is net of any electricity sold to direct service industrial customers, as defined in section 3(8) of the Pacific Northwest electric power planning and conservation act (16 U.S.C. Sec. 839(a)(8)).

(3) "Coal generation" means the electricity produced by a generating facility that burns coal as the primary fuel source.

(4) "Commission" means the utilities and transportation commission.

(5) "Conservation" means an increase in efficiency in the use of energy use that yields a decrease in energy consumption while providing the same or higher levels of service. Conservation includes low-income weatherization programs.

(6) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(7) "Declared resource" means an electricity source specifically identified by a retail supplier to serve retail electric customers. A declared resource includes a stated quantity of electricity tied directly to a specified generation facility or set of facilities either through ownership or contract purchase, or a contractual right to a stated quantity of electricity from a specified generation facility or set of facilities.

(8) "Department" means the department of ~~((community, trade, and economic development))~~ commerce.

(9) "Electricity information coordinator" means the organization selected by the department under RCW 19.29A.080 to: (a) Compile generation data in the Northwest power pool by generating project and by resource category; (b) compare the quantity of electricity from declared resources reported by retail suppliers with available generation from such resources; (c) calculate the net system power mix; and (d) coordinate with other comparable organizations in the western interconnection.

(10) "Electric meters in service" means those meters that record in at least nine of twelve calendar months in any calendar year not less than two hundred fifty kilowatt-hours per month.

(11) "Electricity product" means the electrical energy produced by a generating facility or facilities that a retail supplier sells or offers to sell to retail electric customers in the state of Washington, provided that nothing in this title shall be construed to mean that electricity is a good or product for the purposes of Title 62A RCW, or any other purpose. It does not include electrical energy generated on-site at a retail electric customer's premises.

(12) "Electric utility" means a consumer-owned or investor-owned utility as defined in this section.

(13) "Electricity" means electric energy measured in kilowatt-hours, or electric capacity measured in kilowatts, or both.

(14) "Fuel mix" means the actual or imputed sources of electricity sold to retail electric customers, expressed in terms of percentage contribution by resource category. The total fuel mix included in each disclosure shall total one hundred percent.

(15) "Geothermal generation" means electricity derived from thermal energy naturally produced within the earth.

(16) "Governing body" means the council of a city or town, the commissioners of an irrigation district, municipal electric utility, or public utility district, or the board of directors of an electric cooperative or mutual association that has the authority to set and approve rates.

(17) "High efficiency cogeneration" means electricity produced by equipment, such as heat or steam used for industrial, commercial, heating, or

cooling purposes, that meets the federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978.

(18) "Hydroelectric generation" means a power source created when water flows from a higher elevation to a lower elevation and the flow is converted to electricity in one or more generators at a single facility.

(19) "Investor-owned utility" means a company owned by investors that meets the definition of RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(20) "Landfill gas generation" means electricity produced by a generating facility that uses waste gases produced by the decomposition of organic materials in landfills.

(21) "Natural gas generation" means electricity produced by a generating facility that burns natural gas as the primary fuel source.

(22) "Northwest power pool" means the generating resources included in the United States portion of the Northwest power pool area as defined by the western systems coordinating council.

(23) "Net system power mix" means the fuel mix in the Northwest power pool, net of: (a) Any declared resources in the Northwest power pool identified by in-state retail suppliers or out-of-state entities that offer electricity for sale to retail electric customers; (b) any electricity sold by the Bonneville power administration to direct service industrial customers; and (c) any resource specific sales made by the Bonneville power administration.

(24) "Oil generation" means electricity produced by a generating facility that burns oil as the primary fuel source.

(25) "Proprietary customer information" means: (a) Information that relates to the source, technical configuration, destination, and amount of electricity used by a retail electric customer, a retail electric customer's payment history, and household data that is made available by the customer solely by virtue of the utility-customer relationship; and (b) information contained in a retail electric customer's bill.

(26) "Renewable resources" means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; or (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(27) "Resale" means the purchase and subsequent sale of electricity for profit, but does not include the purchase and the subsequent sale of electricity at the same rate at which the electricity was purchased.

(28) "Retail electric customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(29) "Retail supplier" means an electric utility that offers an electricity product for sale to retail electric customers in the state.

(30) "Small utility" means any consumer-owned utility with twenty-five thousand or fewer electric meters in service, or that has an average of seven or fewer customers per mile of distribution line.

(31) "Solar generation" means electricity derived from radiation from the sun that is directly or indirectly converted to electrical energy.

(32) "State" means the state of Washington.

(33) "Waste incineration generation" means electricity derived from burning solid or liquid wastes from businesses, households, municipalities, or waste treatment operations.

(34) "Wind generation" means electricity created by movement of air that is converted to electrical energy.

(35) "Private customer information" includes a retail electric customer's name, address, telephone number, and other personally identifying information.

Sec. 2. RCW 19.29A.020 and 1998 c 300 s 3 are each amended to read as follows:

Except as otherwise provided in RCW 19.29A.040, each electric utility must provide its retail electric customers with the following disclosures in accordance with RCW 19.29A.030:

(1) An explanation of any applicable credit and deposit requirements, including the means by which credit may be established, the conditions under which a deposit may be required, the amount of any deposit, interest paid on the deposit, and the circumstances under which the deposit will be returned or forfeited.

(2) A complete, itemized listing of all rates and charges for which the customer is responsible, including charges, if any, to terminate service, the identity of the entity responsible for setting rates, and an explanation of how to receive notice of public hearings where changes in rates will be considered or approved.

(3) An explanation of the metering or measurement policies and procedures, including the process for verifying the reliability of the meters or measurements and adjusting bills upon discovery of errors in the meters or measurements.

(4) An explanation of bill payment policies and procedures, including due dates, applicable late fees, and the interest rate charged, if any, on unpaid balances.

(5) An explanation of the payment arrangement options available to customers, including budget payment plans and the availability of home heating assistance from government and private sector organizations.

(6) An explanation of the method by which customers must give notice of their intent to discontinue service, the circumstances under which service may be discontinued by the utility, the conditions that must be met by the utility prior to discontinuing service, and how to avoid disconnection.

(7) An explanation of the utility's policies governing the confidentiality of private and proprietary customer information, including the circumstances under which the information may be disclosed and ways in which customers can control access to the information.

(8) An explanation of the methods by which customers may make inquiries to and file complaints with the utility, and the utility's procedures for responding to and resolving complaints and disputes, including a customer's right to complain about an investor-owned utility to the commission and appeal a decision by a consumer-owned utility to the governing body of the consumer-owned utility.

(9) An annual report containing the following information for the previous calendar year:

(a) A general description of the electric utility's customers, including the number of residential, commercial, and industrial customers served by the

electric utility, and the amount of electricity consumed by each customer class in which there are at least three customers, stated as a percentage of the total utility load;

(b) A summary of the average electricity rates for each customer class in which there are at least three customers, stated in cents per kilowatt-hour, the date of the electric utility's last general rate increase or decrease, the identity of the entity responsible for setting rates, and an explanation of how to receive notice of public hearings where changes in rates will be considered or approved;

(c) An explanation of the amount invested by the electric utility in conservation, nonhydrorenewable resources, and low-income energy assistance programs, and the source of funding for the investments; and

(d) An explanation of the amount of federal, state, and local taxes collected and paid by the electric utility, including the amounts collected by the electric utility but paid directly by retail electric customers.

NEW SECTION. Sec. 3. A new section is added to chapter 19.29A RCW to read as follows:

(1) An electric utility may not sell private or proprietary customer information.

(2) An electric utility may not disclose private or proprietary customer information with or to its affiliates, subsidiaries, or any other third party for the purposes of marketing services or product offerings to a retail electric customer who does not already subscribe to that service or product, unless the utility has first obtained the customer's written or electronic permission to do so.

(3) The utility must:

(a) Obtain a retail electric customer's prior permission for each instance of disclosure of his or her private or proprietary customer information to an affiliate, subsidiary, or other third party for purposes of marketing services or products that the customer does not already subscribe to; and

(b) Maintain a record for each instance of permission for disclosing a retail electric customer's private or proprietary customer information.

(4) An electric utility must retain the following information for each instance of a retail electric customer's consent for disclosure of his or her private or proprietary customer information if provided electronically:

(a) The confirmation of consent for the disclosure of private customer information;

(b) A list of the date of the consent and the affiliates, subsidiaries, or third parties to which the customer has authorized disclosure of his or her private or proprietary customer information; and

(c) A confirmation that the name, service address, and account number exactly matches the utility record for such account.

(5) This section does not require customer permission for or prevent disclosure of private or proprietary customer information by an electric utility to a third party with which the utility has a contract where such contract is directly related to conduct of the utility's business, provided that the contract prohibits the third party from further disclosing any private or proprietary customer information obtained from the utility to a party that is not the utility and not a party to the contract with the utility.

(6) This section does not prevent disclosure of the essential terms and conditions of special contracts.

(7) This section does not prevent the electric utility from inserting any marketing information into the retail electric customer's billing package.

(8) An electric utility may collect and release retail electric customer information in aggregate form if the aggregated information does not allow any specific customer to be identified.

(9) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(10) The statewide minimum privacy policy established in subsections (1) through (8) of this section must, in the case of an investor-owned utility, be enforced by the commission by rule or order.

NEW SECTION. Sec. 4. A new section is added to chapter 19.29A RCW to read as follows:

(1) A person may not capture or obtain private or proprietary customer information for a commercial purpose unless the person:

(a) Informs the retail electric customer before capturing or obtaining private or proprietary customer information; and

(b) Receives the retail electric customer's written or electronic permission to capture or obtain private or proprietary customer information.

(2) A person who legally possesses private or proprietary customer information that is captured or obtained for a commercial purpose may not sell, lease, or otherwise disclose the private or proprietary customer information to another person unless:

(a) The retail electric customer consents to the disclosure;

(b) The private or proprietary customer information is disclosed to an electric utility or other third party as necessary to effect, administer, enforce, or complete a financial transaction that the retail electric customer requested, initiated, or authorized, provided that the electric utility or third party maintains confidentiality of the private or proprietary customer information and does not further disclose the information except as permitted under this subsection (2); or

(c) The disclosure is required or expressly permitted by a federal statute or by a state statute.

(3) For the purposes of this section, "person" means any individual, partnership, corporation, limited liability company, or other organization or commercial entity, except that "person" does not include an electric utility.

(4) Except as provided in section 5 of this act, the legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 19.29A RCW to read as follows:

This chapter does not apply to energy benchmarking programs authorized by: (1) Federal law; (2) state law; or (3) local laws that are consistent with the personally identifying information requirements of RCW 19.27A.170.

Passed by the House April 20, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 286

[Substitute House Bill 1898]

CRIMINAL JUSTICE TRAINING COMMISSION--CHILD VICTIM TESTIMONY

AN ACT Relating to protection of child victims; amending RCW 43.101.270; adding a new section to chapter 43.101 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature finds that RCW 9A.44.150, which allows testimony of child victims by closed-circuit television in certain cases, helps protect certain child witnesses. During the prosecution of many child abuse cases, child victims may suffer serious emotional and mental trauma from exposure to the abuser. Some of these child victims are unable to testify at all in the presence of the abuser. For these reasons, the legislature found it a compelling state interest to allow for remote testimony in certain cases to enhance the truth-seeking process and to shield child victims from trauma.

(2) The legislature further finds that while there is a possibility for certain child victims to testify remotely in some cases, this procedure is rarely used. The legislature intends to raise awareness regarding this procedure by including it in training materials for investigating and prosecuting sexual assault cases.

Sec. 2. RCW 43.101.270 and 1991 c 267 s 2 are each amended to read as follows:

(1) Each year the criminal justice training commission shall offer an intensive, integrated training session on investigating and prosecuting sexual assault cases. The training shall place particular emphasis on the development of professionalism and sensitivity towards the victim and the victim's family.

(2) The commission shall seek advice from the Washington association of prosecuting attorneys, the Washington defender association, the Washington association of sheriffs and police chiefs, and the Washington coalition of sexual assault programs.

(3) The training shall be an integrated approach to sexual assault cases so that prosecutors, law enforcement, defenders, and victim advocates can all benefit from the training.

(4) The training shall be self-supporting through fees charged to the participants of the training.

(5) The training shall include a reference to the possibility that a court may allow children under the age of fourteen to testify in a room outside the presence of the defendant and the jury pursuant to RCW 9A.44.150.

NEW SECTION. Sec. 3. A new section is added to chapter 43.101 RCW to read as follows:

The criminal justice training commission shall annually survey law enforcement and prosecuting agencies regarding, with respect to the preceding year: (1) The frequency of cases where children under the age of fourteen have elected not to testify, including the reasons for the election not to testify; (2) the number of cases where remote testimony pursuant to RCW 9A.44.150 was used and whether those cases resulted in conviction; and (3) the total number of child sexual abuse cases referred for prosecution and the number of those cases that were prosecuted. The results of the survey described in this section must be reported every other year to the appropriate committees of the legislature with an initial reporting date of December 1, 2015.

Passed by the House April 16, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 287

[Engrossed House Bill 1943]

ELECTRONIC MONITORING--HOME DETENTION

AN ACT Relating to electronic monitoring; amending RCW 9.94A.030, 9.94A.734, 10.21.030, 9.94A.704, 26.50.010, 10.99.040, 9.94A.505, and 9A.76.130; adding new sections to chapter 9.94A RCW; adding new sections to chapter 10.21 RCW; and prescribing penalties.

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

Sec. 1. RCW 9.94A.030 and 2012 c 143 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) "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); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

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

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

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

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

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

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

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

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

(24) "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.

(25) "Electronic monitoring" means tracking the location of an individual, whether pretrial or posttrial, through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

(26) "Felony traffic offense" means:

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

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

~~((26))~~ (27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

~~((27))~~ (28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

~~((28))~~ (29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic ((surveillance)) monitoring.

~~((29))~~ (30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

~~((30))~~ (31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

~~((31))~~ (32) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

~~((32))~~ (33) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

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

(b) Assault in the second degree;

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

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

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

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) 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.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1,

1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(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 this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

~~((33))~~ (34) "Nonviolent offense" means an offense which is not a violent offense.

~~((34))~~ (35) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

~~((35))~~ (36) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

~~((36))~~ (37) "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.

((37)) (38) "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 (~~((37))~~) (38)(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.

~~((38))~~ (39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

~~((39))~~ (40) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

~~((40))~~ (41) "Public school" has the same meaning as in RCW 28A.150.010.

~~((41))~~ (42) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, 26.26, 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.

~~((42))~~ (43) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

~~((43))~~ (44) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

~~((44))~~ (45) "Serious traffic offense" means:

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

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

~~((45))~~ (46) "Serious violent offense" is a subcategory of violent offense and means:

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

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

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

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

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

~~((46))~~ (47) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register) on at least one prior occasion;

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

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

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

~~((47))~~ (48) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

~~((48))~~ (49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

~~((49))~~ (50) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

~~((50))~~ (51) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

~~((51))~~ (52) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

~~((52))~~ (53) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

~~((53))~~ (54) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

~~((54))~~ (55) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

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

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any

drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

~~((55))~~ (56) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

~~((56))~~ (57) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

~~((57))~~ (58) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 2. RCW 9.94A.734 and 2010 c 224 s 9 are each amended to read as follows:

(1) Home detention may not be imposed for offenders convicted of the following offenses, unless imposed as partial confinement in the department's parenting program under RCW 9.94A.6551:

- (a) A violent offense;
- (b) Any sex offense;
- (c) Any drug offense;
- (d) Reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050;
- (e) Assault in the third degree as defined in RCW 9A.36.031;
- (f) Assault of a child in the third degree;
- (g) Unlawful imprisonment as defined in RCW 9A.40.040; or
- (h) Harassment as defined in RCW 9A.46.020.

Home detention may be imposed for offenders convicted of possession of a controlled substance under RCW 69.50.4013 or forged prescription for a controlled substance under RCW 69.50.403 if the offender fulfills the participation conditions set forth in this section and is monitored for drug use by a treatment alternatives to street crime program or a comparable court or agency-referred program.

(2) Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender:

- (a) Successfully completing twenty-one days in a work release program;
- (b) Having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary;
- (c) Having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense;

- (d) Having no prior charges of escape; and
- (e) Fulfilling the other conditions of the home detention program.

(3) Home detention may be imposed for offenders convicted of taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075, theft of a motor vehicle as defined under RCW 9A.56.065, or possession of a stolen motor vehicle as defined under RCW 9A.56.068 conditioned upon the offender:

(a) Having no convictions for taking a motor vehicle without permission, theft of a motor vehicle or possession of a stolen motor vehicle during the preceding five years and not more than two prior convictions for taking a motor vehicle without permission, theft of a motor vehicle or possession of a stolen motor vehicle;

(b) Having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense;

(c) Having no prior charges of escape; and

(d) Fulfilling the other conditions of the home detention program.

(4) Participation in a home detention program shall be conditioned upon:

(a) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender;

(b) Abiding by the rules of the home detention program; and

(c) Compliance with court-ordered legal financial obligations.

(5) The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution.

(6)(a) A sentencing court shall deny the imposition of home detention if the court finds that (i) the offender has previously and knowingly violated the terms of a home detention program and (ii) the previous violation is not a technical, minor, or nonsubstantive violation.

(b) A sentencing court may deny the imposition of home detention if the court finds that (i) the offender has previously and knowingly violated the terms of a home detention program and (ii) the previous violation or violations were technical, minor, or nonsubstantive violations.

(7) A home detention program must be administered by a monitoring agency that meets the conditions described in section 3 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW to read as follows:

(1) A supervising agency must establish terms and conditions of electronic monitoring for each individual subject to electronic monitoring under the agency's jurisdiction. The supervising agency must communicate those terms and conditions to the monitoring agency. A supervising agency must also establish protocols for when and how a monitoring agency must notify the supervising agency when a violation of the terms and conditions occurs. A

monitoring agency must comply with the terms and conditions as established by the supervising agency.

(2) A monitoring agency shall:

(a) Provide notification within twenty-four hours to the court or other supervising agency when the monitoring agency discovers that the monitored individual is unaccounted for, or is beyond an approved location, for twenty-four consecutive hours. Notification shall also be provided to the probation department, the prosecuting attorney, local law enforcement, the local detention facility, or the department, as applicable;

(b) Establish geographic boundaries consistent with court-ordered activities and report substantive violations of those boundaries;

(c) Verify the location of the offender through in-person contact on a random basis at least once per month; and

(d) Report to the supervising agency or other appropriate authority any known violation of the law or court-ordered condition.

(3) In addition, a private monitoring agency shall:

(a) Have detailed contingency plans for the monitoring agency's operation with provisions for power outage, loss of telephone service, fire, flood, malfunction of equipment, death, incapacitation or personal emergency of a monitor, and financial insolvency of the monitoring agency;

(b) Prohibit certain relationships between a monitored individual and a monitoring agency, including:

(i) Personal associations between a monitored individual and a monitoring agency or agency employee;

(ii) A monitoring agency or employee entering into another business relationship with a monitored individual or monitored individual's family during the monitoring; and

(iii) A monitoring agency or employee employing a monitored individual for at least one year after the termination of the monitoring;

(c) Not employ or be owned by any person convicted of a felony offense within the past four years; and

(d) Obtain a background check through the Washington state patrol for every partner, director, officer, owner, employee, or operator of the monitoring agency, at the monitoring agency's expense.

(4) A private monitoring agency that fails to comply with any of the requirements in this section may be subject to a civil penalty, as determined by a court of competent jurisdiction or a court administrator, in an amount of not more than one thousand dollars for each violation, in addition to any penalties imposed by contract. A court or court administrator may cancel a contract with a monitoring agency for any violation by the monitoring agency.

(5)(a) A court that receives notice of a violation by a monitored individual of the terms of electronic monitoring or home detention shall note and maintain a record of the violation in the court file.

(b)(i) The presiding judge of a court must notify the administrative office of the courts if:

(A) The court or court administrator decides it will not allow use of a particular monitoring agency by persons ordered to comply with an electronic monitoring or home detention program; and

(B) The court or court administrator, after previously deciding not to allow use of a particular monitoring agency, decides to resume allowing use of the monitoring agency by persons ordered to comply with a home detention program.

(ii) In either case, the court or court administrator must include in its notice the reasons for the court's decision.

(6) The administrative office of the courts shall, after receiving notice pursuant to subsection (5) of this section, transmit the notice to all superior courts and courts of limited jurisdiction in the state, and any law enforcement or corrections agency that has requested such notification.

(7) The courts, the administrative office of the courts, and their employees and agents are not liable for acts or omissions pursuant to subsections (5) and (6) of this section absent a showing of gross negligence or bad faith.

(8) For the purposes of this section:

(a) A "monitoring agency" means an entity, private or public, which electronically monitors an individual, pursuant to an electronic monitoring or home detention program, including the department of corrections, a sheriff's office, a police department, a local detention facility, or a private entity; and

(b) A "supervising agency" means the public entity that authorized, approved, administers or manages, whether pretrial or posttrial, the home detention or electronic monitoring program of an individual and has jurisdiction and control over the monitored individual. A supervising agency may also be a monitoring agency.

(9) All government contracts with a private monitoring agency to provide electronic monitoring or home detention must be in writing and may provide contractual penalties in addition to those provided under this act.

NEW SECTION. Sec. 4. A new section is added to chapter 9.94A RCW to read as follows:

(1) By December 1, 2015, the administrative office of the courts shall create a pattern form order for use by a court in cases where a court orders a person to comply with a home detention program.

(2) The court shall provide a copy of the form order to the person ordered to comply with a home detention program. The form order must include the following:

(a) In a conspicuous location, a notice of criminal penalties resulting for a violation of the terms and conditions of a home detention program; and

(b) Language stating that a person may leave his or her residence for specific purposes only as ordered by the court, with a list of common purposes, such as school, employment, treatment, counseling, programming, or other activities from which a court may select.

(3) When a court orders a person to comply with the terms of a home detention program, the court must, in addition to its order, complete the form order created pursuant to this section to notify the person of criminal penalties associated with violation of the terms and conditions of the program and of any express permission granted for absence from the residence.

Sec. 5. RCW 10.21.030 and 2014 c 24 s 2 are each amended to read as follows:

(1) The judicial officer may at any time amend the order to impose additional or different conditions of release. The conditions imposed under this chapter supplement but do not supplant provisions of law allowing the imposition of conditions to assure the appearance of the defendant at trial or to prevent interference with the administration of justice.

(2) Appropriate conditions of release under this chapter include, but are not limited to, the following:

(a) The defendant may be placed in the custody of a pretrial release program;

(b) The defendant may have restrictions placed upon travel, association, or place of abode during the period of release;

(c) The defendant may be required to comply with a specified curfew;

(d) The defendant may be required to return to custody during specified hours or to be placed on electronic monitoring, as defined in RCW 9.94A.030, if available. The defendant, if convicted, may not have the period of incarceration reduced by the number of days spent on electronic monitoring;

(e) The defendant may be required to comply with a program of home detention, as defined in RCW 9.94A.030:

~~(f)~~ (f) The defendant may be prohibited from approaching or communicating in any manner with particular persons or classes of persons;

~~((f))~~ (g) The defendant may be prohibited from going to certain geographical areas or premises;

~~((g))~~ (h) The defendant may be prohibited from possessing any dangerous weapons or firearms;

~~((h))~~ (i) The defendant may be prohibited from possessing or consuming any intoxicating liquors or drugs not prescribed to the defendant. The defendant may be required to submit to testing to determine the defendant's compliance with this condition;

~~((i))~~ (j) The defendant may be prohibited from operating a motor vehicle that is not equipped with an ignition interlock device;

~~((j))~~ (k) The defendant may be required to report regularly to and remain under the supervision of an officer of the court or other person or agency; and

~~((k))~~ (l) The defendant may be prohibited from committing any violations of criminal law.

NEW SECTION. Sec. 6. A new section is added to chapter 10.21 RCW to read as follows:

Under this chapter, "home detention" means any program meeting the definition of home detention in RCW 9.94A.030, and complying with the requirements of section 3 of this act.

Sec. 7. RCW 9.94A.704 and 2014 c 35 s 1 are each amended to read as follows:

(1) Every person who is sentenced to a period of community custody shall report to and be placed under the supervision of the department, subject to RCW 9.94A.501.

(2)(a) The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of community custody based upon the risk to community safety.

(b) Within the funds available for community custody, the department shall determine conditions on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection (2)(b).

(3) If the offender is supervised by the department, the department shall at a minimum instruct the offender to:

(a) Report as directed to a community corrections officer;

(b) Remain within prescribed geographical boundaries;

(c) Notify the community corrections officer of any change in the offender's address or employment;

(d) Pay the supervision fee assessment; and

(e) Disclose the fact of supervision to any mental health or chemical dependency treatment provider, as required by RCW 9.94A.722.

(4) The department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws.

(5) If the offender was sentenced pursuant to a conviction for a sex offense, the department may:

(a) Require the offender to refrain from direct or indirect contact with the victim of the crime or immediate family member of the victim of the crime. If a victim or an immediate family member of a victim has requested that the offender not contact him or her after notice as provided in RCW 72.09.340, the department shall require the offender to refrain from contact with the requestor. Where the victim is a minor, the parent or guardian of the victim may make a request on the victim's behalf.

(b) Impose electronic monitoring. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" (~~means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning system technology~~) has the same meaning as in RCW 9.94A.030.

(6) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed conditions.

(7)(a) The department shall notify the offender in writing of any additional conditions or modifications.

(b) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to the crime of conviction, the offender's risk of reoffending, or the safety of the community.

(8) The department shall notify the offender in writing upon community custody intake of the department's violation process.

(9) The department may require offenders to pay for special services rendered including electronic monitoring, day reporting, and telephone

reporting, dependent on the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(10)(a) When a sex offender has been sentenced pursuant to RCW 9.94A.507, the department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions based upon the offender's risk to community safety and may recommend affirmative conduct or electronic monitoring consistent with subsections (4) through (6) of this section.

(b) The board may impose conditions in addition to court-ordered conditions. The board must consider and may impose department-recommended conditions. The board must impose a condition requiring the offender to refrain from contact with the victim or immediate family member of the victim as provided in subsection (5)(a) of this section.

(c) By the close of the next business day, after receiving notice of a condition imposed by the board or the department, an offender may request an administrative hearing under rules adopted by the board. The condition shall remain in effect unless the hearing examiner finds that it is not reasonably related to any of the following:

- (i) The crime of conviction;
- (ii) The offender's risk of reoffending;
- (iii) The safety of the community.

(d) If the department finds that an emergency exists requiring the immediate imposition of additional conditions in order to prevent the offender from committing a crime, the department may impose such conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately after notice to the offender by personal service, but shall not remain in effect longer than seven working days unless approved by the board.

(11) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasijudicial function.

Sec. 8. RCW 26.50.010 and 2008 c 6 s 406 are each amended to read as follows:

As used in this chapter, the following terms shall have the meanings given them:

(1) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

(2) "Family or household members" means spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child

relationship, including stepparents and stepchildren and grandparents and grandchildren.

(3) "Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.

(4) "Court" includes the superior, district, and municipal courts of the state of Washington.

(5) "Judicial day" does not include Saturdays, Sundays, or legal holidays.

(6) "Electronic monitoring" (~~means a program in which a person's presence at a particular location is monitored from a remote location by use of electronic equipment~~) has the same meaning as in RCW 9.94A.030.

(7) "Essential personal effects" means those items necessary for a person's immediate health, welfare, and livelihood. "Essential personal effects" includes but is not limited to clothing, cribs, bedding, documents, medications, and personal hygiene items.

Sec. 9. RCW 10.99.040 and 2012 c 223 s 3 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, and shall state that it may be extended as provided in subsection (3) of this section. 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. So long as the court finds probable cause, the court may issue or extend a no-contact order even if the defendant fails to appear at arraignment. 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 as defined in RCW 9.94A.030. 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), (3), or (7) 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.

(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.

Sec. 10. RCW 9.94A.505 and 2010 c 224 s 4 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

(iii) RCW 9.94A.570, relating to persistent offenders;

(iv) RCW 9.94A.540, relating to mandatory minimum terms;

(v) RCW 9.94A.650, relating to the first-time offender waiver;

(vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(vii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(viii) RCW 9.94A.655, relating to the parenting sentencing alternative;

(ix) RCW 9.94A.507, relating to certain sex offenses;

(x) RCW 9.94A.535, relating to exceptional sentences;

(xi) RCW 9.94A.589, relating to consecutive and concurrent sentences;

(xii) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; a term of community custody under RCW 9.94A.702 not to exceed one year; and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement and a community custody term under RCW 9.94A.701 if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community custody that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The sentencing court shall not give the offender credit for any time the offender was required to comply with an electronic monitoring program prior to sentencing if the offender was convicted of one of the following offenses:

(a) A violent offense:

(b) Any sex offense:

(c) Any drug offense:

(d) Reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050:

(e) Assault in the third degree as defined in RCW 9A.36.031:

(f) Assault of a child in the third degree:

(g) Unlawful imprisonment as defined in RCW 9A.40.040; or

(h) Harassment as defined in RCW 9A.46.020.

(8) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

~~((8))~~ (9) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

~~((9))~~ (10) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

Sec. 11. RCW 9A.76.130 and 2011 c 336 s 403 are each amended to read as follows:

(1) A person is guilty of escape in the third degree if he or she:

(a) Escapes from custody; or

(b) Knowingly violates the terms of an electronic monitoring program.

(2) Escape in the third degree is a ~~((gross))~~ misdemeanor, except as provided in subsection (3) of this section.

(3)(a) If the person has one prior conviction for escape in the third degree, escape in the third degree is a gross misdemeanor.

(b) If the person has two or more prior convictions for escape in the third degree, escape in the third degree is a class C felony.

NEW SECTION. **Sec. 12.** A new section is added to chapter 10.21 RCW to read as follows:

A monitoring agency, as defined in section 3 of this act, may not agree to monitor pursuant to home detention or electronic monitoring an offender who is currently awaiting trial for a violent or sex offense, as defined in RCW 9.94A.030, unless the defendant's release before trial is secured with a payment of bail. If bail is revoked by the court or the bail bond agency, the court shall note the reason for the revocation in the court file.

NEW SECTION. **Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House April 24, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 288

[Substitute Senate Bill 5004]

CITIES AND TOWNS--WARRANT OFFICERS

AN ACT Relating to establishing the position and authority of warrant officers; amending RCW 35.20.270; adding a new section to chapter 35.21 RCW; and adding a new section to chapter 35A.21 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 35.21 RCW to read as follows:

(1) Any city or town may establish the position of warrant officer.

(2) If any city or town establishes the position of warrant officer, the position shall be maintained by the city or town within the city or town police department. The number and qualifications of warrant officers shall be fixed by ordinance and their compensation shall be paid by the city or town. The chief of police of the city or town must establish training requirements consistent with the job description of warrant officer established in that city or town. Training requirements must be approved by the criminal justice training commission.

(3) Warrant officers shall be vested only with the special authority identified in ordinance, which may include the authority to make arrests authorized by warrants and other authority related to service of civil and criminal process.

(4) Process issuing from any court that is directed to a police department in which a warrant officer position is maintained may be served or enforced by the warrant officer, if within the warrant officer's authority as identified in ordinance.

(5) Warrant officers shall not be entitled to death, disability, or retirement benefits pursuant to chapter 41.26 RCW on the basis of service as a warrant officer as described in this section.

NEW SECTION. **Sec. 2.** A new section is added to chapter 35A.21 RCW to read as follows:

(1) Any code city may establish the position of warrant officer.

(2) If any code city establishes the position of warrant officer, the position shall be maintained by the city within the city police department. The number and qualifications of warrant officers shall be fixed by ordinance, and their compensation shall be paid by the city. The chief of police of the city must establish training requirements consistent with the job description of warrant officer established in that city. Training requirements must be approved by the criminal justice training commission.

(3) Warrant officers shall be vested only with the special authority identified in ordinance, which may include the authority to make arrests authorized by warrants and other authority related to service of civil and criminal process.

(4) Process issuing from any court that is directed to a police department in which a warrant officer position is maintained may be served or enforced by the warrant officer, if within the warrant officer's authority as identified in ordinance.

(5) Warrant officers shall not be entitled to death, disability, or retirement benefits pursuant to chapter 41.26 RCW on the basis of service as a warrant officer as described in this section.

Sec. 3. RCW 35.20.270 and 1992 c 99 s 1 are each amended to read as follows:

(1) ~~((The position of warrant officer is hereby created and shall be maintained by the city within the city police department. The number and qualifications of warrant officers shall be fixed by ordinance, and their compensation shall be paid by the city.~~

~~(2) Warrant officers shall be vested only with the special authority to make arrests authorized by warrants and other arrests as are authorized by ordinance.~~

~~(3))~~ All criminal and civil process issuing out of courts created under this title shall be directed to the chief of police of the city served by the court and/or to the sheriff of the county in which the court is held and/or the warrant officers and be by them executed according to law in any county of this state.

~~((4))~~ (2) No process of courts created under this title shall be executed outside the corporate limits of the city served by the court unless the person authorized by the process first contacts the applicable law enforcement agency in whose jurisdiction the process is to be served.

~~((5))~~ (3) Upon a defendant being arrested in another city or county the cost of arresting or serving process thereon shall be borne by the court issuing the process including the cost of returning the defendant from any county of the state to the city.

~~((6) Warrant officers shall not be entitled to death, disability, or retirement benefits pursuant to chapter 41.26 RCW on the basis of service as a warrant officer as described in this section.)~~

Passed by the Senate April 16, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 289

[Senate Bill 5011]

HEALTH CARE INFORMATION--THIRD-PARTY PAYORS

AN ACT Relating to third-party payor release of health care information; amending RCW 70.02.045; and declaring an emergency.

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

Sec. 1. RCW 70.02.045 and 2014 c 223 s 18 are each amended to read as follows:

Third-party payors shall not release health care information disclosed under this chapter, except as required by chapter 43.371 RCW and to the extent that health care providers are authorized to do so under RCW 70.02.050, 70.02.200, and 70.02.210.

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 April 16, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 290

[Senate Bill 5070]

DOMESTIC VIOLENCE OFFENDERS--SUPERVISION

AN ACT Relating to the supervision of domestic violence offenders; amending RCW 9.94A.501; and creating a new section.

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

Sec. 1. RCW 9.94A.501 and 2013 2nd sp.s. c 35 s 15 are each amended to read as follows:

(1) The department shall supervise the following offenders who are sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

(a) Offenders convicted of:

(i) Sexual misconduct with a minor second degree;

(ii) Custodial sexual misconduct second degree;

(iii) Communication with a minor for immoral purposes; and

(iv) Violation of RCW 9A.44.132(2) (failure to register); and

(b) Offenders who have:

(i) A current conviction for a repetitive domestic violence offense where domestic violence has been plead and proven after August 1, 2011; and

(ii) A prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011.

(2) Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody.

(3) The department shall supervise every felony offender sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk assessment classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to community custody regardless of risk classification if the offender:

(a) Has a current conviction for a sex offense or a serious violent offense and was sentenced to a term of community custody pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

(b) Has been identified by the department as a dangerous mentally ill offender pursuant to RCW 72.09.370;

(c) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017;

(d) Has a current conviction for violating RCW 9A.44.132(1) (failure to register) and was sentenced to a term of community custody pursuant to RCW 9.94A.701;

(e)(i) Has a current conviction for a domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence (~~has been~~) was plead and proven after August 1, 2011. This subsection (4)(e)(i) applies only to offenses committed prior to the effective date of this section:

(ii) Has a conviction for a domestic violence felony offense where domestic violence was plead and proven and that was committed after the effective date of this section. The state and its officers, agents, and employees shall not be held criminally or civilly liable for its supervision of an offender under this subsection (4)(e)(ii) unless the state and its officers, agents, and employees acted with gross negligence;

(f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or 9.94A.670;

(g) Is subject to supervision pursuant to RCW 9.94A.745; or

(h) Was convicted and sentenced under RCW 46.61.520 (vehicular homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6) (felony DUI), or RCW 46.61.504(6) (felony physical control).

(5) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under this section or RCW 9.94A.5011.

(6) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section or RCW 9.94A.5011.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2015, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 291

[Senate Bill 5107]

THERAPEUTIC COURTS

AN ACT Relating to authorizing, funding, and encouraging the establishment of therapeutic courts; amending RCW 82.14.460, 9.94A.517, 9.94A.517, and 70.96A.350; adding a new chapter to Title 2 RCW; creating a new section; repealing RCW 2.28.170, 2.28.175, 2.28.180, 2.28.190, 13.40.700, 13.40.710, 26.12.250, 2.28.165, and 2.28.166; 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 legislature finds that judges in the trial courts throughout the state effectively utilize what are known as therapeutic courts to remove a defendant's or respondent's case from the criminal and civil court traditional trial track and allow those defendants or respondents the opportunity to obtain treatment services to address particular issues that may have contributed to the conduct that led to their arrest or other issues before the court. Trial courts have proved adept at creative approaches in fashioning a wide variety of therapeutic courts addressing the spectrum of social issues that can contribute to criminal activity and engagement with the child welfare system.

(2) The legislature further finds that by focusing on the specific individual's needs, providing treatment for the issues presented, and ensuring rapid and appropriate accountability for program violations, therapeutic courts may decrease recidivism, improve the safety of the community, and improve the life of the program participant and the lives of the participant's family members by decreasing the severity and frequency of the specific behavior addressed by the therapeutic court.

(3) The legislature recognizes the inherent authority of the judiciary under Article IV, section 1 of the state Constitution to establish therapeutic courts, and the outstanding contribution to the state and local communities made by the

establishment of therapeutic courts and desires to provide a general provision in statute acknowledging and encouraging the judiciary to provide for therapeutic court programs to address the particular needs within a given judicial jurisdiction.

(4) Therapeutic court programs may include, but are not limited to:

(a) Adult drug court;

(b) Juvenile drug court;

(c) Family dependency treatment court or family drug court;

(d) Mental health court, which may include participants with developmental disabilities;

(e) DUI court;

(f) Veterans treatment court;

(g) Truancy court;

(h) Domestic violence court;

(i) Gambling court;

(j) Community court;

(k) Homeless court;

(l) Treatment, responsibility, and accountability on campus (Back on TRAC) court.

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

(1) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well-established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in this section.

(2) "Evidence-based" means a program or practice that: (a) Has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome; or (b) may be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(3) "Government authority" means prosecutor or other representative initiating action leading to a proceeding in therapeutic court.

(4) "Participant" means an accused person, offender, or respondent in the judicial proceeding.

(5) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in this subsection but does not meet the full criteria for evidence-based.

(6) "Specialty court" and "therapeutic court" both mean a court utilizing a program or programs structured to achieve both a reduction in recidivism and an increase in the likelihood of rehabilitation, or to reduce child abuse and neglect, out-of-home placements of children, termination of parental rights, and substance abuse and mental health symptoms among parents or guardians and

their children through continuous and intense judicially supervised treatment and the appropriate use of services, sanctions, and incentives.

(7) "Therapeutic court personnel" means the staff of a therapeutic court including, but not limited to: Court and clerk personnel with therapeutic court duties, prosecuting attorneys, the attorney general or his or her representatives, defense counsel, monitoring personnel, and others acting within the scope of therapeutic court duties.

(8) "Trial court" means a superior court authorized under Title 2 RCW or a district or municipal court authorized under Title 3 or 35 RCW.

NEW SECTION. Sec. 3. (1) Every trial and juvenile court in the state of Washington is authorized and encouraged to establish and operate therapeutic courts. Therapeutic courts, in conjunction with the government authority and subject matter experts specific to the focus of the therapeutic court, develop and process cases in ways that depart from traditional judicial processes to allow defendants or respondents the opportunity to obtain treatment services to address particular issues that may have contributed to the conduct that led to their arrest or involvement in the child welfare system in exchange for resolution of the case or charges. In criminal cases, the consent of the prosecutor is required.

(2) While a therapeutic court judge retains the discretion to decline to accept a case into the therapeutic court, and while a therapeutic court retains discretion to establish processes and determine eligibility for admission to the therapeutic court process unique to their community and jurisdiction, the effectiveness and credibility of any therapeutic court will be enhanced when the court implements evidence-based practices, research-based practices, emerging best practices, or promising practices that have been identified and accepted at the state and national levels. Promising practices, emerging best practices, and/or research-based programs are authorized where determined by the court to be appropriate. As practices evolve, the trial court shall regularly assess the effectiveness of its program and the methods by which it implements and adopts new best practices.

(3) Except under special findings by the court, the following individuals are not eligible for participation in therapeutic courts:

(a) Individuals who are currently charged or who have been previously convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030;

(b) Individuals who are currently charged with an offense alleging intentional discharge, threat to discharge, or attempt to discharge a firearm in furtherance of the offense;

(c) Individuals who are currently charged with or who have been previously convicted of vehicular homicide or an equivalent out-of- state offense; or

(d) Individuals who are currently charged with or who have been previously convicted of: An offense alleging substantial bodily harm or great bodily harm as defined in RCW 9A.04.110, or death of another person.

(4) Any jurisdiction establishing a therapeutic court shall endeavor to incorporate the therapeutic court principles of best practices as recognized by state and national therapeutic court organizations in structuring a particular program, which may include:

(a) Determining the population;

(b) Performing a clinical assessment;

(c) Developing the treatment plan;

- (d) Monitoring the participant, including any appropriate testing;
- (e) Forging agency, organization, and community partnerships;
- (f) Taking a judicial leadership role;
- (g) Developing case management strategies;
- (h) Addressing transportation, housing, and subsistence issues;
- (i) Evaluating the program;
- (j) Ensuring a sustainable program.

(5) Upon a showing of indigence under RCW 10.101.010, fees may be reduced or waived.

(6) The department of social and health services shall furnish services to therapeutic courts addressing dependency matters where substance abuse or mental health are an issue unless the court contracts with providers outside of the department.

(7) Any jurisdiction that has established more than one therapeutic court under this chapter may combine the functions of these courts into a single therapeutic court.

(8) Nothing in this section prohibits a district or municipal court from ordering treatment or other conditions of sentence or probation following a conviction, without the consent of either the prosecutor or defendant.

(9) No therapeutic or specialty court may be established specifically for the purpose of applying foreign law, including foreign criminal, civil, or religious law, that is otherwise not required by treaty.

(10) No therapeutic or specialty court established by court rule shall enforce a foreign law, if doing so would violate a right guaranteed by the Constitution of this state or of the United States.

NEW SECTION. Sec. 4. Jurisdictions may seek federal funding available to support the operation of its therapeutic court and associated services and must match, on a dollar-for-dollar basis, state moneys allocated for therapeutic courts with local cash or in-kind resources. Moneys allocated by the state may be used to supplement, not supplant other federal, state, and local funds for therapeutic courts. However, until June 30, 2016, no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a therapeutic court authorized under this chapter.

Sec. 5. RCW 82.14.460 and 2012 c 180 s 1 are each amended to read as follows:

(1)(a) A county legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this chapter.

(b) If a county with a population over eight hundred thousand has not imposed the tax authorized under this subsection by January 1, 2011, any city with a population over thirty thousand located in that county may authorize, fix, and impose the sales and use tax in accordance with the terms of this chapter. The county must provide a credit against its tax for the full amount of tax imposed under this subsection (1)(b) by any city located in that county if the county imposes the tax after January 1, 2011.

(2) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county for a county's tax and within a city for a city's

tax. The rate of tax equals one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section must be used solely for the purpose of providing for the operation or delivery of chemical dependency or mental health treatment programs and services and for the operation or delivery of therapeutic court programs and services. For the purposes of this section, "programs and services" includes, but is not limited to, treatment services, case management, transportation, and housing that are a component of a coordinated chemical dependency or mental health treatment program or service. Every county that authorizes the tax provided in this section shall, and every other county may, establish and operate a therapeutic court component for dependency proceedings designed to be effective for the court's size, location, and resources.

(4) All moneys collected under this section must be used solely for the purpose of providing new or expanded programs and services as provided in this section, except as follows:

(a) For a county with a population larger than twenty-five thousand or a city with a population over thirty thousand, which initially imposed the tax authorized under this section prior to January 1, 2012, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to fifty percent may be used to supplant existing funding in calendar years 2011-2012; up to forty percent may be used to supplant existing funding in calendar year 2013; up to thirty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016;

(b) For a county with a population larger than twenty-five thousand or a city with a population over thirty thousand, which initially imposes the tax authorized under this section after December 31, 2011, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to fifty percent may be used to supplant existing funding for up to the first three calendar years following adoption; and up to twenty-five percent may be used to supplant existing funding for the fourth and fifth years after adoption;

(c) For a county with a population of less than twenty-five thousand, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to eighty percent may be used to supplant existing funding in calendar years 2011-2012; up to sixty percent may be used to supplant existing funding in calendar year 2013; up to forty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016; and

(d) Notwithstanding (a) through (c) of this subsection, moneys collected under this section may be used to support the cost of the judicial officer and support staff of a therapeutic court.

(5) Nothing in this section may be interpreted to prohibit the use of moneys collected under this section for the replacement of lapsed federal funding previously provided for the operation or delivery of services and programs as provided in this section.

NEW SECTION. **Sec. 6.** Individual trial courts are authorized and encouraged to establish multijurisdictional partnerships and/or interlocal agreements under RCW 39.34.180 to enhance and expand the coverage area of the therapeutic court. Specifically, district and municipal courts may work cooperatively with each other and with the superior courts to identify and implement nontraditional case processing methods which can eliminate traditional barriers that decrease judicial efficiency.

NEW SECTION. **Sec. 7.** Any therapeutic court meeting the definition of therapeutic court in section 2 of this act and existing on the effective date of this section continues to be authorized.

Sec. 8. RCW 9.94A.517 and 2013 2nd sp.s. c 14 s 1 are each amended to read as follows:

(1)

TABLE 3
DRUG OFFENSE SENTENCING GRID

Seriousness Level	Offender Score	Offender Score	Offender Score
	0 to 2	3 to 5	6 to 9 or more
III	51 to 68 months	68 + to 100 months	100 + to 120 months
II	12 + to 20 months	20 + to 60 months	60 + to 120 months
I	0 to 6 months	6 + to 12 months	12 + to 24 months

References to months represent the standard sentence ranges. 12 + equals one year and one day.

(2) The court may utilize any other sanctions or alternatives as authorized by law, including but not limited to the special drug offender sentencing alternative under RCW 9.94A.660 or drug court under ~~((RCW 2.28.170))~~ chapter 2--- RCW (the new chapter created in section 12 of this act).

(3) Nothing in this section creates an entitlement for a criminal defendant to any specific sanction, alternative, sentence option, or substance abuse treatment.

Sec. 9. RCW 9.94A.517 and 2002 c 290 s 8 are each amended to read as follows:

(1)

TABLE 3
DRUG OFFENSE SENTENCING GRID

Seriousness Level	Offender Score	Offender Score	Offender Score
	0 to 2	3 to 5	6 to 9 or more
III	51 to 68 months	68 + to 100 months	100 + to 120 months

II	12 + to 20 months	20 + to 60 months	60 + to 120 months
I	0 to 6 months	6 + to 18 months	12 + to 24 months

References to months represent the standard sentence ranges. 12 + equals one year and one day.

(2) The court may utilize any other sanctions or alternatives as authorized by law, including but not limited to the special drug offender sentencing alternative under RCW 9.94A.660 or drug court under ~~((RCW 2.28.170))~~ chapter 2.--- RCW (the new chapter created in section 12 of this act).

(3) Nothing in this section creates an entitlement for a criminal defendant to any specific sanction, alternative, sentence option, or substance abuse treatment.

Sec. 10. RCW 70.96A.350 and 2013 2nd sp.s. c 4 s 990 are each amended to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance abuse treatment and treatment support services for offenders with an addiction or a substance abuse problem that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; (b) the provision of drug and alcohol treatment services and treatment support services for nonviolent offenders within a drug court program; (c) the administrative and overhead costs associated with the operation of a drug court; and (d) during the 2011-2013 biennium, the legislature may appropriate up to three million dollars from the account in order to offset reductions in the state general fund for treatment services provided by counties. This amount is not subject to the requirements of subsections (5) through (9) of this section. During the 2013-2015 fiscal biennium, the legislature may transfer from the criminal justice treatment account to the state general fund amounts as reflect the state savings associated with the implementation of the medicaid expansion of the federal affordable care act. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance abuse treatment program, but does not include the following services: Housing other than that provided as part of an inpatient substance abuse treatment program, vocational training, and mental health counseling; and

(b) "Treatment support" means transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) For the fiscal biennium beginning July 1, 2003, the state treasurer shall transfer eight million nine hundred fifty thousand dollars from the general fund into the criminal justice treatment account, divided into eight equal quarterly payments. For the fiscal year beginning July 1, 2005, and each

subsequent fiscal year, the state treasurer shall transfer eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(b) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (a) of this subsection to the division of alcohol and substance abuse for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the division of alcohol and substance abuse from the criminal justice treatment account shall be distributed as specified in this subsection. The department shall serve as the fiscal agent for purposes of distribution. Until July 1, 2004, the department may not use moneys appropriated from the criminal justice treatment account for administrative expenses and shall distribute all amounts appropriated under subsection (4)(b) of this section in accordance with this subsection. Beginning in July 1, 2004, the department may retain up to three percent of the amount appropriated under subsection (4)(b) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the division from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The division of alcohol and substance abuse, in consultation with the department of corrections, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance abuse treatment providers, and any other person deemed by the division to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the division from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The division shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, substance abuse treatment providers, and the division. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the

county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The funds shall be used solely to provide approved alcohol and substance abuse treatment pursuant to RCW 70.96A.090, treatment support services, and for the administrative and overhead costs associated with the operation of a drug court.

(a) No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent on the administrative and overhead costs associated with the operation of a drug court.

(b) No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) Counties must meet the criteria established in (~~RCW 2.28.170(3)(b))~~) section 3(3) of this act.

(10) The authority under this section to use funds from the criminal justice treatment account for the administrative and overhead costs associated with the operation of a drug court expires June 30, 2015.

NEW SECTION. Sec. 11. The following acts or parts of acts are each repealed:

1RCW 2.28.170 (Drug courts) and 2013 2nd sp.s. c 4 s 952, 2013 2nd sp.s. c 4 s 951, 2013 c 257 s 5, 2009 c 445 s 2, 2006 c 339 s 106, 2005 c 504 s 504, 2002 c 290 s 13, & 1999 c 197 s 9;

2RCW 2.28.175 (DUI courts) and 2013 2nd sp.s. c 35 s 2, 2013 c 257 s 6, 2012 c 183 s 1, & 2011 c 293 s 10;

3RCW 2.28.180 (Mental health courts) and 2013 c 257 s 7, 2011 c 236 s 1, & 2005 c 504 s 501;

4RCW 2.28.190 (DUI court, drug court, and mental health court may be combined) and 2013 c 257 s 8, 2011 c 293 s 11, & 2005 c 504 s 502;

5RCW 13.40.700 (Juvenile gang courts—Minimum requirements—Admission—Individualized plan—Completion) and 2012 c 146 s 2;

6RCW 13.40.710 (Juvenile gang courts—Data—Reports) and 2012 c 146 s 3;

7RCW 26.12.250 (Therapeutic courts) and 2005 c 504 s 503;

8RCW 2.28.165 (Specialty and therapeutic courts—Establishment—Principles of best practices—Limitations) and 2013 c 257 s 2; and

9 RCW 2.28.166 (Definition of "specialty court" and "therapeutic court") and 2013 c 257 s 4.

NEW SECTION. Sec. 12. Sections 1 through 4, 6, and 7 of this act constitute a new chapter in Title 2 RCW.

NEW SECTION. Sec. 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 14. 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. 15. Section 8 of this act expires July 1, 2018.

NEW SECTION. Sec. 16. Section 9 of this act takes effect July 1, 2018.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 292

[Substitute Senate Bill 5481]

DEPARTMENT OF TRANSPORTATION--TOLLS

AN ACT Relating to omnibus tolling customer service reform; and amending RCW 46.63.160 and 47.56.795.

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

Sec. 1. RCW 46.63.160 and 2013 c 226 s 1 are each amended to read as follows:

(1) This section applies only to civil penalties for nonpayment of tolls detected through use of photo toll systems.

(2) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(3) A notice of civil penalty may be issued by the department of transportation when a toll is assessed through use of a photo toll system and the toll is not paid by the toll payment due date, which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

(4) Any registered owner or renter of a vehicle traveling upon a toll facility operated under chapter 47.56 or 47.46 RCW is subject to a civil penalty governed by the administrative procedures set forth in this section when the vehicle incurs a toll charge and the toll is not paid by the toll payment due date, which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

(5)(a) The department shall develop rules to allow an individual who has been issued a notice of civil penalty to present evidence of mitigating circumstances as to why a toll bill was not timely paid. If an individual is able to present verifiable evidence to the department that a civil penalty was incurred due to hospitalization, military deployment, eviction, homelessness, death of the alleged violator or of an alleged violator's immediate family member, failure to receive the toll bill due to an incorrect address that has since been corrected, a prepaid electronic toll account error that has since been corrected, an error made by the department or an agent of the department, or other mitigating

circumstances as determined by the department, the department may dismiss or reduce the civil penalty and associated fees.

(b)(i) Consistent with chapter 34.05 RCW, the department of transportation shall develop an administrative adjudication process to review appeals of civil penalties issued by the department of transportation for toll nonpayment detected through the use of a photo toll system under this section. The department of transportation shall submit to the transportation committees of the legislature an annual report on the number of times adjudicators reduce or dismiss the civil penalty as provided in (b)(ii) of this subsection and the total amount of the civil penalties dismissed. The report must be submitted by December 1st of each year.

~~((b))~~ (ii) During the adjudication process, the alleged violator must have an opportunity to explain mitigating circumstances as to why the toll bill was not timely paid. Hospitalization, a divorce decree or legal separation agreement resulting in a transfer of the vehicle, an active duty member of the military or national guard covered by the federal service members civil relief act, 50 U.S.C. Sec. 501 et seq., or state service members' civil relief act, chapter 38.42 RCW, eviction, homelessness, the death of the alleged violator or of an immediate family member, ~~((or))~~ being switched to a different method of toll payment, if the alleged violator did not receive a toll charge bill or notice of civil penalty, or other mitigating circumstances as determined by the adjudicator are deemed valid mitigating circumstances. All of ~~((these))~~ the reasons that constitute mitigating circumstances must ~~((occur))~~ have occurred within a reasonable time of the alleged toll violation. In response to these circumstances, the adjudicator may reduce or dismiss the civil penalty and associated administrative fees.

(6) The use of a photo toll system is subject to the following requirements:

(a) Photo toll systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) A notice of civil penalty must include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo toll system, stating the facts supporting the notice of civil penalty. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding established under subsection (5) of this section. The photographs, digital photographs, microphotographs, videotape, or other recorded images evidencing the toll nonpayment civil penalty must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the civil penalty.

(c)(i) By June 30, 2016, prior to issuing a notice of civil penalty to a registered owner of a vehicle listed on an active prepaid electronic toll account, the department of transportation must:

(A) Send an electronic mail notice to the email address provided in the prepaid electronic toll account of unpaid pay-by-mail toll bills at least ten days prior to a notice of civil penalty being issued for the associated pay-by-mail toll. The notice must be separate from any regular notice sent by the department; and

(B) Call the phone numbers provided in the account to provide notice of unpaid pay-by-mail toll bills at least ten days prior to a notice of civil penalty being issued for the associated pay-by-mail toll.

(ii) The department is relieved of its obligation to provide notice as required by this section if the customer has declined to receive communications from the department through such methods.

(d) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this section are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under this section. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under this section. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies.

~~((d))~~ (e) All locations where a photo toll system is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where tolls are assessed and enforced by a photo toll system.

~~((e))~~ (f) Within existing resources, the department of transportation shall conduct education and outreach efforts at least six months prior to activating an all-electronic photo toll system. Methods of outreach shall include a department presence at community meetings in the vicinity of a toll facility, signage, and information published in local media. Information provided shall include notice of when all electronic photo tolling shall begin and methods of payment. Additionally, the department shall provide quarterly reporting on education and outreach efforts and other data related to the issuance of civil penalties.

~~((f))~~ (g) The envelope containing a toll charge bill or related notice issued pursuant to RCW 47.46.105 or 47.56.795, or a notice of civil penalty issued under this section, must prominently indicate that the contents are time sensitive and related to a toll violation.

(7) Civil penalties for toll nonpayment detected through the use of photo toll systems must be issued to the registered owner of the vehicle identified by the photo toll system, but are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120.

(8) The civil penalty for toll nonpayment detected through the use of a photo toll system is forty dollars plus the photo toll and associated fees.

(9) Except as provided otherwise in this subsection, all civil penalties, including the photo toll and associated fees, collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed. However, through June 30, 2013, civil penalties deposited into the Tacoma Narrows toll bridge account created under RCW 47.56.165 that are in excess of amounts necessary to support the toll adjudication process applicable to toll collection on the Tacoma Narrows bridge must first be allocated toward repayment of operating loans and reserve payments provided to the account from the motor vehicle account under section 1005(15), chapter 518, Laws of 2007. Additionally, all civil penalties, resulting from nonpayment of tolls on the state route number 520 corridor, shall be deposited into the state route number 520

civil penalties account created under section 4, chapter 248, Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June 30, 2010.

(10) If the registered owner of the vehicle is a rental car business, the department of transportation shall, before a toll bill is issued, provide a written notice to the rental car business that a toll bill may be issued to the rental car business if the rental car business does not, within thirty days of the mailing of the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the toll was assessed; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the toll was assessed because the vehicle was stolen at the time the toll was assessed. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable toll and fee.

Timely mailing of this statement to the issuing agency relieves a rental car business of any liability under this section for the payment of the toll.

(11) It is the intent of the legislature that the department provide an educational opportunity when vehicle owners incur fees and penalties associated with late payment of tolls for the first time. As part of this educational opportunity, the department may waive penalties and fees if the issue that resulted in the toll not being timely paid has been resolved and the vehicle owner establishes an electronic toll account, if practicable. To aid in collecting tolls in a timely manner, the department may waive or reduce the outstanding amounts of fees and penalties assessed when tolls are not timely paid.

(12)(a) By June 30, 2016, the department of transportation must update its web site, and accommodate access to the web site from mobile platforms, to allow toll customers to efficiently manage all their tolling accounts, regardless of method of payment.

(b)(i) By June 30, 2016, the department of transportation must make available to the public a point of access that allows a third party to develop an application for mobile technologies that (A) securely accesses a user's toll account information and (B) allows the user to manage his or her toll account to the same extent possible through the department's web site.

(ii) If the department determines that it would be cost-effective and in the best interests of the citizens of Washington, it may also develop an application for mobile technologies that allows toll customers to manage all of their tolling accounts from a mobile platform.

(13) When acquiring a new photo toll system, the department of transportation must enable the new system to:

(a) Connect with the department of licensing's vehicle record system so that a prepaid electronic toll account can be updated automatically when a toll customer's vehicle record is updated, if the customer has consented to such updates; and

(b) Document when any toll is assessed for a vehicle listed in a prepaid electronic toll account in the monthly statement that is made available to the electronic toll account holder regardless of whether the method of payment for the toll is via pay-by-mail or prepaid electronic toll account.

(14) Consistent with chapter 34.05 RCW, the department of transportation shall develop rules to implement this section.

~~((12))~~ (15) For the purposes of this section~~(7)~~:

(a) "Photo toll system" means the system defined in RCW 47.56.010 and 47.46.020.

(b) "Prepaid electronic toll account" means a prepaid toll account linked to a pass or license plate number, including "Good to Go!"

(16) If a customer's toll charge or civil penalty is waived pursuant to this section due to an error made by the department, or an agent of the department, in reading the customer's license plate, the secretary of transportation must send a letter to the customer apologizing for the error.

Sec. 2. RCW 47.56.795 and 2010 c 249 s 3 are each amended to read as follows:

(1) A toll collection system may include, but is not limited to, electronic toll collection and photo tolling.

(2)(a) A photo toll system may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this chapter are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under RCW 46.63.160. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under RCW 46.63.160. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies. Aggregate records that do not identify an individual, vehicle, or account may be maintained.

(3) The department and its agents shall only use electronic toll collection system technology for toll collection purposes.

(4) Tolls may be collected and paid by the following methods:

(a) A customer may pay an electronic toll through an electronic toll collection account;

(b) A customer may pay a photo toll either through a customer-initiated payment or in response to a toll bill; or

(c) A customer may pay with cash on toll facilities that have a manual cash collection system.

(5) To the extent practicable, the department shall adopt electronic toll collection options, which allow for anonymous customer accounts and anonymous accounts that are not linked to a specific vehicle.

(6) The transportation commission shall adopt rules, in accordance with chapter 34.05 RCW, to assess administrative fees as appropriate for toll collection processes. Administrative fees must not exceed toll collection costs. All administrative fees collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed.

(7) Failure to pay a photo toll by the toll payment due date is a violation for which a notice of civil penalty may be issued under RCW 46.63.160.

(8) For an electronic toll collection system that uses an in-vehicle device, such as a transponder, to identify a particular customer for the purposes of paying an electronic toll from that customer's toll collection account, the department must allow such in-vehicle devices to be offered for sale at vehicle dealers.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 18, 2015.

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CHAPTER 293

[Engrossed Substitute Senate Bill 5607]

GUARDIANSHIP--MODIFICATION--TERMINATION

AN ACT Relating to complaint procedure for the modification or termination of guardianship; and amending RCW 11.88.120.

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

Sec. 1. RCW 11.88.120 and 1991 c 289 s 7 are each amended to read as follows:

(1) At any time after establishment of a guardianship or appointment of a guardian, the court may, upon the death of the guardian or limited guardian, or, for other good reason, modify or terminate the guardianship or replace the guardian or limited guardian((-

~~(2) Any person, including an incapacitated person, may apply to the court for an order to modify or terminate a guardianship or to replace a guardian or limited guardian. If applicants are represented by counsel, counsel shall move for an order to show cause why the relief requested should not be granted. If applicants are not represented by counsel, they may move for an order to show cause, or they may deliver a written request to the clerk of the court.~~

(3) By the next judicial day after receipt of an unrepresented person's request to modify or terminate a guardianship order, or to replace a guardian or limited guardian, the clerk shall deliver the request to the court. The court may ~~(a) direct the clerk to schedule a hearing, (b) appoint a guardian ad litem to investigate the issues raised by the application or to take any emergency action the court deems necessary to protect the incapacitated person until a hearing can be held, or (c) deny the application without scheduling a hearing, if it appears based on documents in the court file that the application is frivolous. Any denial of an application without a hearing shall be in writing with the reasons for the denial explained. A copy of the order shall be mailed by the clerk to the applicant, to the guardian, and to any other person entitled to receive notice of proceedings in the matter. Unless within thirty days after receiving the request from the clerk the court directs otherwise, the clerk shall schedule a hearing on the request and mail notice to the guardian, the incapacitated person, the applicant, all counsel of record, and any other person entitled to receive notice of proceedings in the matter.~~

(4) In a hearing on an application to modify or terminate a guardianship, or to replace a guardian or limited guardian, the court may grant such relief as it deems just and in the best interest of the incapacitated person.

(5)) or modify the authority of a guardian or limited guardian. Such action may be taken based on the court's own motion, based on a motion by an attorney for a person or entity, based on a motion of a person or entity representing themselves, or based on a written complaint, as described in this section. The court may grant relief under this section as it deems just and in the best interest of the incapacitated person. For any hearing to modify or terminate a guardianship, the incapacitated person shall be given reasonable notice of the hearing and of the incapacitated person's right to be represented at the hearing by counsel of his or her own choosing.

(2)(a) An unrepresented person or entity may submit a complaint to the court. Complaints must be addressed to one of the following designees of the court: The clerk of the court having jurisdiction in the guardianship, the court administrator, or the guardianship monitoring program, and must identify the complainant and the incapacitated person who is the subject of the guardianship. The complaint must also provide the complainant's address, the case number (if available), and the address of the incapacitated person (if available). The complaint must state facts to support the claim.

(b) By the next judicial day after receipt of a complaint from an unrepresented person, the court's designee must ensure the original complaint is filed and deliver the complaint to the court.

(c) Within fourteen days of being presented with a complaint, the court must enter an order to do one or more of the following actions:

(i) To show cause, with fourteen days' notice, directing the guardian to appear at a hearing set by the court in order to respond to the complaint;

(ii) To appoint a guardian ad litem to investigate the issues raised by the complaint or to take any emergency action the court deems necessary to protect the incapacitated person until a hearing can be held;

(iii) To dismiss the complaint without scheduling a hearing, if it appears to the court that the complaint: Is without merit on its face; is filed in other than good faith; is filed for an improper purpose; regards issues that have already been adjudicated; or is frivolous. In making a determination, the court may review the matter and consider previous behavior of the complainant that is documented in the guardianship record;

(iv) To direct the guardian to provide, in not less than fourteen days, a written report to the court on the issues raised in the complaint;

(v) To defer consideration of the complaint until the next regularly scheduled hearing in the guardianship, if the date of that hearing is within the next three months, provided that there is no indication that the incapacitated person will suffer physical, emotional, financial, or other harm as a result of the court's deferral of consideration;

(vi) To order other action, in the court's discretion, in addition to doing one or more of the actions set out in this subsection.

(d) If after consideration of the complaint, the court believes that the complaint is made without justification or for reason to harass or delay or with malice or other bad faith, the court has the power to levy necessary sanctions.

including but not limited to the imposition of reasonable attorney fees, costs, fees, striking pleadings, or other appropriate relief.

(3) The court may order persons who have been removed as guardians to deliver any property or records belonging to the incapacitated person in accordance with the court's order. Similarly, when guardians have died or been removed and property or records of an incapacitated person are being held by any other person, the court may order that person to deliver it in accordance with the court's order. Disobedience of an order to deliver shall be punishable as contempt of court.

(4) The administrative office of the courts must develop and prepare in consultation with interested persons, a model form for the complaint described in subsection (2)(a) of this section and a model form for the order that must be issued by the court under subsection (2)(c) of this section.

(5) The board may send a grievance it has received regarding an active guardian case to the court's designee with a request that the court review the grievance and take any action the court deems necessary. This type of request from the board must be treated as a complaint under this section and the person who sent the complaint must be treated as the complainant. The court must direct the clerk to transmit a copy of its order to the board. The board must consider the court order when taking any further action and note the court order in any final determination.

(6) In any court action under this section that involves a professional guardian, the court must direct the clerk of the court to send a copy of the order entered under this section to the board.

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

(a) "Board" means the certified professional guardianship board.

(b) "Complaint" means a written submission by an unrepresented person or entity, who is referred to as the complainant.

Passed by the Senate April 23, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 294

[Engrossed Senate Bill 5616]

PAWNBROKER LOANS

AN ACT Relating to pawnbroker fees and interest rates; amending RCW 19.60.060; and providing an expiration date.

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

Sec. 1. RCW 19.60.060 and 2007 c 125 s 1 are each amended to read as follows:

All pawnbrokers are authorized to charge and receive interest and other fees at the following rates for money on the security of personal property actually received in pledge:

(1) The interest for the loan period shall not exceed:

(a) For an amount loaned up to \$9.99 - interest at \$1.00 for each thirty-day period to include the loan date.

(b) For an amount loaned from \$10.00 to \$19.99 - interest at the rate of \$1.25 for each thirty-day period to include the loan date.

(c) For an amount loaned from \$20.00 to \$24.99 - interest at the rate of \$1.50 for each thirty-day period to include the loan date.

(d) For an amount loaned from \$25.00 to \$34.99 - interest at the rate of \$1.75 for each thirty-day period to include the loan date.

(e) For an amount loaned from \$35.00 to \$39.99 - interest at the rate of \$2.00 for each thirty-day period to include the loan date.

(f) For an amount loaned from \$40.00 to \$49.99 - interest at the rate of \$2.25 for each thirty-day period to include the loan date.

(g) For the amount loaned from \$50.00 to \$59.99 - interest at the rate of \$2.50 for each thirty-day period to include the loan date.

(h) For the amount loaned from \$60.00 to \$69.99 - interest at the rate of \$2.75 for each thirty-day period to include the loan date.

(i) For the amount loaned from \$70.00 to \$79.99 - interest at the rate of \$3.00 for each thirty-day period to include the loan date.

(j) For the amount loaned from \$80.00 to \$89.99 - interest at the rate of \$3.25 for each thirty-day period to include the loan date.

(k) For the amount loaned from \$90.00 to \$99.99 - interest at the rate of \$3.50 for each thirty-day period to include the loan date.

(l) For ~~((the))~~ loan amounts (loaned from) of \$100.00 or more - interest at the rate of ~~((three))~~ four percent for each thirty-day period to include the loan date.

(2) The fee for the preparation of loan documents, pledges, or reports required under the laws of the United States of America, the state of Washington, or the counties, cities, towns, or other political subdivisions thereof, shall not exceed:

(a) For the amount loaned up to \$4.99 - the sum of \$1.50.

(b) For the amount loaned from \$5.00 to \$9.99 - the sum of \$3.00.

(c) For the amount loaned from \$10.00 to \$14.99 - the sum of \$4.00.

(d) For the amount loaned from \$15.00 to \$19.99 - the sum of \$4.50.

(e) For the amount loaned from \$20.00 to \$24.99 - the sum of \$5.00.

(f) For the amount loaned from \$25.00 to \$29.99 - the sum of \$5.50.

(g) For the amount loaned from \$30.00 to \$34.99 - the sum of \$6.00.

(h) For the amount loaned from \$35.00 to \$39.99 - the sum of \$6.50.

(i) For the amount loaned from \$40.00 to \$44.99 - the sum of \$7.00.

(j) For the amount loaned from \$45.00 to \$49.99 - the sum of \$7.50.

(k) For the amount loaned from \$50.00 to ~~((\$54.99 — the sum of \$8.00))~~ \$99.99 - fifteen percent of the loan amount.

(l) For the amount loaned from ~~((\$55.00 to \$59.99 — the sum of \$8.50))~~ \$100.00 to \$249.99 - thirteen percent of the loan amount.

(m) For the amount loaned from ~~((\$60.00 to \$64.99 — the sum of \$9.00))~~ \$250.00 to \$499.99 - ten percent of the loan amount.

(n) For the amount loaned from ~~((\$65.00 to \$69.99 — the sum of \$9.50))~~ \$500.00 to \$999.99 - eight percent of the loan amount.

(o) For the amount loaned from ~~((\$70.00 to \$74.99 — the sum of \$10.00))~~ \$1000.00 to \$1499.99 - seven and one-half percent of the loan amount.

(p) For the amount loaned from (~~(\$75.00 to \$79.99 — the sum of \$10.50)~~) \$1500.00 to \$1999.99 - seven percent of the loan amount.

(q) For the amount loaned (~~(from \$80.00 to \$84.99 — the sum of \$11.00)~~) of \$2000.00 or more - six percent of the loan amount.

~~((r) For the amount loaned from \$85.00 to \$89.99 — the sum of \$11.50.~~

~~(s) For the amount loaned from \$90.00 to \$94.99 — the sum of \$12.00.~~

~~(t) For the amount loaned from \$95.00 to \$99.99 — the sum of \$12.50.~~

~~(u) For the amount loaned from \$100.00 to \$104.99 — the sum of \$13.00.~~

~~(v) For the amount loaned from \$105.00 to \$109.99 — the sum of \$13.25.~~

~~(w) For the amount loaned from \$110.00 to \$114.99 — the sum of \$13.75.~~

~~(x) For the amount loaned from \$115.00 to \$119.99 — the sum of \$14.25.~~

~~(y) For the amount loaned from \$120.00 to \$124.99 — the sum of \$14.50.~~

~~(z) For the amount loaned from \$125.00 to \$129.99 — the sum of \$14.75.~~

~~(aa) For the amount loaned from \$130.00 to \$149.99 — the sum of \$15.50.~~

~~(bb) For the amount loaned from \$150.00 to \$174.99 — the sum of \$15.75.~~

~~(cc) For the amount loaned from \$175.00 to \$199.99 — the sum of \$16.00.~~

~~(dd) For the amount loaned from \$200.00 to \$224.99 — the sum of \$17.00.~~

~~(ee) For the amount loaned from \$225.00 to \$249.99 — the sum of \$18.00.~~

~~(ff) For the amount loaned from \$250.00 to \$274.99 — the sum of \$19.00.~~

~~(gg) For the amount loaned from \$275.00 to \$299.99 — the sum of \$20.00.~~

~~(hh) For the amount loaned from \$300.00 to \$324.99 — the sum of \$21.00.~~

~~(ii) For the amount loaned from \$325.00 to \$349.99 — the sum of \$22.00.~~

~~(jj) For the amount loaned from \$350.00 to \$374.99 — the sum of \$23.00.~~

~~(kk) For the amount loaned from \$375.00 to \$399.99 — the sum of \$24.00.~~

~~(ll) For the amount loaned from \$400.00 to \$424.99 — the sum of \$25.00.~~

~~(mm) For the amount loaned from \$425.00 to \$449.99 — the sum of \$26.00.~~

~~(nn) For the amount loaned from \$450.00 to \$474.99 — the sum of \$27.00.~~

~~(oo) For the amount loaned from \$475.00 to \$499.99 — the sum of \$28.00.~~

~~(pp) For the amount loaned from \$500.00 to \$524.99 — the sum of \$29.00.~~

~~(qq) For the amount loaned from \$525.00 to \$549.99 — the sum of \$30.00.~~

~~(rr) For the amount loaned from \$550.00 to \$599.99 — the sum of \$31.00.~~

~~(ss) For the amount loaned from \$600.00 to \$699.99 — the sum of \$36.00.~~

~~(tt) For the amount loaned from \$700.00 to \$799.99 — the sum of \$41.00.~~

~~(uu) For the amount loaned from \$800.00 to \$899.99 — the sum of \$46.00.~~

~~(vv) For the amount loaned from \$900.00 to \$999.99 — the sum of \$51.00.~~

~~(ww) For the amount loaned from \$1000.00 to \$1499.99 — the sum of \$56.00.~~

~~(xx) For the amount loaned from \$1500.00 to \$1999.99 — the sum of \$61.00.~~

~~(yy) For the amount loaned from \$2000.00 to \$2499.99 — the sum of \$66.00.~~

~~(zz) For the amount loaned from \$2500.00 to \$2999.99 — the sum of \$71.00.~~

~~(aaa) For the amount loaned from \$3000.00 to \$3499.99 — the sum of \$76.00.~~

~~(bbb) For the amount loaned from \$3500.00 to \$3999.99 — the sum of \$81.00.~~

~~(ccc) For the amount loaned from \$4000.00 to \$4499.99 — the sum of \$86.00.~~

~~(ddd) For the amount loaned from \$4500.00 or more — the sum of \$91.00.)~~

(3) For each thirty-day period, a pawnbroker may charge:

(a) A storage fee of (~~(\$3.00.)~~) \$5.00; and

(b) An additional fee of (~~(\$3.00 may be charged)~~) \$5.00 for storing a firearm.

(4) Fees under subsection (2) of this section may be charged one time only for each loan period; no additional fees, other than interest allowed under subsection (1) of this section and storage fees allowed under subsection (3) of this section, shall be charged for making the loan. (~~(Storage fees are allowed under subsection (3) of this section.)~~)

A copy of this section, set in twelve point type or larger, shall be posted prominently in each premises subject to this chapter.

NEW SECTION. Sec. 2. Section 1 expires July 1, 2018.

Passed by the Senate April 22, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 295

[Senate Bill 5647]

GUARDIANSHIP COURTHOUSE FACILITATOR PROGRAMS

AN ACT Relating to allowing counties to create guardianship courthouse facilitator programs; and adding a new section to chapter 11.88 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 11.88 RCW to read as follows:

A county may create a guardianship courthouse facilitator program to provide basic services to pro se litigants in guardianship cases. The legislative authority of any county may impose user fees or may impose a surcharge of up to twenty dollars, or both, on superior court cases filed under chapters 11.88, 11.90, 11.92, and 73.36 RCW to pay for the expenses of the guardianship courthouse facilitator program. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate guardianship courthouse facilitator account to be used as provided in this section.

Passed by the Senate April 16, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 296

[Engrossed Substitute Senate Bill 5826]

WASHINGTON SMALL BUSINESS RETIREMENT MARKETPLACE

AN ACT Relating to creating the Washington small business retirement marketplace; adding new sections to chapter 43.330 RCW; adding a new section to chapter 43.320 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that there is a retirement savings access gap in Washington; that Americans reach the median salary four years later than they did in 1980 and therefore have four fewer years of savings opportunities; and that one in six Americans retire in poverty. Employees who are unable to effectively build their retirement savings risk living on low incomes in their elderly years and are more likely to become dependent on state services. Further, small businesses, which employ more than forty percent of private sector employees in Washington, often choose not to offer retirement plans to employees due to concerns about costs, administrative burdens, and potential liability that they believe such plans would place on their business. In response, the legislature recognizes the work of the federal government in addressing these issues by establishing the myRA program: A safe, affordable, and accessible retirement vehicle designed to remove barriers to retirement savings. In addition, the legislature recognizes that many private financial services firms in Washington currently offer high quality retirement options for small businesses and their employees.

The Washington small business retirement marketplace will remove barriers to entry into the retirement market for small businesses by educating small employers on plan availability and promoting, without mandated participation, qualified, low-cost, low-burden retirement savings vehicles and myRA. The marketplace furthers greater retirement plan access for the residents of Washington while ensuring that individuals participating in these retirement plans will have all the protections offered by the employee retirement income security act. Further, the Washington small business retirement marketplace will not pose any significant financial burden upon taxpayers. The Washington small business retirement marketplace will be the best way for Washington to close the retirement savings access gap, protect the fiscal stability of the state and its citizens well into the future, and further cement its place as a national leader in retirement and investor promotion and protection. The marketplace will educate and promote retirement saving among employees and in particular market to small employers with fifty or fewer employees.

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

(1) "Approved plans" means retirement plans offered by private sector financial services firms that meet the requirements of this chapter to participate in the marketplace.

(2) "Balanced fund" means a mutual fund that has an investment mandate to balance its portfolio holdings. The fund generally includes a mix of stocks and bonds in varying proportions according to the fund's investment outlook.

(3) "Eligible employer" means a self-employed individual, sole proprietor, or an employer with fewer than one hundred qualified employees at the time of enrollment.

(4) "Enrollee" means any employee who is voluntarily enrolled in an approved plan offered by an eligible employer through the Washington small business retirement marketplace.

(5) "myRA" means the myRA retirement program administered by the United States department of the treasury that is available to all employers and employees with no fees or no minimum contribution requirements. A myRA is a

Roth IRA option and investments in these accounts are backed by the United States department of the treasury.

(6) "Participating employer" means any eligible employer with employees enrolled in an approved plan offered through the Washington small business retirement marketplace who chooses to participate in the marketplace and offers approved plans to employees for voluntary enrollment.

(7) "Private sector financial services firms" or "financial services firms" mean persons or entities licensed or holding a certificate of authority and in good standing by either the department of financial institutions or the office of the insurance commissioner and meeting all federal laws and regulations to offer retirement plans.

(8) "Qualified employee" means those workers who are defined by the federal internal revenue service to be eligible to participate in a specific qualified plan.

(9) "Target date or other similar fund" means a hybrid mutual fund that automatically resets the asset mix of stocks, bonds, and cash equivalents in its portfolio according to a selected time frame that is appropriate for a particular investor. A target date is structured to address a projected retirement date.

(10) "Washington small business retirement marketplace" or "marketplace" means the retirement savings program created to connect eligible employers and their employees with approved plans to increase retirement savings.

NEW SECTION. Sec. 3. (1) The Washington small business retirement marketplace is created.

(2) Prior to connecting any eligible employer with an approved plan in the marketplace, the director shall design a plan for the operation of the marketplace.

(3) The director shall consult with the Washington state department of retirement systems, the Washington state investment board, and the department of financial institutions in designing and managing the marketplace.

(4) The director shall approve for participation in the marketplace all private sector financial services firms that meet the requirements of section 2(7) of this act.

(5) A range of investment options must be provided to meet the needs of investors with various levels of risk tolerance and various ages. The director must approve a diverse array of private retirement plan options that are available to employers on a voluntary basis, including life insurance plans that are designed for retirement purposes, and at least two types of plans for eligible employer participation: (a) A SIMPLE IRA-type plan that provides for employer contributions to participating enrollee accounts; and (b) a payroll deduction individual retirement account type plan or workplace-based individual retirement accounts open to all workers in which the employer does not contribute to the employees' account.

(6) Prior to approving a plan to be offered on the marketplace, the department must receive verification from the department of financial institutions and the office of the insurance commissioner (a) that the private sector financial services firm offering the plan meets the requirements of section 2(7) of this act; and (b) that the plan meets the requirements of this section excluding subsection (9) of this section which is subject to federal laws and regulations. The director may remove approved plans that no longer meet the requirements of this chapter.

(7) The financial services firms participating in the marketplace must offer a minimum of two product options: (a) A target date or other similar fund, with asset allocations and maturities designed to coincide with the expected date of retirement and (b) a balanced fund. The marketplace must offer myRA.

(8) In order for the marketplace to operate, there must be at least two financial services firms offering approved plans on the marketplace; however, nothing in this subsection shall be construed to limit the number of private sector financial services firms with approved plans from participating in the marketplace.

(9) Approved plans must meet federal law or regulation for internal revenue service approved retirement plans.

(10) The approved plans must include the option for enrollees to roll pretax contributions into a different individual retirement account or another eligible retirement plan after ceasing participation in a plan approved by the Washington small business retirement marketplace.

(11) Financial services firms selected by the department to offer approved plans on the marketplace may not charge the participating employer an administrative fee and may not charge enrollees more than one hundred basis points in total annual fees and must provide information about their product's historical investment performance.

(12) Participation in the Washington small business retirement marketplace is voluntary for both eligible employers and qualified employees.

(13) Enrollment in any approved plan offered in the marketplace is not an entitlement.

NEW SECTION. Sec. 4. (1) The director shall contract with a private sector entity to:

(a) Establish a protocol for reviewing and approving the qualifications of all private sector financial services firms that meet the qualifications to participate in the marketplace;

(b) Design and operate an internet web site that includes information about how eligible employers can voluntarily participate in the marketplace;

(c) Develop marketing materials about the marketplace that can be distributed electronically, posted on agency web sites that interact with eligible employers, or inserted into mail from the department of revenue, department of labor and industries, employment security department, the office of minority and women's business enterprises, department of licensing, and secretary of state's division of corporations;

(d) Identify and promote existing federal and state tax credits and benefits for employers and employees that are related to encouraging retirement savings or participating in retirement plans; and

(e) Promote the benefits of retirement savings and other information that promotes financial literacy.

(2) The director shall address how rollovers are handled for eligible Washington employers that have workers in other states, and whether out-of-state employees with existing IRA's can roll them into the plans offered through the Washington small business retirement marketplace.

(3) The director shall direct the entity retained pursuant to subsection (1) of this section to assure that licensed professionals who assist their eligible business clients or employees to enroll in a plan offered through the Washington

small business retirement marketplace may receive routine, market-based commissions or other compensation for their services.

(4) The director shall ensure by rule that there is objective criteria in the protocol provided in subsection (1)(a) of this section and that the protocol does not provide unfair advantage to the private sector entity which establishes the protocol.

(5) The director shall encourage the participation of private sector financial services firms in the marketplace.

NEW SECTION. Sec. 5. In addition to any appropriated funds, the director may use private funding sources, including private foundation grants, to pay for marketplace expenses. On behalf of the marketplace, the department shall seek federal and private grants and is authorized to accept any funds awarded to the department for use in the marketplace.

NEW SECTION. Sec. 6. The department shall not expose the state of Washington as an employer or through administration of the marketplace to any potential liability under the federal employee retirement income act of 1974. As such, the department is specifically prohibited from offering and operating a state-based retirement plan for businesses or individuals who are not employed by the state of Washington.

NEW SECTION. Sec. 7. Using funds specifically appropriated for this purpose, and funds provided by private foundations or other private sector entities, the director may provide incentive payments to participating employers that enroll in the marketplace.

NEW SECTION. Sec. 8. The director shall report biennially to the legislature on the effectiveness and efficiency of the Washington small business retirement marketplace, including the levels of enrollment and the retirement savings levels of participating enrollees that are obtained in aggregate on a voluntary basis from private sector financial services firms that participate in the marketplace.

NEW SECTION. Sec. 9. The director shall adopt rules necessary to allow the marketplace to operate as authorized by this subchapter. As part of the rule development process, the director shall consult with organizations representing eligible employers, qualified employees, private and nonprofit sector retirement plan administrators and providers, organizations representing private sector financial services firms, and any other individuals or entities that the director determines relevant to the development of an effective and efficient method for operating the marketplace. The rules must be proposed by January 1st of the year of implementation and rules shall not be adopted until after the end of the regular legislative session of that year.

NEW SECTION. Sec. 10. A new section is added to chapter 43.320 RCW to read as follows:

The department of financial institutions, annually, or upon request of the department of commerce, must review individual retirement account products proposed for inclusion in the Washington small business retirement marketplace to confirm that the products comply with the requirements of section 3 of this act, except for those requirements that pertain to federal laws and regulations.

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. Sections 1 through 9 of this act are each added to chapter 43.330 RCW and codified with the subchapter heading of "Washington small business retirement marketplace."

Passed by the Senate April 21, 2015.

Passed by the House April 10, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 297

[Engrossed Senate Bill 5871]

PUBLIC SEWER SYSTEM CONNECTION--APPEAL PROCESS

AN ACT Relating to appeal procedures for single-family homeowners with failing septic systems required to connect to public sewer systems; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; and adding a new section to chapter 36.01 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 35.21 RCW to read as follows:

(1) A city with an ordinance or resolution requiring, upon the failure of an on-site septic system, connection to a public sewer system must, in accordance with this section, provide an administrative appeals process to consider denials of permit applications to repair or replace the septic system. The administrative appeals process required by this section applies only to requests to repair or replace existing, failing on-site septic systems that:

- (a) Were made for a single-family residence by its owner or owners;
- (b) Were denied solely because of a law, regulation, or ordinance requiring connection to a public sewer system; and
- (c) Absent the applicable law, regulation, or ordinance requiring connection to a public sewer system upon which the denial was based, would be approved.

(2) If the city has an administrative appeals process, the city may, subject to the requirements of this section, use that process. The administrative appeals process required by this section, however, must be presided over by the legislative body of the city or by an administrative hearings officer.

(3) The administrative appeals process required by this section must, at a minimum, consider whether:

- (a) It is cost-prohibitive to require the property owner to connect to the public sewer system. In complying with this subsection (3)(a), the city must consider the estimated cost to repair or replace the on-site septic system compared to the estimated cost to connect to the public sewer system;

(b) There are public health or environmental considerations related to allowing the property owner to repair or replace the on-site septic system. In complying with this subsection (3)(b), the city must consider whether the repaired or replaced on-site septic system contributes to the pollution of surface waters or groundwater;

(c) There are public sewer system performance or financing considerations related to allowing the property owner to repair or replace the on-site septic system; and

(d) There are financial assistance programs or latecomer agreements offered by the city or state that may impact a decision of the property owner to repair or replace the on-site septic system.

(4) If the city, following the appeals process required by this section, determines that the property owner must connect the residence to the public sewer system, the property owner may, in complying with the determination and subject to approval of appropriate permits, select and hire contractors at his or her own expense to perform the work necessary to connect the residence to the public sewer system.

(5) Unless otherwise required by law, a city determination requiring the owner of a single-family residence with a failing on-site septic system to connect a residence to a public sewer system is not subject to appeal.

(6) For purposes of this section, "city" means a city or town.

NEW SECTION. Sec. 2. A new section is added to chapter 35A.21 RCW to read as follows:

(1) A city with an ordinance or resolution requiring, upon the failure of an on-site septic system, connection to a public sewer system must, in accordance with this section, provide an administrative appeals process to consider denials of permit applications to repair or replace the septic system. The administrative appeals process required by this section applies only to requests to repair or replace existing, failing on-site septic systems that:

(a) Were made for a single-family residence by its owner or owners;

(b) Were denied solely because of a law, regulation, or ordinance requiring connection to a public sewer system; and

(c) Absent the applicable law, regulation, or ordinance requiring connection to a public sewer system upon which the denial was based, would be approved.

(2) If the city has an administrative appeals process, the city may, subject to the requirements of this section, use that process. The administrative appeals process required by this section, however, must be presided over by the legislative body of the city or by an administrative hearings officer.

(3) The administrative appeals process required by this section must, at a minimum, consider whether:

(a) It is cost-prohibitive to require the property owner to connect to the public sewer system. In complying with this subsection (3)(a), the city must consider the estimated cost to repair or replace the on-site septic system compared to the estimated cost to connect to the public sewer system;

(b) There are public health or environmental considerations related to allowing the property owner to repair or replace the on-site septic system. In complying with this subsection (3)(b), the city must consider whether the repaired or replaced on-site septic system contributes to the pollution of surface waters or groundwater;

(c) There are public sewer system performance or financing considerations related to allowing the property owner to repair or replace the on-site septic system; and

(d) There are financial assistance programs or latecomer agreements offered by the city or state that may impact a decision of the property owner to repair or replace the on-site septic system.

(4) If the city, following the appeals process required by this section, determines that the property owner must connect the residence to the public sewer system, the property owner may, in complying with the determination and subject to approval of appropriate permits, select and hire contractors at his or her own expense to perform the work necessary to connect the residence to the public sewer system.

(5) Unless otherwise required by law, a city determination requiring the owner of a single-family residence with a failing on-site septic system to connect a residence to a public sewer system is not subject to appeal.

(6) For purposes of this section, "city" means a "code city" as defined in RCW 35A.01.035.

NEW SECTION. Sec. 3. A new section is added to chapter 36.01 RCW to read as follows:

(1) A county with an ordinance or resolution requiring, upon the failure of an on-site septic system, connection to a public sewer system must, in accordance with this section, provide an administrative appeals process to consider denials of permit applications to repair or replace the septic system. The administrative appeals process required by this section applies only to requests to repair or replace existing, failing on-site septic systems that:

(a) Were made for a single-family residence by its owner or owners;

(b) Were denied solely because of a law, regulation, or ordinance requiring connection to a public sewer system; and

(c) Absent the applicable law, regulation, or ordinance requiring connection to a public sewer system upon which the denial was based, would be approved.

(2) If the county has an administrative appeals process, the county may, subject to the requirements of this section, use that process. The administrative appeals process required by this section, however, must be presided over by the legislative body of the county or by an administrative hearings officer.

(3) The administrative appeals process required by this section must, at a minimum, consider whether:

(a) It is cost-prohibitive to require the property owner to connect to the public sewer system. In complying with this subsection (3)(a), the county must consider the estimated cost to repair or replace the on-site septic system compared to the estimated cost to connect to the public sewer system;

(b) There are public health or environmental considerations related to allowing the property owner to repair or replace the on-site septic system. In complying with this subsection (3)(b), the county must consider whether the repaired or replaced on-site septic system contributes to the pollution of surface waters or groundwater;

(c) There are public sewer system performance or financing considerations related to allowing the property owner to repair or replace the on-site septic system; and

(d) There are financial assistance programs or latecomer agreements offered by the county or state that may impact a decision of the property owner to repair or replace the on-site septic system.

(4) If the county, following the appeals process required by this section, determines that the property owner must connect the residence to the public sewer system, the property owner may, in complying with the determination and subject to approval of appropriate permits, select and hire contractors at his or her own expense to perform the work necessary to connect the residence to the public sewer system.

(5) Unless otherwise required by law, a county determination requiring the owner of a single-family residence with a failing on-site septic system to connect a residence to a public sewer system is not subject to appeal.

Passed by the Senate March 10, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 298

[Second Substitute Senate Bill 5888]

DEPARTMENT OF SOCIAL AND HEALTH SERVICES--NEAR CHILD FATALITY REVIEWS

AN ACT Relating to near fatality incidents of children who have received services from the department of social and health services; amending RCW 74.13.640; adding a new section to chapter 26.44 RCW; and creating a new section.

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

Sec. 1. RCW 74.13.640 and 2013 c 23 s 209 are each amended to read as follows:

(1)(a) The department shall conduct a child fatality review in the event of a fatality suspected to be caused by child abuse or neglect of any minor who is in the care of the department or a supervising agency or receiving services described in this chapter or who has been in the care of the department or a supervising agency or received services described in this chapter within one year preceding the minor's death.

(b) The department shall consult with the office of the family and children's ombuds to determine if a child fatality review should be conducted in any case in which it cannot be determined whether the child's death is the result of suspected child abuse or neglect.

(c) The department shall ensure that the fatality review team is made up of individuals who had no previous involvement in the case, including individuals whose professional expertise is pertinent to the dynamics of the case.

(d) Upon conclusion of a child fatality review required pursuant to this section, the department shall within one hundred eighty days following the fatality issue a report on the results of the review, unless an extension has been granted by the governor. Reports must be distributed to the appropriate committees of the legislature, and the department shall create a public web site where all child fatality review reports required under this section must be posted and maintained. A child fatality review report completed pursuant to this section is subject to public disclosure and must be posted on the public web site, except

that confidential information may be redacted by the department consistent with the requirements of RCW 13.50.100, 68.50.105, 74.13.500 through 74.13.525, chapter 42.56 RCW, and other applicable state and federal laws.

(e) The department shall develop and implement procedures to carry out the requirements of this section.

(2)(a) In the event of a near fatality of a child who is in the care of or receiving services described in this chapter from the department or a supervising agency or who has been in the care of or received services described in this chapter from the department or a supervising agency within one year preceding the near fatality, the department shall promptly notify the office of the family and children's ombuds. The department may conduct a review of the near fatality at its discretion or at the request of the office of the family and children's ombuds.

(b) In the event of a near fatality of a child who is in the care of or receiving services described in this chapter from the department or a supervising agency or who has been in the care of or received services described in this chapter from the department or a supervising agency within three months preceding the near fatality, or was the subject of an investigation by the department for possible abuse or neglect, the department shall promptly notify the office of the family and children's ombuds and the department shall conduct a review of the near fatality.

(c) "Near fatality" means an act that, as certified by a physician, places the child in serious or critical condition.

(3) In any review of a child fatality or near fatality in which the child was placed with or received services from a supervising agency pursuant to a contract with the department, the department and the fatality review team shall have access to all records and files regarding the child or otherwise relevant to the review that have been produced or retained by the supervising agency.

(4)(a) A child fatality or near fatality review completed pursuant to this section is subject to discovery in a civil or administrative proceeding, but may not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to this section.

(b) A department employee responsible for conducting a child fatality or near fatality review, or member of a child fatality or near fatality review team, may not be examined in a civil or administrative proceeding regarding (i) the work of the child fatality or near fatality review team, (ii) the incident under review, (iii) his or her statements, deliberations, thoughts, analyses, or impressions relating to the work of the child fatality or near fatality review team or the incident under review, or (iv) the statements, deliberations, thoughts, analyses, or impressions of any other member of the child fatality or near fatality review team, or any person who provided information to the child fatality or near fatality review team, relating to the work of the child fatality or near fatality review team or the incident under review.

(c) Documents prepared by or for a child fatality or near fatality review team are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in a child fatality or near fatality review, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by a child fatality or near fatality review team. A person is not unavailable as a

witness merely because the person has been interviewed by or has provided a statement for a child fatality or near fatality review, but if called as a witness, a person may not be examined regarding the person's interactions with the child fatality or near fatality review including, without limitation, whether the person was interviewed during such review, the questions that were asked during such review, and the answers that the person provided during such review. This section may not be construed as restricting the person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(d) The restrictions set forth in this section do not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with a minor's death or near fatality reviewed by a child fatality or near fatality review team.

NEW SECTION. Sec. 2. A new section is added to chapter 26.44 RCW to read as follows:

(1) When a case worker or other employee of the department responds to an allegation of child abuse or neglect that is screened in and open for investigation and there is a subsequent allegation of abuse or neglect resulting in a near fatality within one year of the initial allegation that is screened in and open for investigation, the department is to immediately conduct a review of the case worker's and case worker's supervisor's case files and actions taken during the initial report of alleged child abuse or neglect. The purpose of the review is to determine if there were any errors by the employees under department policy, rule, or state statute. If any violations of policy, rule, or statute are found, the department is to conduct a formal employee investigation.

(2) A review conducted under this section is subject to the restrictions of RCW 74.13.640(4).

(3) "Near fatality" has the same meaning as in RCW 74.13.640.

NEW SECTION. Sec. 3. This act may be known and cited as Aiden's act.

Passed by the Senate April 16, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

CHAPTER 299

[Engrossed Senate Bill 5893]

LABOR REGULATIONS--AMATEUR ATHLETES

AN ACT Relating to the nonemployee status of athletes in amateur sports; amending RCW 49.12.005; reenacting and amending RCW 49.46.010; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature recognizes that junior ice hockey teams that are members of regional, national, or internationally recognized leagues provide significant benefits to their players by teaching them valuable athletic skills and interpersonal life skills. These junior teams also provide significant financial support to their communities as tenants of arenas owned, operated, or managed by public facilities districts. The legislature seeks to assist in the financial stability of public facilities districts and to ensure the viability of

junior ice hockey in the state by clarifying that these young athletes are not employees of their teams.

Sec. 2. RCW 49.12.005 and 2003 c 401 s 2 are each amended to read as follows:

For the purposes of this chapter:

(1) "Department" means the department of labor and industries.

(2) "Director" means the director of the department of labor and industries, or the director's designated representative.

(3)(a) Before May 20, 2003, "employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees but does not include the state, any state institution, any state agency, political subdivision of the state, or any municipal corporation or quasi-municipal corporation. However, for the purposes of RCW 49.12.265 through 49.12.295, 49.12.350 through 49.12.370, 49.12.450, and 49.12.460 only, "employer" also includes the state, any state institution, any state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation.

(b) On and after May 20, 2003, "employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees, and includes the state, any state institution, state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation. However, this chapter and the rules adopted thereunder apply to these public employers only to the extent that this chapter and the rules adopted thereunder do not conflict with: (i) Any state statute or rule; and (ii) respect to political subdivisions of the state and any municipal or quasi-municipal corporation, any local resolution, ordinance, or rule adopted under the authority of the local legislative authority before April 1, 2003.

(4) "Employee" means an employee who is employed in the business of the employee's employer whether by way of manual labor or otherwise. "Employee" does not include an individual who is at least sixteen years old but under twenty-one years old, in his or her capacity as a player for a junior ice hockey team that is a member of a regional, national, or international league and that contracts with an arena owned, operated, or managed by a public facilities district created under chapter 36.100 RCW.

(5) "Conditions of labor" means and includes the conditions of rest and meal periods for employees including provisions for personal privacy, practices, methods and means by or through which labor or services are performed by employees and includes bona fide physical qualifications in employment, but shall not include conditions of labor otherwise governed by statutes and rules and regulations relating to industrial safety and health administered by the department.

(6) For the purpose of chapter 16, Laws of 1973 2nd ex. sess. a minor is defined to be a person of either sex under the age of eighteen years.

Sec. 3. RCW 49.46.010 and 2014 c 131 s 2 and 2013 c 141 s 1 are each reenacted amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Employ" includes to permit to work;

(3) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesperson as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the human resources director pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement, or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(o) Any farm intern providing his or her services to a small farm which has a special certificate issued under RCW 49.12.470;

(p) An individual who is at least sixteen years old but under twenty-one years old, in his or her capacity as a player for a junior ice hockey team that is a member of a regional, national, or international league and that contracts with an arena owned, operated, or managed by a public facilities district created under chapter 36.100 RCW;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(6) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry;

(7) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director.

Passed by the Senate April 16, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.

WASHINGTON LAWS

2015 FIRST SPECIAL SESSION

CHAPTER 1

[Salary Schedule.sl]

SALARIES—STATE ELECTED OFFICIALS

AN ACT Relating to salaries of elected officials; and amending RCW 43.03.011, 43.03.012, and 43.03.013.

Be it enacted by the Washington citizens' commission on salaries for elected officials of the State of Washington:

Sec. 1. RCW 43.03.011 and 2013 c 340 s 1 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

(1) Effective September 1, (2012) <u>2014</u> :	
(a) Governor	\$ 166,891
(b) Lieutenant governor	\$ ((93,948))
	<u>97,000</u>
(c) Secretary of state	\$ 116,950
(d) Treasurer	\$ ((116,950))
	<u>125,000</u>
(e) Auditor	\$ 116,950
(f) Attorney general	\$ 151,718
(g) Superintendent of public instruction	\$ ((121,618))
	<u>127,772</u>
(h) Commissioner of public lands	\$ ((121,618))
	<u>124,050</u>
(i) Insurance commissioner	\$ 116,950
(2) Effective September 1, (2013) <u>2015</u> :	
(a) Governor	\$ ((166,891))
	<u>171,898</u>
(b) Lieutenant governor	\$ ((97,000))
	<u>100,880</u>
(c) Secretary of state	\$ ((116,950))
	<u>120,459</u>
(d) Treasurer	\$ ((125,000))
	<u>133,750</u>
(e) Auditor	\$ ((116,950))
	<u>120,459</u>
(f) Attorney general	\$ ((151,718))
	<u>156,270</u>
(g) Superintendent of public instruction	\$ ((124,050))
	<u>132,883</u>
(h) Commissioner of public lands	\$ ((124,050))
	<u>130,253</u>
(i) Insurance commissioner	\$ ((116,950))
	<u>121,628</u>
(3) Effective September 1, (2014) <u>2016</u> :	
(a) Governor	\$ ((166,891))
	<u>173,617</u>

(b) Lieutenant governor	\$ ((97,000))
	<u>101,889</u>
(c) Secretary of state	\$ ((116,950))
	<u>121,663</u>
(d) Treasurer.	\$ ((125,000))
	<u>140,438</u>
(e) Auditor	\$ ((116,950))
	<u>121,663</u>
(f) Attorney general	\$ ((151,718))
	<u>159,395</u>
(g) Superintendent of public instruction	\$ ((127,772))
	<u>134,212</u>
(h) Commissioner of public lands	\$ ((124,050))
	<u>132,858</u>
(i) Insurance commissioner	\$ ((116,950))
	<u>124,061</u>

(4) The lieutenant governor shall receive the fixed amount of his or her salary plus 1/260th of the difference between his or her salary and that of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor.

Sec. 2. RCW 43.03.012 and 2013 c 340 s 2 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

(1) Effective September 1, ((2012)) <u>2014</u> :	
(a) <u>Chief justice of the supreme court</u>	<u>\$172,531</u>
<u>(b)</u> Justices of the supreme court	\$ ((164,221))
	<u>172,531</u>
((b)) <u>(c)</u> Judges of the court of appeals	\$ ((156,328))
	<u>164,238</u>
((e)) <u>(d)</u> Judges of the superior court	\$ ((148,832))
	<u>156,363</u>
((d)) <u>(e)</u> Full-time judges of the district court	\$ ((141,710))
	<u>148,881</u>
(2) Effective September 1, ((2013)) <u>2015</u> :	
(a) <u>Chief justice of the supreme court</u>	<u>\$182,020</u>
<u>(b)</u> Justices of the supreme court	\$ ((167,505))
	<u>179,432</u>
((b)) <u>(c)</u> Judges of the court of appeals	\$ ((159,455))
	<u>170,808</u>
((e)) <u>(d)</u> Judges of the superior court	\$ ((151,809))
	<u>162,618</u>
((d)) <u>(e)</u> Full-time judges of the district court	\$ ((144,544))
	<u>154,836</u>
(3) Effective September 1, ((2014)) <u>2016</u> :	
(a) <u>Chief justice of the supreme court</u>	<u>\$185,661</u>
<u>(b)</u> Justices of the supreme court	\$ ((172,531))

	<u>183,021</u>
((b)) <u>(c)</u> Judges of the court of appeals	\$ ((164,238))
	<u>174,224</u>
((e)) <u>(d)</u> Judges of the superior court	\$ ((156,363))
	<u>165,870</u>
((d)) <u>(e)</u> Full-time judges of the district court	\$ ((148,881))
	<u>157,933</u>

(4) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge.

Sec. 3. RCW 43.03.013 and 2013 c 340 s 3 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

(1) Effective September 1, ((2012)) <u>2014</u> :	
(a) Legislators	\$ 42,106
(b) Speaker of the house	\$ 50,106
(c) Senate majority leader	\$ 50,106
(d) House minority leader	\$ 46,106
(e) Senate minority leader	\$ 46,106
(2) Effective September 1, ((2013)) <u>2015</u> :	
(a) Legislators	\$ ((42,106))
	<u>45,474</u>
(b) Speaker of the house	\$ ((50,106))
	<u>54,114</u>
(c) Senate majority leader	\$ ((50,106))
	<u>54,114</u>
(d) House minority leader	\$ ((46,106))
	<u>49,794</u>
(e) Senate minority leader	\$ ((46,106))
	<u>49,794</u>
(3) Effective September 1, ((2014)) <u>2016</u> :	
(a) Legislators	\$ ((42,106))
	<u>46,839</u>
(b) Speaker of the house	\$ ((50,106))
	<u>55,738</u>
(c) Senate majority leader	\$ ((50,106))
	<u>55,738</u>
(d) House minority leader	\$ ((46,106))
	<u>51,288</u>
(e) Senate minority leader	\$ ((46,106))
	<u>51,288</u>

Originally filed in Office of Secretary of State May 19, 2015.

CHAPTER 2

[Substitute House Bill 1021]

SILVER ALERT SYSTEM

AN ACT Relating to creating a silver alert system; amending RCW 13.60.010; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that Washington state's elderly population is growing and the number of individuals with dementia is increasing. The legislature further finds that approximately sixty percent of individuals with dementia will wander at least once and, that if not found within twenty-four hours, up to half of wandering seniors with dementia will suffer serious injury or death. The legislature further finds that the state of Washington has a compelling interest in protecting the safety of vulnerable citizens with cognitive impairments. The legislature further finds that creating a public notification system to broadcast information about missing persons with Alzheimer's disease, dementia, or other mental disabilities to aid in their safe return will help prevent unnecessary suffering and death.

Sec. 2. RCW 13.60.010 and 2013 c 285 s 1 are each amended to read as follows:

(1) The Washington state patrol shall establish a missing children and endangered person clearinghouse which shall include the maintenance and operation of a toll-free telephone hotline. The clearinghouse shall distribute information to local law enforcement agencies, school districts, the department of social and health services, and the general public regarding missing children and endangered persons. The information shall include pictures, bulletins, training sessions, reports, and biographical materials that will assist in local law enforcement efforts to locate missing children and endangered persons. The state patrol shall also maintain a regularly updated computerized link with national and other statewide missing person systems or clearinghouses, and within existing resources, shall develop and implement a plan, commonly known as an "amber alert plan" or an "endangered missing person advisory plan(;-)" which includes a "silver alert" designation for voluntary cooperation between local, state, tribal, and other law enforcement agencies, state government agencies, radio and television stations, cable and satellite systems, and social media pages and sites to enhance the public's ability to assist in recovering abducted children and missing endangered persons consistent with the state endangered missing person advisory plan.

(2) For the purposes of this chapter:

(a) "Child" or "children" means an individual under eighteen years of age.

(b) "Missing endangered person" means a person (~~(with a developmental disability as defined in RCW 71A.10.020(4) or a vulnerable adult as defined in RCW 74.34.020(17);)~~) who is believed to be in danger because of age, health, mental or physical disability, in combination with environmental or weather conditions, or is believed to be unable to return to safety without assistance and who is:

(i) A person with a developmental disability as defined in RCW 71A.10.020(5);

(ii) A vulnerable adult as defined in RCW 74.34.020(17); or

(iii) A person who has been diagnosed as having Alzheimer's disease or other age-related dementia.

(c) "Silver alert" means the designated title of a missing endangered person advisory that will be used on a variable message sign and text of the highway advisory radio message when used as part of an activated advisory to assist in the recovery of a missing endangered person age sixty or older.

Passed by the House May 28, 2015.

Passed by the Senate May 28, 2015.

Approved by the Governor June 10, 2015.

Filed in Office of Secretary of State June 10, 2015.

CHAPTER 3

[Substitute House Bill 1813]

K-12 EDUCATION--COMPUTER SCIENCE

AN ACT Relating to expanding computer science education; amending RCW 28A.660.045 and 28A.660.050; adding a new section to chapter 28A.230 RCW; and adding a new section to chapter 28A.410 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28A.230 RCW to read as follows:

Beginning in the 2015-16 school year, the office of the superintendent of public instruction shall adopt computer science learning standards developed by a nationally recognized computer science education organization.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.410 RCW to read as follows:

The professional educator standards board shall, in its regular review and revision of teacher certification standards as required by RCW 28A.410.210, develop standards for a K-12 computer science endorsement. Standards related to computer science shall be adopted by January 15, 2016. The revised standards shall be aligned with the computer science learning standards developed by a nationally recognized computer science education organization and updated to include the standards adopted by the office of the superintendent of public instruction under section 1 of this act. In addition to appropriate computer science content, the computer science endorsement standards must facilitate dual endorsement in computer science and mathematics or science, or another related endorsement in high demand as indicated by a school district.

Sec. 3. RCW 28A.660.045 and 2007 c 396 s 7 are each amended to read as follows:

(1) The educator retooling ~~((to teach mathematics and science))~~ conditional scholarship program is created. Participation is limited to current K-12 teachers and individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate. It is anticipated that candidates enrolled in this program will complete the requirements for ~~((a mathematics or science))~~ an endorsement~~((, or both,))~~ in two years or less.

(2) Entry requirements for candidates include:

(a) Current K-12 teachers shall pursue (~~(a middle level mathematics or science, or secondary mathematics or science)~~) an endorsement in a subject or geographic endorsement shortage area, as defined by the professional educator standards board.

(b) Individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate shall pursue an endorsement in (~~(middle level mathematics or science only)~~) a subject or geographic endorsement shortage area, as defined by the professional educator standards board.

Sec. 4. RCW 28A.660.050 and 2012 c 229 s 507 are each amended to read as follows:

Subject to the availability of amounts appropriated for these purposes, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the student achievement council. In administering the programs, the council has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of professional educator standards board-approved alternative routes to teaching programs under RCW 28A.660.040. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in alternative certification routes through a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The council may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified paraeducators as provided by RCW 28A.660.042. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program

for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The student achievement council may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The educator retooling (~~((to teach mathematics and science))~~) conditional scholarship program is limited to current K-12 teachers. In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue (~~((a middle level mathematics or science, or secondary mathematics or science))~~) an endorsement in a subject or geographic endorsement shortage area, as defined by the professional educator standards board; or

(ii) Individuals who are certificated with an elementary education endorsement shall pursue an endorsement in (~~((middle level mathematics or science, or both))~~) a subject or geographic endorsement shortage area, as defined by the professional educator standards board; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive (~~((a mathematics or science endorsement, or both))~~) an endorsement in a subject or geographic endorsement shortage area, as defined by the professional educator standards board, which shall include passing (~~((a mathematics or science))~~) an endorsement test(~~((, or both tests,))~~) plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The student achievement council shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferrals.

(6) The student achievement council may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

Passed by the House May 28, 2015.

Passed by the Senate May 28, 2015.
Approved by the Governor June 10, 2015.
Filed in Office of Secretary of State June 10, 2015.

CHAPTER 4

[Engrossed House Bill 1859]

CAPITAL CONSTRUCTION ACCOUNTS--BOND AUTHORIZATIONS--OBSOLETE PROVISIONS

AN ACT Relating to the amendment, recodification, decodification, or repeal of statutes relating to state capital construction funds and accounts and bond authorizations that are inactive, obsolete, or no longer necessary for continued publication in the Revised Code of Washington; amending RCW 28A.525.200, 28B.10.851, 28B.14D.040, 35.21.900, 35A.40.050, 35A.79.020, 41.16.040, 43.70.900, 43.83.020, 43.83A.030, 43.83D.120, 43.83H.030, 43.83I.040, 43.99C.070, 43.99E.020, 43.99F.030, 43.99G.020, 43.99I.020, 43.99K.020, 43.99L.020, 43.99P.020, 43.99Q.020, 70.95.165, 70.95.267, 70.95.268, 79.17.120, 87.80.130, 90.38.900, 90.42.060, and 90.72.080; reenacting and amending RCW 43.99H.020; adding a new section to chapter 90.48 RCW; adding new sections to chapter 43.83 RCW; recodifying RCW 90.50.020, 28B.10.851, 28B.14.040, 43.75.225, 43.83A.030, 43.83H.030, 43.83I.040, 43.99E.020, 43.99F.030, and 43.99G.020; decodifying RCW 15.24.800, 15.24.802, 15.24.804, 15.24.806, 15.24.808, 15.24.810, 15.24.812, 15.24.814, 15.24.816, 15.24.818, 79.24.100, 79.24.110, 79.24.120, 79.24.130, 79.24.140, 79.24.150, 79.24.160, 79.24.652, 79.24.654, 79.24.656, 79.24.658, 79.24.660, 79.24.662, 79.24.664, 79.24.666, 79.24.668, 28A.525.210, 28A.525.212, 28A.525.214, 28A.525.216, 28A.525.218, 28A.525.220, 28A.525.222, 28A.525.230, 28A.525.240, 28A.525.250, 28A.525.260, 28A.525.270, 28A.525.280, 28A.525.290, 28A.525.300, 28B.50.401, 28B.50.402, 28B.50.403, 28B.50.404, 28B.50.405, 28B.50.406, 28B.50.407, 28B.56.010, 28B.56.020, 28B.56.040, 28B.56.050, 28B.56.070, 28B.56.080, 28B.56.090, 28B.56.100, 28B.56.110, 28B.56.120, 28B.57.010, 28B.57.020, 28B.57.030, 28B.57.040, 28B.57.060, 28B.57.070, 28B.57.080, 28B.57.090, 28B.57.100, 28B.58.010, 28B.58.020, 28B.58.030, 28B.58.040, 28B.58.050, 28B.58.060, 28B.58.070, 28B.58.080, 28B.58.090, 28B.59.010, 28B.59.020, 28B.59.030, 28B.59.040, 28B.59.050, 28B.59.060, 28B.59.070, 28B.59.080, 28B.59.090, 28B.59B.010, 28B.59B.020, 28B.59B.030, 28B.59B.040, 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Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The following sections are decodified:

- (1) RCW 15.24.800 (Financing assistance for commission building);
- (2) RCW 15.24.802 (General obligation bonds to fund commission building);
- (3) RCW 15.24.804 (Bond issuance and sale);

(4) RCW 15.24.806 (Bond proceeds, etc., to state building construction account);

(5) RCW 15.24.808 (Expenditure of bond proceeds);

(6) RCW 15.24.810 (Fund for payment of bond principal and interest);

(7) RCW 15.24.812 (Certification and payment of bond principal and interest);

(8) RCW 15.24.814 (RCW 15.24.810 and 15.24.812 not exclusive method of payment);

(9) RCW 15.24.816 (Bonds constitute legal investments for state and other public funds); and

(10) RCW 15.24.818 (Bonds to be issued only after certification of sufficiency of funds).

NEW SECTION. Sec. 2. The following sections are decodified:

(1) RCW 79.24.100 (Bond issue authorized);

(2) RCW 79.24.110 (Sale of bonds—Price—Investment of funds in);

(3) RCW 79.24.120 (Life of bonds—Payment of interest);

(4) RCW 79.24.130 (Signatures—Registration of bonds);

(5) RCW 79.24.140 (Proceeds to capitol building construction account);

(6) RCW 79.24.150 (Bonds as security and legal investment);

(7) RCW 79.24.160 (Use of proceeds specified);

(8) RCW 79.24.652 (Bonds authorized—Amount—Interest and maturity—Payable from certain revenues);

(9) RCW 79.24.654 (Maturities—Covenants—Section's provisions as contract with bond holders—Where payable);

(10) RCW 79.24.656 (Signatures—Registration);

(11) RCW 79.24.658 (Payment of principal and interest—State building and parking bond redemption fund—Reserve—Owner's remedies—Disposition of proceeds of sale—Nondebt-limit revenue bond retirement account);

(12) RCW 79.24.660 (Bonds as security and legal investment);

(13) RCW 79.24.662 (Use of bond proceeds);

(14) RCW 79.24.664 (Appropriation);

(15) RCW 79.24.666 (State capitol committee to act upon advice of legislative committee—State capitol committee powers); and

(16) RCW 79.24.668 (Severability—1969 ex.s. c 272).

NEW SECTION. Sec. 3. The following sections are decodified:

(1) RCW 28A.525.210 (1984 bond issue for construction, modernization of school plant facilities—Intent);

(2) RCW 28A.525.212 (1984 bond issue for construction, modernization of school plant facilities—Authorized—Sale);

(3) RCW 28A.525.214 (1984 bond issue for construction, modernization of school plant facilities—Proceeds deposited in common school construction fund—Use);

(4) RCW 28A.525.216 (1984 bond issue for construction, modernization of school plant facilities—Proceeds—Administration);

(5) RCW 28A.525.218 (1984 bond issue for construction, modernization of school plant facilities—State general obligation bond fund utilized for payment of principal and interest—Committee's and treasurer's duties—Form and condition of bonds);

(6) RCW 28A.525.220 (1984 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means for payment);

(7) RCW 28A.525.222 (1984 bond issue for construction, modernization of school plant facilities—Bonds as legal investment for public funds);

(8) RCW 28A.525.230 (Bonds authorized—Amount—As compensation for sale of timber—Sale, conditions);

(9) RCW 28A.525.240 (Bond anticipation notes—Authorized—Payment);

(10) RCW 28A.525.250 (Form, terms, conditions, sale and covenants of bonds and notes);

(11) RCW 28A.525.260 (Disposition of proceeds from sale of bonds and notes—Use);

(12) RCW 28A.525.270 (State general obligation bond retirement fund utilized for payment of bond principal and interest—Procedure);

(13) RCW 28A.525.280 (Bonds as legal investment for public funds);

(14) RCW 28A.525.290 (Chapter provisions as limited by other statutes, covenants and proceedings); and

(15) RCW 28A.525.300 (Proceeds from sale of bonds as compensation for sale of timber from trust lands).

NEW SECTION. Sec. 4. The following sections are decodified:

(1) RCW 28B.50.401 (Transfer of moneys in community college bond retirement fund to state general fund—Purpose);

(2) RCW 28B.50.402 (Transfer of moneys in community and technical college bond retirement fund to state general fund—Exception);

(3) RCW 28B.50.403 (Refunding bonds—Authorized—Limitations);

(4) RCW 28B.50.404 (Refunding bonds—Issuance—Security);

(5) RCW 28B.50.405 (Refunding bonds—Community and technical college refunding bond retirement fund of 1974);

(6) RCW 28B.50.406 (Refunding bonds—Legislature may provide additional means of payments);

(7) RCW 28B.50.407 (Refunding bonds—Bonds legal investment for public funds);

(8) RCW 28B.56.010 (Purpose);

(9) RCW 28B.56.020 (Bonds authorized—Payment—Limitations);

(10) RCW 28B.56.040 (Proceeds from bond sale—Administration and expenditure);

(11) RCW 28B.56.050 ("Community college facilities" defined);

(12) RCW 28B.56.070 (Referral to electorate);

(13) RCW 28B.56.080 (Form, terms, conditions and manner of sale and issuance—Limitation);

(14) RCW 28B.56.090 (Anticipation notes—Authorized—Contents—Payment);

(15) RCW 28B.56.100 (Community college capital improvements bond redemption fund of 1972—Created—Tax receipts—Use of funds—Use of debt-limit general fund bond retirement account);

(16) RCW 28B.56.110 (Legislature may provide additional means of revenue);

(17) RCW 28B.56.120 (Bonds as legal investment for state and municipal corporation funds);

- (18) RCW 28B.57.010 (State general obligation bonds in lieu of building, limited obligation bonds—"Community college capital projects" defined);
- (19) RCW 28B.57.020 (Amount of bonds authorized);
- (20) RCW 28B.57.030 (Projects enumerated);
- (21) RCW 28B.57.040 (Bond anticipation notes, authorized, payment—Form, terms, conditions, sale and covenants of bonds and notes);
- (22) RCW 28B.57.060 (Administration of proceeds from bonds and notes);
- (23) RCW 28B.57.070 (1975 community college capital construction bond retirement fund—Created—Purpose);
- (24) RCW 28B.57.080 (Moneys to be transferred from community college account to state general fund—Limitation);
- (25) RCW 28B.57.090 (Bonds as legal investment for public funds);
- (26) RCW 28B.57.100 (Prerequisite to bond issuance);
- (27) RCW 28B.58.010 (State general obligation bonds in lieu of building, limited obligation bonds—"Community college capital projects" defined—Consideration for minority contractors on projects so funded);
- (28) RCW 28B.58.020 (Amount of bonds authorized);
- (29) RCW 28B.58.030 (Bond anticipation notes, authorized, payment—Form, term, conditions, sale and covenants of bonds and notes);
- (30) RCW 28B.58.040 (Disposition of proceeds from sale of bonds and notes);
- (31) RCW 28B.58.050 (Administration of proceeds from bonds and notes);
- (32) RCW 28B.58.060 (Payment of principal and interest on bonds);
- (33) RCW 28B.58.070 (Moneys to be transferred from community college account to state general fund—Limitation);
- (34) RCW 28B.58.080 (Bonds as legal investment for public funds);
- (35) RCW 28B.58.090 (Prerequisite to bond issuance);
- (36) RCW 28B.59.010 (Purpose—"Community college capital projects" defined);
- (37) RCW 28B.59.020 (Amount of general obligation bonds authorized);
- (38) RCW 28B.59.030 (Bond anticipation notes, authorized, payment—Form, term, conditions, sale and covenants of bonds and notes);
- (39) RCW 28B.59.040 (Disposition of proceeds from sale of bonds and notes);
- (40) RCW 28B.59.050 (Administration of the proceeds from bonds and notes);
- (41) RCW 28B.59.060 (Payment of the principal and interest on bonds);
- (42) RCW 28B.59.070 (Moneys to be transferred from community college account to state general fund—Limitation);
- (43) RCW 28B.59.080 (Bonds as legal investment for public funds);
- (44) RCW 28B.59.090 (Prerequisite to bond issuance);
- (45) RCW 28B.59B.010 (Purpose—Bonds authorized—Amount—Conditions);
- (46) RCW 28B.59B.020 (Bond anticipation notes—Authorized—Bond proceeds to apply to payment on);
- (47) RCW 28B.59B.030 (Form, terms, conditions, sale, redemption and covenants of bonds and notes—Pledge of state's credit);
- (48) RCW 28B.59B.040 (Disposition of proceeds from sale of bonds and notes);

(49) RCW 28B.59B.050 (Administration of proceeds from bonds and notes);

(50) RCW 28B.59B.060 (Payment of the principal and interest on bonds and notes);

(51) RCW 28B.59B.070 (Moneys to be transferred from community college account to state general fund);

(52) RCW 28B.59B.080 (Bonds as legal investment for public funds);

(53) RCW 28B.59B.090 (Prerequisite to bond issuance);

(54) RCW 28B.59C.010 (Purpose—Bonds authorized—Amount—Conditions);

(55) RCW 28B.59C.020 (Bond anticipation notes—Authorized—Bond proceeds to apply to payment on);

(56) RCW 28B.59C.030 (Form, terms, conditions, sale, redemption and covenants of bonds and notes—Pledge of state's credit);

(57) RCW 28B.59C.040 (Disposition of proceeds from sale of bonds and notes);

(58) RCW 28B.59C.050 (Administration of proceeds from bonds and notes);

(59) RCW 28B.59C.060 (Payment of principal and interest on bonds and notes);

(60) RCW 28B.59C.070 (Moneys to be transferred from community college account to state general fund);

(61) RCW 28B.59C.080 (Bonds as legal investment for public funds);

(62) RCW 28B.59D.010 (Purpose—Bonds authorized—Amount—Condition);

(63) RCW 28B.59D.020 (Bonds to pledge credit of state, promise to pay);

(64) RCW 28B.59D.030 (Disposition of proceeds from sale of bonds);

(65) RCW 28B.59D.040 (Administration and expenditure of proceeds from sale of bonds—Condition);

(66) RCW 28B.59D.050 (Existing fund utilized for payment of principal and interest—Committee and treasurer's duties);

(67) RCW 28B.59D.060 (Transfer of account moneys to general fund—College board and treasurer's duties); and

(68) RCW 28B.59D.070 (Bonds as legal investment for public funds).

NEW SECTION. **Sec. 5.** The following sections are decodified:

(1) RCW 43.83I.010 (General obligation bonds—Authorized—Issuance, sale, terms, etc);

(2) RCW 43.83I.020 (Bond anticipation notes—Proceeds of bonds and interest on notes);

(3) RCW 43.83I.030 (Bonds and notes—Powers and duties of state finance committee);

(4) RCW 43.83I.050 (1976 fisheries bond retirement fund created);

(5) RCW 43.83I.060 (Legal investment for public funds);

(6) RCW 43.83I.100 (General obligation bonds—Authorized—Issuance, sale, terms, etc);

(7) RCW 43.83I.110 (Bond anticipation notes—Proceeds of bonds and interest on notes);

(8) RCW 43.83I.120 (Bonds and notes—Powers and duties of state finance committee);

- (9) RCW 43.83I.130 (Proceeds deposited in fisheries capital projects account—Exception);
- (10) RCW 43.83I.140 (1977 fisheries bond retirement fund created);
- (11) RCW 43.83I.150 (Legal investment for public funds);
- (12) RCW 43.83I.160 (General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required);
- (13) RCW 43.83I.162 (Bond anticipation notes—Payment);
- (14) RCW 43.83I.164 (Form, terms, conditions, etc., of bonds and notes—Pledge and promise);
- (15) RCW 43.83I.168 (Retirement of bonds from 1977 fisheries bond retirement fund);
- (16) RCW 43.83I.170 (Bonds legal investment for public funds);
- (17) RCW 43.83I.172 (General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required);
- (18) RCW 43.83I.174 (Bond anticipation notes);
- (19) RCW 43.83I.176 (Form, terms, conditions, etc., of bonds and notes—Pledge and promise);
- (20) RCW 43.83I.178 (Proceeds deposited in fisheries capital projects account—Use);
- (21) RCW 43.83I.180 (Retirement of bonds from 1977 fisheries bond retirement fund);
- (22) RCW 43.83I.182 (Bonds legal investment for public funds);
- (23) RCW 43.83I.184 (General obligation bonds—Authorized—Issuance—Appropriation required);
- (24) RCW 43.83I.186 (Deposit of proceeds in fisheries capital projects account—Use);
- (25) RCW 43.83I.188 (Administration of proceeds);
- (26) RCW 43.83I.190 (Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders);
- (27) RCW 43.83I.192 (Legislature may provide additional means for payment of bonds);
- (28) RCW 43.83I.194 (Bonds legal investment for public funds);
- (29) RCW 43.83I.900 (Severability—1975-'76 2nd ex.s. c 132);
- (30) RCW 43.83I.910 (Severability—1977 ex.s. c 343);
- (31) RCW 43.83I.912 (Severability—1979 ex.s. c 224);
- (32) RCW 43.83I.914 (Severability—1981 c 231); and
- (33) RCW 43.83I.915 (Severability—1983 1st ex.s. c 59).

NEW SECTION. Sec. 6. The following sections are decodified:

- (1) RCW 43.96B.200 (Legislative finding);
- (2) RCW 43.96B.205 (Bond issue—Authorized);
- (3) RCW 43.96B.210 (Bond issue—Issuance and sale of bonds—Form, terms, conditions, etc.—Authority of state finance committee);
- (4) RCW 43.96B.215 (Bond issue—Anticipation notes—Disposition of proceeds—Acquisition of property by Expo '74 commission authorized);
- (5) RCW 43.96B.220 (Bond issue—Administration of proceeds);
- (6) RCW 43.96B.225 (Bond issue—Redemption fund—Payment of bonds);
- (7) RCW 43.96B.230 (Bond issue—Additional means of payment);
- (8) RCW 43.96B.235 (Bond issue—Legal investment for public funds);
- (9) RCW 43.96B.240 (Appropriation);

(10) RCW 43.96B.245 (Severability—1973 1st ex.s. c 116); and

(11) RCW 43.96B.900 (Severability—1971 ex.s. c 3).

NEW SECTION. Sec. 7. The following sections are decodified:

(1) RCW 43.99C.010 (Declaration);

(2) RCW 43.99C.015 (General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required);

(3) RCW 43.99C.020 (Definitions);

(4) RCW 43.99C.025 (Bond anticipation notes—Payment);

(5) RCW 43.99C.030 (Form, terms, conditions, etc., of bonds and notes);

(6) RCW 43.99C.035 (Pledge and promise);

(7) RCW 43.99C.045 (Administration of proceeds—Distribution—Transfer of fixed assets);

(8) RCW 43.99C.047 (Prohibition of expenditures not submitted in budget document or schedule—Capital appropriation—Exception—Contents);

(9) RCW 43.99C.050 (Retirement of bonds and notes from 1979 handicapped facilities bond redemption fund—Retirement of bonds and notes from state general obligation bond retirement fund);

(10) RCW 43.99C.055 (Legislature may provide additional means for payment of bonds); and

(11) RCW 43.99C.060 (Bonds legal investment for public funds).

NEW SECTION. Sec. 8. The following sections are decodified:

(1) RCW 28B.10.850 (Capital improvements, bonds for—Authorized—Form, terms, conditions, sale, signatures);

(2) RCW 28B.10.852 (Capital improvements, bonds for—Bond anticipation notes, purpose);

(3) RCW 28B.10.853 (Capital improvements, bonds for—Bond redemption fund created, purpose—Compelling transfer of funds to);

(4) RCW 28B.10.854 (Capital improvements, bonds for—Legislature may provide additional means of revenue);

(5) RCW 28B.10.855 (Capital improvements, bonds for—As legal investment for state and municipal funds);

(6) RCW 28B.106.005 (Findings—Purpose);

(7) RCW 28B.106.010 (Definitions);

(8) RCW 28B.106.020 (Bond authorization—Issuance—Requirements);

(9) RCW 28B.106.030 (Bond sale proceeds—Deposit—Use);

(10) RCW 28B.106.040 (Higher education bond retirement fund of 1988—Creation—Use—Use of debt-limit general fund bond retirement account);

(11) RCW 28B.106.050 (Additional means to raise money for bond retirement);

(12) RCW 28B.106.060 (Bonds to be legal investment);

(13) RCW 28B.106.070 (Publicity—Marketing strategies and educational programs);

(14) RCW 28B.106.080 (Interest on bonds exempt from any state income tax);

(15) RCW 28B.106.901 (Short title);

(16) RCW 28B.106.902 (Severability—1988 c 125);

(17) RCW 28B.13.010 (Bonds authorized—Amount—Purpose—Form, conditions of sale, etc);

- (18) RCW 28B.13.020 (Disposition of proceeds from sale of bonds);
- (19) RCW 28B.13.030 (Bond anticipation notes—Authorized—Payment of principal and interest on—Disposition of proceeds from sale of bonds and notes);
- (20) RCW 28B.13.040 (Bond redemption fund—Created—Use—Rights of bond owner and holder);
- (21) RCW 28B.13.050 (Chapter not exclusive method for payment of interest and principal on bonds);
- (22) RCW 28B.13.060 (Bonds as legal investment for public funds);
- (23) RCW 28B.13.900 (Severability—1974 ex.s. c 181);
- (24) RCW 28B.14.010 (Bonds authorized—Amount—Consideration for minority contractors on projects so funded);
- (25) RCW 28B.14.020 (Bond anticipation notes—Authorized—Payment);
- (26) RCW 28B.14.030 (Form, terms, conditions, sale and covenants of bonds and notes);
- (27) RCW 28B.14.040 (Disposition of proceeds from sale of bonds and notes—Use);
- (28) RCW 28B.14.050 (1975 state higher education bond retirement fund—Created—Purpose);
- (29) RCW 28B.14.060 (Bonds as legal investment for public funds);
- (30) RCW 28B.14B.010 (Bonds authorized—Amount—Conditions);
- (31) RCW 28B.14B.020 (Bond anticipation notes—Authorized—Payment);
- (32) RCW 28B.14B.030 (Form, terms, conditions, sale and covenants of bonds and notes);
- (33) RCW 28B.14B.040 (Disposition of proceeds from sale of bonds and notes—Use);
- (34) RCW 28B.14B.050 (State higher education bond retirement fund of 1977—Created—Purpose);
- (35) RCW 28B.14B.060 (Bonds as legal investment for public funds);
- (36) RCW 28B.14C.010 (Purpose—Bonds authorized—Amount);
- (37) RCW 28B.14C.020 (Refunding as benefit to state);
- (38) RCW 28B.14C.030 (Constitutional and statutory authority applicable—Specific state finance committee powers);
- (39) RCW 28B.14C.040 (Limitation as to amount of bonds to be issued—Pledge of state's credit);
- (40) RCW 28B.14C.050 (Disposition of proceeds of refunding issues);
- (41) RCW 28B.14C.060 (Institutions of higher education refunding bond retirement fund of 1977—Created—Use);
- (42) RCW 28B.14C.070 (Chapter not exclusive method for payment of interest and principal on bonds);
- (43) RCW 28B.14C.080 (Chapter as affecting University of Washington building revenue bond redemption);
- (44) RCW 28B.14C.090 (Chapter as affecting Washington State University building revenue bond redemption);
- (45) RCW 28B.14C.100 (Chapter as affecting Western Washington State College building and normal school fund revenue bonds);
- (46) RCW 28B.14C.110 (Chapter as affecting Eastern Washington State College building and normal school fund revenue bonds);

(47) RCW 28B.14C.120 (Chapter as affecting Central Washington State College building and normal school fund revenue bonds);

(48) RCW 28B.14C.130 (Chapter as affecting Evergreen State College building revenue bonds);

(49) RCW 28B.14C.140 (Use limited when reserves transferred to state general fund);

(50) RCW 28B.14C.900 (Severability—1977 ex.s. c 354);

(51) RCW 28B.14D.010 (Bonds authorized—Amount—Conditions);

(52) RCW 28B.14D.020 (Bond anticipation notes—Authorized—Payment);

(53) RCW 28B.14D.030 (Form, terms, conditions, sale and covenants of bonds and notes);

(54) RCW 28B.14D.050 (Administration and use of proceeds from bonds and notes);

(55) RCW 28B.14D.060 (Higher education bond retirement fund of 1979—Created—Purpose—Treasurer's duties);

(56) RCW 28B.14D.070 (Building or capital projects account moneys deposited in general fund);

(57) RCW 28B.14D.080 (Bonds as legal investment for public funds);

(58) RCW 28B.14D.090 (Prerequisite for issuance of bonds);

(59) RCW 28B.14D.900 (Construction—Provisions as subordinate in nature);

(60) RCW 28B.14D.950 (Severability—1979 ex.s. c 253);

(61) RCW 28B.14E.010 (Bonds authorized—Amount—Conditions);

(62) RCW 28B.14E.020 (Bond anticipation notes—Authorized—Payment);

(63) RCW 28B.14E.030 (Form, terms, conditions, sale and covenants of bonds and notes);

(64) RCW 28B.14E.040 (Disposition of proceeds from sale of bonds and notes—Use);

(65) RCW 28B.14E.050 (Existing fund utilized for payment of principal and interest—Treasurer's duties);

(66) RCW 28B.14E.060 (Bonds as legal investment for public funds);

(67) RCW 28B.14E.950 (Severability—1979 ex.s. c 223);

(68) RCW 28B.14F.010 (Bonds authorized—Amount—Condition);

(69) RCW 28B.14F.020 (Bonds to pledge credit of state, promise to pay);

(70) RCW 28B.14F.030 (Disposition of proceeds from sale of bonds—Use);

(71) RCW 28B.14F.040 (Existing fund utilized for payment of principal and interest—Committee and treasurer's duties);

(72) RCW 28B.14F.050 (Bonds as legal investment for public funds);

(73) RCW 28B.14F.060 (Bonds authorized—Amount—Condition);

(74) RCW 28B.14F.062 (Disposition of proceeds from sale of bonds—Use);

(75) RCW 28B.14F.064 (Existing fund utilized for payment of principal and interest—Committee and treasurer's duties—Form and conditions of bonds);

(76) RCW 28B.14F.066 (Refunding bonds—Legislature may provide additional means for payment);

(77) RCW 28B.14F.068 (Bonds as legal investment for public funds);

(78) RCW 28B.14F.070 (Bonds authorized—Amount—Condition);

(79) RCW 28B.14F.072 (Disposition of proceeds from sale of bonds—Use);

(80) RCW 28B.14F.074 (Existing fund utilized for payment of principal and interest);

(81) RCW 28B.14F.076 (Legislature may provide additional methods of raising money);

(82) RCW 28B.14F.078 (Bonds as legal investment for public funds);

(83) RCW 28B.14F.950 (Severability—1981 c 232);

(84) RCW 28B.14F.951 (Severability—1983 1st ex.s. c 58);

(85) RCW 28B.14F.952 (Severability—1984 c 264);

(86) RCW 28B.14G.010 (Bonds authorized—Amount—Condition);

(87) RCW 28B.14G.020 (Bonds to pledge credit of state, promise to pay);

(88) RCW 28B.14G.030 (Disposition of proceeds from sale of bonds);

(89) RCW 28B.14G.040 (Administration and expenditure of proceeds from sale of bonds—Condition);

(90) RCW 28B.14G.050 (Existing fund utilized for payment of principal and interest—Committee and treasurer's duties);

(91) RCW 28B.14G.060 (Apportioning shares of principal and interest payments—Committee and treasurer's duties);

(92) RCW 28B.14G.070 (Bonds as legal investment for public funds);

(93) RCW 28B.14G.080 (Issuance of bonds subject to certification of maintenance of fund balances);

(94) RCW 28B.14G.900 (Construction—Provisions as subordinate in nature); and

(95) RCW 28B.14G.950 (Severability—1981 c 233).

NEW SECTION. Sec. 9. The following sections are decodified:

(1) RCW 47.10.010 (First priority highway projects—Declaration of);

(2) RCW 47.10.020 (Bond issue authorized—Use of motor vehicle fund);

(3) RCW 47.10.030 (Form and term of bonds);

(4) RCW 47.10.040 (Bonds not general obligations—Taxes pledged);

(5) RCW 47.10.050 (Sale of bonds);

(6) RCW 47.10.060 (Proceeds—Deposit and use);

(7) RCW 47.10.070 (Source of funds for payment of principal and interest);

(8) RCW 47.10.080 (Highway bond retirement fund);

(9) RCW 47.10.090 (Excess sums in bond retirement fund—Use);

(10) RCW 47.10.100 (Allocation of bonds);

(11) RCW 47.10.110 (Columbia Basin highway projects—Reimbursement by counties);

(12) RCW 47.10.120 (Columbia Basin highway projects—Limit as to amounts currently retained);

(13) RCW 47.10.130 (Agate Pass Bridge to become toll free—Cancellation of Agate Pass bonds);

(14) RCW 47.10.140 (Appropriation from motor vehicle fund);

(15) RCW 47.10.150 (Declaration of necessity for additional funds);

(16) RCW 47.10.160 (Additional bonds—Issuance and sale authorized—Use of motor vehicle fund);

(17) RCW 47.10.170 (Additional bonds—Form and term of bonds);

(18) RCW 47.10.180 (Additional bonds—Bonds not general obligations—Taxes pledged);

(19) RCW 47.10.190 (Additional bonds—Sale of bonds);

(20) RCW 47.10.200 (Additional bonds—Proceeds—Deposit and use);

(21) RCW 47.10.210 (Additional bonds—Source of funds for payment of principal and interest);

(22) RCW 47.10.220 (Additional bonds—Highway bond retirement fund);

(23) RCW 47.10.230 (Additional bonds—Excess sums in bond retirement fund—Use);

(24) RCW 47.10.240 (Additional bonds—Allocation—Primary state highway No. 1);

(25) RCW 47.10.250 (Additional bonds—Allocation—Primary state highway No. 2, Snoqualmie Pass);

(26) RCW 47.10.260 (Additional bonds—Allocation—Columbia Basin highways);

(27) RCW 47.10.270 (Additional bonds—Allocation—Echo Lake route);

(28) RCW 47.10.280 (Construction in Grant, Franklin, Adams counties authorized—Declaration of priority);

(29) RCW 47.10.290 (Construction in Grant, Franklin, Adams counties authorized—Issuance and sale of bonds);

(30) RCW 47.10.300 (Construction in Grant, Franklin, Adams counties authorized—Form and term of bonds);

(31) RCW 47.10.310 (Construction in Grant, Franklin, Adams counties authorized—Bonds not general obligations—Taxes pledged);

(32) RCW 47.10.320 (Construction in Grant, Franklin, Adams counties authorized—Sale of bonds);

(33) RCW 47.10.330 (Construction in Grant, Franklin, Adams counties authorized—Bond proceeds—Deposit and use);

(34) RCW 47.10.340 (Construction in Grant, Franklin, Adams counties authorized—Source of funds for payment of bond principal and interest);

(35) RCW 47.10.350 (Construction in Grant, Franklin, Adams counties authorized—Highway bond retirement fund);

(36) RCW 47.10.360 (Construction in Grant, Franklin, Adams counties authorized—Reimbursement by counties);

(37) RCW 47.10.370 (Construction in Grant, Franklin, Adams counties authorized—Limit as to amounts currently retained from excise taxes);

(38) RCW 47.10.380 (Construction in Grant, Franklin, Adams counties authorized—Excess sums in bond retirement fund—Use);

(39) RCW 47.10.390 (Construction in Grant, Franklin, Adams counties authorized—Allocation of funds to each county);

(40) RCW 47.10.400 (Construction in Grant, Franklin, Adams counties authorized—Appropriation from motor vehicle fund);

(41) RCW 47.10.410 (Echo Lake route—Declaration of necessity);

(42) RCW 47.10.420 (Echo Lake route—Additional bond issue authorized—Use of motor vehicle fund);

(43) RCW 47.10.430 (Echo Lake route—Form and term of bonds);

(44) RCW 47.10.440 (Echo Lake route—Bonds not general obligations—Taxes pledged);

(45) RCW 47.10.450 (Echo Lake route—Sale of bonds);

(46) RCW 47.10.460 (Echo Lake route—Proceeds—Deposit and use);

(47) RCW 47.10.470 (Echo Lake route—Source of funds for payment of principal and interest);

(48) RCW 47.10.480 (Echo Lake route—Highway bond retirement fund);

(49) RCW 47.10.490 (Echo Lake route—Excess sums in bond retirement fund—Use);

(50) RCW 47.10.500 (Echo Lake route—Appropriation from motor vehicle fund);

(51) RCW 47.10.700 (Tacoma-Seattle-Everett facility—Declaration of necessity);

(52) RCW 47.10.702 (Tacoma-Seattle-Everett facility—To be part of federal system as limited access—Federal standards and conditions to be met);

(53) RCW 47.10.704 (Tacoma-Seattle-Everett facility—Powers and duties of highway commission—Route of project);

(54) RCW 47.10.706 (Tacoma-Seattle-Everett facility—Issuance and sale of bonds authorized);

(55) RCW 47.10.708 (Tacoma-Seattle-Everett facility—Form and term of bonds);

(56) RCW 47.10.710 (Tacoma-Seattle-Everett facility—Sale of bonds);

(57) RCW 47.10.712 (Tacoma-Seattle-Everett facility—Proceeds from bonds—Deposit and use);

(58) RCW 47.10.714 (Tacoma-Seattle-Everett facility—Bonds not general obligations—Taxes pledged);

(59) RCW 47.10.716 (Tacoma-Seattle-Everett facility—Source of funds for payment of principal and interest);

(60) RCW 47.10.718 (Tacoma-Seattle-Everett facility—Additional security for payment of bonds—Pledge of federal funds);

(61) RCW 47.10.720 (Tacoma-Seattle-Everett facility—Highway bond retirement fund);

(62) RCW 47.10.722 (Tacoma-Seattle-Everett facility—Excess sums in bond retirement fund—Use);

(63) RCW 47.10.724 (Tacoma-Seattle-Everett facility—Appropriation from motor vehicle fund);

(64) RCW 47.10.726 (Construction in Grant, Franklin, Adams counties authorized—Declaration of public interest);

(65) RCW 47.10.727 (Construction in Grant, Franklin, Adams counties authorized—Issuance and sale of limited obligation bonds);

(66) RCW 47.10.728 (Construction in Grant, Franklin, Adams counties authorized—Form and term of bonds);

(67) RCW 47.10.729 (Construction in Grant, Franklin, Adams counties authorized—Bonds not general obligations—Taxes pledged);

(68) RCW 47.10.730 (Construction in Grant, Franklin, Adams counties authorized—Sale of bonds—Legal investment for state funds);

(69) RCW 47.10.731 (Construction in Grant, Franklin, Adams counties authorized—Bond proceeds—Deposit and use);

(70) RCW 47.10.732 (Construction in Grant, Franklin, Adams counties authorized—Source of funds for payment of bond principal and interest);

(71) RCW 47.10.733 (Construction in Grant, Franklin, Adams counties authorized—Highway bond retirement fund);

(72) RCW 47.10.734 (Construction in Grant, Franklin, Adams counties authorized—Repayment to state by Grant, Franklin and Adams counties by retention of funds);

(73) RCW 47.10.735 (Construction in Grant, Franklin, Adams counties authorized—Repayment, limitation as to amount of funds retained—Deficits);

(74) RCW 47.10.736 (Construction in Grant, Franklin, Adams counties authorized—Sums in excess of retirement requirements—Use);

(75) RCW 47.10.737 (Construction in Grant, Franklin, Adams counties authorized—Allocation of bonds to counties—Conditions upon issuance—Use of county engineering forces);

(76) RCW 47.10.738 (Construction in Grant, Franklin, Adams counties authorized—Appropriation from motor vehicle fund);

(77) RCW 47.10.751 (Additional funds—Declaration of necessity);

(78) RCW 47.10.752 (Additional funds—Issuance and sale of limited obligation bonds);

(79) RCW 47.10.753 (Additional funds—Form and term of bonds);

(80) RCW 47.10.754 (Additional funds—Sale of bonds—Legal investment for state funds);

(81) RCW 47.10.755 (Additional funds—Bond proceeds—Deposit and use);

(82) RCW 47.10.756 (Additional funds—Bonds not general obligations—Taxes pledged);

(83) RCW 47.10.757 (Additional funds—Source of funds for payment of bond principal and interest);

(84) RCW 47.10.758 (Additional funds—Highway bond retirement fund);

(85) RCW 47.10.759 (Additional funds—Sums in excess of retirement requirements—Use);

(86) RCW 47.10.760 (Additional funds—Appropriation from motor vehicle fund);

(87) RCW 47.10.761 (Reserve funds—Purposes);

(88) RCW 47.10.762 (Issuance and sale of general obligation bonds);

(89) RCW 47.10.763 (Bonds—Term—Terms and conditions—Signatures—Registration—Where payable—Negotiable instruments);

(90) RCW 47.10.764 (Bonds—Denominations—Manner and terms of sale—Legal investment for state funds);

(91) RCW 47.10.765 (Bonds—Bond proceeds—Deposit and use);

(92) RCW 47.10.766 (Bonds—Statement describing nature of obligation—Pledge of excise taxes);

(93) RCW 47.10.767 (Bonds—Designation of funds to repay bonds and interest);

(94) RCW 47.10.768 (Bonds—Pledge of federal aid funds);

(95) RCW 47.10.769 (Bonds—Repayment procedure—Bond retirement fund);

(96) RCW 47.10.770 (Bonds—Sums in excess of retirement requirements—Use); and

(97) RCW 47.10.771 (Bonds—Appropriation from motor vehicle fund).

NEW SECTION. Sec. 10. The following sections are decodified:

(1) RCW 37.14.010 (General obligation bonds—Authorized—Issuance, sale, terms, etc);

(2) RCW 37.14.020 (Anticipation notes—Proceeds of bonds and notes);

(3) RCW 37.14.030 (Administration of proceeds);

- (4) RCW 37.14.040 (Retirement of bonds from Indian cultural center construction bond redemption fund—Source—Remedies of bond holders);
- (5) RCW 37.14.050 (Legal investment for public funds); and
- (6) RCW 37.14.900 (Severability—1975-'76 2nd ex.s. c 128).

NEW SECTION. Sec. 11. The following sections are decodified:

- (1) RCW 70.48.270 (Disposition of proceeds from sale of bonds);
- (2) RCW 70.48.280 (Proceeds of bond sale—Deposits—Administration);
- (3) RCW 70.48.310 (Jail renovation bond retirement fund—Debt-limit general fund bond retirement account);
- (4) RCW 70.48.320 (Bonds legal investments for public funds);
- (5) RCW 72.19.070 (General obligation bond issue to provide buildings—Authorized—Form, terms, etc.);
- (6) RCW 72.19.100 (General obligation bond issue to provide buildings—Bond redemption fund—Payment from sales tax);
- (7) RCW 72.19.110 (General obligation bond issue to provide buildings—Legislature may provide additional means of revenue);
- (8) RCW 72.19.120 (General obligation bond issue to provide buildings—Bonds legal investment for state and municipal corporation funds);
- (9) RCW 72.19.130 (Referral to electorate);
- (10) RCW 70.48A.010 (Legislative declaration);
- (11) RCW 70.48A.020 (Bond issue authorized—Appropriations);
- (12) RCW 70.48A.030 (Proceeds from bond sale—Deposit, use);
- (13) RCW 70.48A.040 (Proceeds from bond sale—Administration);
- (14) RCW 70.48A.050 (Bonds—Minimum sale price);
- (15) RCW 70.48A.060 (Bonds—State's full faith and credit pledged);
- (16) RCW 70.48A.070 (Bonds—Payment of interest, retirement);
- (17) RCW 70.48A.080 (Bonds legal investment for public funds);
- (18) RCW 70.48A.090 (Legislative intent); and
- (19) RCW 70.48A.900 (Severability—1981 c 131).

NEW SECTION. Sec. 12. The following sections are decodified:

- (1) RCW 43.83.010 (Limited obligation bonds—Authorized—Issuance, sale, form, payment, etc.—Continuation of tax levy);
- (2) RCW 43.83.030 (Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy);
- (3) RCW 43.83.040 (Limited obligation bonds—Legislature may provide additional means of raising revenue);
- (4) RCW 43.83.050 (Limited obligation bonds—Bonds are negotiable, legal investment and security);
- (5) RCW 43.83.060 (Limited obligation bonds—Authorized—Issuance, sale, form, payment, etc.—Continuation of tax levy);
- (6) RCW 43.83.062 (Limited obligation bonds—Proceeds to be deposited in state building construction account—Use);
- (7) RCW 43.83.064 (Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy);
- (8) RCW 43.83.066 (Limited obligation bonds—Legislature may provide additional means of raising revenue);

(9) RCW 43.83.068 (Limited obligation bonds—Bonds are negotiable, legal investment and security);

(10) RCW 43.83.070 (General obligation bonds—Authorized—Issuance, sale, form, payment, etc);

(11) RCW 43.83.074 (General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy);

(12) RCW 43.83.076 (General obligation bonds—Legislature may provide additional means of raising revenue);

(13) RCW 43.83.078 (General obligation bonds—Legal investment for state and local funds);

(14) RCW 43.83.082 (General obligation bonds—Capital improvement and capital project defined);

(15) RCW 43.83.084 (General obligation bonds—Referral to electorate);

(16) RCW 43.83.090 (General obligation bonds—Authorized—Issuance, sale, form, payment, etc);

(17) RCW 43.83.094 (General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy);

(18) RCW 43.83.096 (General obligation bonds—Legislature may provide additional means of raising revenue);

(19) RCW 43.83.098 (General obligation bonds—Legal investment for state and local funds);

(20) RCW 43.83.102 (General obligation bonds—Capital improvement and capital project defined);

(21) RCW 43.83.104 (General obligation bonds—Referral to electorate);

(22) RCW 43.83.110 (General obligation bonds—Authorized—Issuance—Payment);

(23) RCW 43.83.112 (General obligation bonds—Powers and duties of state finance committee);

(24) RCW 43.83.114 (General obligation bonds—Anticipation notes—Proceeds);

(25) RCW 43.83.116 (General obligation bonds—Administration of proceeds from sale);

(26) RCW 43.83.118 (General obligation bonds—Payment from bond redemption fund—Procedure—General obligation of state);

(27) RCW 43.83.120 (General obligation bonds—Charges against state agencies to reimburse state general fund);

(28) RCW 43.83.122 (General obligation bonds—Legislature may provide additional means for payment);

(29) RCW 43.83.124 (General obligation bonds—Legal investment for state and other public bodies);

(30) RCW 43.83.126 (Severability—1973 1st ex.s. c 217);

(31) RCW 43.83.130 (General obligation bonds—Authorized—Issuance—Payment);

(32) RCW 43.83.132 (General obligation bonds—Powers and duties of state finance committee);

(33) RCW 43.83.134 (General obligation bonds—Anticipation notes—Proceeds);

(34) RCW 43.83.136 (General obligation bonds—Administration of proceeds from sale);

(35) RCW 43.83.138 (General obligation bonds—Payment from bond redemption fund—Procedure);

(36) RCW 43.83.140 (General obligation bonds—General obligation of state);

(37) RCW 43.83.142 (General obligation bonds—Charges against state agencies to reimburse state general fund);

(38) RCW 43.83.144 (General obligation bonds—Legislature may provide additional means for payment);

(39) RCW 43.83.146 (General obligation bonds—Legal investment for state and other public bodies);

(40) RCW 43.83.148 (Severability—1975 1st ex.s. c 249);

(41) RCW 43.83.150 (General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required);

(42) RCW 43.83.152 (Form, terms, conditions, etc., of bonds);

(43) RCW 43.83.154 (Bond anticipation notes—Deposit of proceeds of bonds and notes in state building construction account and state general obligation bond retirement fund);

(44) RCW 43.83.156 (Administration of proceeds);

(45) RCW 43.83.158 (Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders);

(46) RCW 43.83.160 (State general obligation bond retirement fund created—Trust fund for retirement of state general obligation bonds—Use of designated bond retirement accounts);

(47) RCW 43.83.162 (Separate accounting records required for each issue of bonds);

(48) RCW 43.83.164 (Payment on certain bonds from state general obligation bond retirement fund prohibited);

(49) RCW 43.83.166 (Legislature may provide additional means for payment of bonds);

(50) RCW 43.83.168 (Bonds legal investment for public funds);

(51) RCW 43.83.170 (Severability—1979 ex.s. c 230);

(52) RCW 43.83.172 (General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required);

(53) RCW 43.83.174 (Deposit of proceeds in state building construction account—Use);

(54) RCW 43.83.176 (Administration of proceeds);

(55) RCW 43.83.178 (Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders);

(56) RCW 43.83.180 (Legislature may provide additional means for payment of bonds);

(57) RCW 43.83.182 (Bonds legal investment for public funds);

(58) RCW 43.83.184 (General obligation bonds—Authorized—Issuance—Appropriation required);

(59) RCW 43.83.186 (Deposit of proceeds in state building construction account—Use);

(60) RCW 43.83.188 (Administration of proceeds);

(61) RCW 43.83.190 (Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders);

(62) RCW 43.83.192 (Legislature may provide additional means for payment of bonds);

(63) RCW 43.83.194 (Bonds legal investment for public funds);

(64) RCW 43.83.196 (Severability—1983 1st ex.s. c 54);

(65) RCW 43.83.198 (General obligation bonds—Authorized—Issuance—Price—Appropriation required);

(66) RCW 43.83.200 (Deposit of proceeds in state building construction account—Use);

(67) RCW 43.83.202 (Administration of proceeds);

(68) RCW 43.83.204 (Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders);

(69) RCW 43.83.206 (Legislature may provide additional means for payment of bonds);

(70) RCW 43.83.208 (Bonds legal investment for public funds);

(71) RCW 43.83.210 (Severability—1984 c 271);

(72) RCW 43.99G.010 (General obligation bonds authorized—Terms—Appropriation required—Short-term obligations);

(73) RCW 43.99G.030 (Retirement of bonds from debt-limit general fund bond retirement account);

(74) RCW 43.99G.040 (Retirement of bonds from nondebt-limit reimbursable bond retirement account);

(75) RCW 43.99G.050 (Retirement of bonds from debt-limit general fund bond retirement account);

(76) RCW 43.99G.060 (Pledge and promise—Remedies of bondholders);

(77) RCW 43.99G.070 (Institutions of higher education—Apportionment of principal and interest payments—Transfer of moneys to general fund);

(78) RCW 43.99G.080 (Legislature may provide additional means for payment of bonds);

(79) RCW 43.99G.090 (Bonds legal investment for public funds);

(80) RCW 43.99G.100 (General obligation bonds authorized—Terms—Appropriation required—Short-term obligations);

(81) RCW 43.99G.102 (Conditions and limitations—Deposit of proceeds—Administration);

(82) RCW 43.99G.104 (Retirement of bonds from debt-limit general fund bond retirement account);

(83) RCW 43.99G.108 (Pledge and promise—Remedies of bondholders);

(84) RCW 43.99G.112 (Legislature may provide additional means for payment of bonds);

(85) RCW 43.99G.114 (Bonds legal investment for public funds);

(86) RCW 43.99G.900 (Severability—1985 ex.s. c 4); and

(87) RCW 43.99G.901 (Severability—1987 1st ex.s. c 3).

NEW SECTION. Sec. 13. The following sections are decodified:

(1) RCW 43.31.956 (General obligation bonds—Authorized—Issuance, sale, terms, conditions, etc.—Appropriation required—Pledge and promise—Seal);

(2) RCW 43.31.960 (Administration of proceeds);

(3) RCW 43.31.962 (Retirement of bonds from cultural facilities bond redemption fund of 1979—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders); and

(4) RCW 43.31.964 (Bonds legal investment for public funds).

NEW SECTION. Sec. 14. The following sections are decodified:

(1) RCW 43.83C.010 (Declaration);

(2) RCW 43.83C.020 (General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required);

(3) RCW 43.83C.040 (Administration of proceeds—Division into shares—Use of funds);

(4) RCW 43.83C.050 (Definitions);

(5) RCW 43.83C.060 (Referral to electorate);

(6) RCW 43.83C.070 (Form, terms, conditions, etc., of bonds);

(7) RCW 43.83C.080 (Anticipation notes—Pledge and promise—Seal);

(8) RCW 43.83C.090 (Retirement of bonds from recreation improvements bond redemption fund—Retail sales tax collections—Remedies of bond holders);

(9) RCW 43.83C.100 (Legislature may provide additional means for payment of bonds);

(10) RCW 43.83C.110 (Bonds legal investment for public funds);

(11) RCW 43.99A.010 (Declaration of purpose);

(12) RCW 43.99A.020 (General obligation bonds authorized);

(13) RCW 43.99A.030 (Form of bonds—Rate of interest—Sale and issuance);

(14) RCW 43.99A.040 (Full faith and credit of state pledged—Call prior to due date—Facsimile signatures);

(15) RCW 43.99A.050 (Disposition of proceeds of sale);

(16) RCW 43.99A.060 (Outdoor recreational bond redemption fund of 1967—Created—Use—Sales tax revenues deposited in);

(17) RCW 43.99A.070 (Proceeds from sale of bonds—Administration—Disposition and use);

(18) RCW 43.99A.080 (Construction of phrase "acquisition and development of outdoor recreational areas and facilities.");

(19) RCW 43.99A.090 (Legislature may provide additional means for payment of bonds);

(20) RCW 43.99A.100 (Bonds legal investment for funds of state and municipal corporations);

(21) RCW 43.99A.110 (Referral to electorate);

(22) RCW 43.99B.010 (General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required);

(23) RCW 43.99B.012 (Form, terms, conditions, etc., of bonds);

(24) RCW 43.99B.014 (Proceeds to be deposited in outdoor recreation account);

(25) RCW 43.99B.016 (Administration of proceeds);

(26) RCW 43.99B.018 (Retirement of bonds from outdoor recreational bond redemption fund of 1979—Retirement of bonds from general obligation bond retirement fund—Pledge and promise—Remedies of bondholders);

(27) RCW 43.99B.020 (Definitions);

(28) RCW 43.99B.022 (Legislature may provide additional means for payment of bonds);

(29) RCW 43.99B.024 (Legal investment for public funds);

(30) RCW 43.99B.026 (Severability—1979 ex.s. c 229);

(31) RCW 43.99B.028 (General obligation bonds—Authorized—Issuance, sale terms—Appropriation required);

(32) RCW 43.99B.030 (Proceeds to be deposited in outdoor recreation account—Use);

(33) RCW 43.99B.032 (Administration of proceeds);

(34) RCW 43.99B.034 (Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders);

(35) RCW 43.99B.036 (Definitions);

(36) RCW 43.99B.038 (Legislature may provide additional means for payment of bonds);

(37) RCW 43.99B.040 (Legal investment for public funds);

(38) RCW 43.99B.042 (Severability—1981 c 236);

(39) RCW 79A.10.010 (General obligation bonds authorized);

(40) RCW 79A.10.020 (Disposition of proceeds of sale);

(41) RCW 79A.10.030 (Bonds payable from proceeds of corporation fees);

(42) RCW 79A.10.040 (Outdoor recreational bond redemption fund);

(43) RCW 79A.10.050 (Remedies of bondholders);

(44) RCW 79A.10.060 (Legislature may provide additional means of support);

(45) RCW 79A.10.070 (Bonds legal investment for funds of state and municipal corporations); and

(46) RCW 79A.10.090 (Consent of world fair bondholders prerequisite to issuance of bonds authorized by this chapter).

NEW SECTION. Sec. 15. The following sections are decodified:

(1) RCW 77.90.010 (General obligation bonds authorized—Purpose—Terms—Appropriation required);

(2) RCW 77.90.020 (Administration of proceeds);

(3) RCW 77.90.030 ("Facilities" defined);

(4) RCW 77.90.040 (Form, terms, conditions, etc., of bonds);

(5) RCW 77.90.050 (Anticipation notes—Authorized—Payment of principal and interest on bonds and notes);

(6) RCW 77.90.060 (Salmon enhancement construction bond retirement fund—Created—Purpose);

(7) RCW 77.90.070 (Availability of sufficient revenue required before bonds issued); and

(8) RCW 77.90.080 (Bonds legal investment for public funds).

NEW SECTION. Sec. 16. The following sections are decodified:

(1) RCW 43.83D.010 (Declaration);

(2) RCW 43.83D.020 (General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required);

(3) RCW 43.83D.030 (Proceeds to be deposited in state and local improvements revolving account);

(4) RCW 43.83D.040 (Administration of proceeds—Comprehensive plan—Use of funds);

- (5) RCW 43.83D.050 (Definitions);
- (6) RCW 43.83D.060 (Referral to electorate);
- (7) RCW 43.83D.070 (Form, terms, conditions, etc., of bonds);
- (8) RCW 43.83D.080 (Anticipation notes—Pledge and promise—Seal);
- (9) RCW 43.83D.090 (Retirement of bonds from social and health service facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders);
- (10) RCW 43.83D.100 (Legislature may provide additional means for payment of bonds);
- (11) RCW 43.83D.110 (Bonds legal investment for public funds);
- (12) RCW 43.83H.010 (General obligation bonds—Authorized—Issuance, sale, terms, etc.);
- (13) RCW 43.83H.020 ("Social and health services facilities" defined);
- (14) RCW 43.83H.040 (Administration of proceeds);
- (15) RCW 43.83H.050 (Retirement of bonds from social and health services construction bond redemption fund—Source—Remedies of bond holders);
- (16) RCW 43.83H.060 (Legal investment for public funds);
- (17) RCW 43.83H.100 (General obligation bonds—Authorized—Issuance, sale, terms, etc.);
- (18) RCW 43.83H.110 ("Social and health services facilities" defined);
- (19) RCW 43.83H.120 (Anticipation notes—Proceeds of bonds and notes);
- (20) RCW 43.83H.130 (Administration of proceeds);
- (21) RCW 43.83H.140 (Retirement of bonds from social and health services construction bond redemption fund of 1976—Source—Remedies of bond holders);
- (22) RCW 43.83H.150 (Legal investment for public funds);
- (23) RCW 43.83H.160 (General obligation bonds—Authorized—Issuance, sale, terms, etc.—Pledge and promise);
- (24) RCW 43.83H.162 ("Social and health services facilities" defined);
- (25) RCW 43.83H.164 (Bond anticipation notes—Deposit of proceeds of bonds and notes in social and health services construction account and social and health services bond redemption fund of 1979);
- (26) RCW 43.83H.166 (Administration of proceeds);
- (27) RCW 43.83H.168 (Retirement of bonds and notes from social and health services bond redemption fund of 1979—Retirement of bonds and notes from state general obligation bond retirement fund—Remedies of bondholders);
- (28) RCW 43.83H.170 (Bonds legal investment for public funds);
- (29) RCW 43.83H.172 (General obligation bonds—Authorized—Issuance—Pledge and promise);
- (30) RCW 43.83H.174 ("Social and health services facilities" defined);
- (31) RCW 43.83H.176 (Deposit of proceeds in state social and health services construction account—Use);
- (32) RCW 43.83H.178 (Administration of proceeds);
- (33) RCW 43.83H.180 (Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders);
- (34) RCW 43.83H.182 (Bonds legal investment for public funds);
- (35) RCW 43.83H.184 (General obligation bonds—Authorized—Issuance—Price—Appropriation required);

(36) RCW 43.83H.186 (Deposit of proceeds in state social and health services construction account—Use);

(37) RCW 43.83H.188 (Administration of proceeds);

(38) RCW 43.83H.190 (Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders);

(39) RCW 43.83H.192 (Legislature may provide additional means for payment of bonds);

(40) RCW 43.83H.194 (Bonds legal investment for public funds);

(41) RCW 43.83H.900 (Severability—1975-'76 2nd ex.s. c 125);

(42) RCW 43.83H.910 (Severability—1977 ex.s. c 342);

(43) RCW 43.83H.912 (Severability—1979 ex.s. c 252);

(44) RCW 43.83H.914 (Severability—1981 c 234); and

(45) RCW 43.83H.915 (Severability—1984 c 269).

NEW SECTION. Sec. 17. The following sections are decodified:

(1) RCW 43.75.200 (General obligation bonds—Refunding—Amount—Authority of state finance committee to issue);

(2) RCW 43.75.205 (General obligation bonds—Form, terms, covenants, etc.—Sale—Redemption);

(3) RCW 43.75.215 (General obligation bonds—Redemption—Enforcement);

(4) RCW 43.75.230 (Legislature may provide additional means for paying bonds);

(5) RCW 43.75.235 (Bonds legal investment for state and other public body funds);

(6) RCW 43.75.900 (Severability—1973 c 9); and

(7) RCW 43.75.910 (Effective date—1973 c 9).

NEW SECTION. Sec. 18. The following sections are decodified:

(1) RCW 47.02.020 (Issuance and sale of limited obligation bonds);

(2) RCW 47.02.030 (Bonds—Term—Terms and conditions);

(3) RCW 47.02.040 (Bonds—Signatures—Registration—Where payable—Negotiable instruments);

(4) RCW 47.02.050 (Bonds—Denominations—Manner and terms of sale—Legal investment for state funds);

(5) RCW 47.02.060 (Bonds—Bond proceeds—Deposit and use);

(6) RCW 47.02.070 (Bonds—Statement describing nature of obligation—Pledge of excise taxes);

(7) RCW 47.02.080 (Bonds—Designation of funds to repay bonds and interest);

(8) RCW 47.02.090 (Bonds—Repayment procedure—Highway bond retirement fund);

(9) RCW 47.02.100 (Bonds—Sums in excess of retirement requirements—Use); and

(10) RCW 47.02.110 (Bonds—Appropriation from motor vehicle fund).

NEW SECTION. Sec. 19. The following sections are decodified:

(1) RCW 28B.20.750 (Hospital project bonds—State general obligation bonds in lieu of revenue bonds);

(2) RCW 28B.20.751 (Hospital project bonds—Amount authorized);

(3) RCW 28B.20.752 (Hospital project bonds—Bond anticipation notes, authorized, payment);

(4) RCW 28B.20.753 (Hospital project bonds—Form, terms, conditions, sale, and covenants for bonds and notes);

(5) RCW 28B.20.754 (Hospital project bonds—Disposition of proceeds);

(6) RCW 28B.20.755 (Hospital project bonds—Administration of proceeds from bonds and notes);

(7) RCW 28B.20.756 (Hospital project bonds—1975 University of Washington hospital bond retirement fund, created, purpose);

(8) RCW 28B.20.757 (Hospital project bonds—Regents to accumulate moneys for bond payments);

(9) RCW 28B.20.758 (Hospital project bonds—As legal investment for public funds); and

(10) RCW 28B.20.759 (Hospital project bonds—Prerequisite to issuance).

NEW SECTION, Sec. 20. The following sections are decodified:

(1) RCW 28B.30.600 (Tree fruit research center facility, financing—Bonds, authorization conditional—Amount—Discharge);

(2) RCW 28B.30.602 (Tree fruit research center facility, financing—Bonds, committee to control issuance, sale and retirement of);

(3) RCW 28B.30.604 (Tree fruit research center facility, financing—Anticipation notes authorized—Use of proceeds);

(4) RCW 28B.30.606 (Tree fruit research center facility, financing—Administration of proceeds from sale of bonds or notes—Investment of surplus funds);

(5) RCW 28B.30.608 (Tree fruit research center facility, financing—Security for bonds issued);

(6) RCW 28B.30.610 (Tree fruit research center facility, financing—Office-laboratory facilities bond redemption fund created, use);

(7) RCW 28B.30.612 (Tree fruit research center facility, financing—Rights of owner and holder of bonds);

(8) RCW 28B.30.614 (Tree fruit research center facility, financing—Lease agreement prerequisite to sale of bonds—Disposition of lease payments);

(9) RCW 28B.30.616 (Tree fruit research center facility, financing—Bonds, legislature may provide additional means for payment);

(10) RCW 28B.30.618 (Tree fruit research center facility, financing—Bonds as legal investment for public funds);

(11) RCW 28B.30.619 (Tree fruit research center facility, financing—Appropriation);

(12) RCW 28B.30.620 (Tree fruit research center facility, financing—Alternatives authorized);

(13) RCW 28B.31.010 (Purpose—Bonds authorized—Amount—Payment);

(14) RCW 28B.31.020 (Bond anticipation notes—Authorized—Bond proceeds to apply to payment on);

(15) RCW 28B.31.030 (Form, terms, conditions, sale and covenants of bonds and notes—Pledge of state's credit);

(16) RCW 28B.31.050 (Administration of proceeds from bonds and notes);

(17) RCW 28B.31.060 (Washington State University bond retirement fund of 1977—Created—Purpose—Payment of interest and principal on bonds and notes);

(18) RCW 28B.31.070 (Transfer of moneys to state general fund from Washington State University building account);

(19) RCW 28B.31.080 (Bonds as legal investment for public funds);

(20) RCW 28B.31.090 (Prerequisite to bond issuance); and

(21) RCW 28B.31.100 (Chapter not to repeal, override, or limit other statutes or actions—Transfers under RCW 28B.31.070 as subordinate).

NEW SECTION. Sec. 21. The following sections are decodified:

(1) RCW 43.83A.010 (Declaration);

(2) RCW 43.83A.020 (General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required);

(3) RCW 43.83A.040 (Administration of proceeds—Use of funds—Integration of disposal systems);

(4) RCW 43.83A.050 (Definitions);

(5) RCW 43.83A.060 (Referral to electorate);

(6) RCW 43.83A.070 (Form, terms, conditions, etc., of bonds);

(7) RCW 43.83A.080 (Anticipation notes—Pledge and promise—Seal);

(8) RCW 43.83A.090 (Retirement of bonds from waste disposal facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders—Debt-limit general fund bond retirement account);

(9) RCW 43.83A.100 (Legislature may provide additional means for payment of bonds);

(10) RCW 43.83A.110 (Bonds legal investment for public funds);

(11) RCW 43.83A.900 (Appropriation);

(12) RCW 43.99F.010 (Declaration);

(13) RCW 43.99F.020 (General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required);

(14) RCW 43.99F.040 (Administration of proceeds);

(15) RCW 43.99F.050 (Definitions);

(16) RCW 43.99F.060 (Form, terms, conditions, etc., of bonds);

(17) RCW 43.99F.070 (Anticipation notes—Payment—Pledge and promise—Seal);

(18) RCW 43.99F.080 (Retirement of bonds from waste disposal facilities bond redemption fund—Remedies of bondholders—Debt-limit general fund bond retirement account);

(19) RCW 43.99F.090 (Legislature may provide additional means for payment of bonds);

(20) RCW 43.99F.100 (Bonds legal investment for public funds); and

(21) RCW 43.99F.110 (Referral to electorate).

NEW SECTION. Sec. 22. The following sections are decodified:

(1) RCW 90.50.010 (Bond issue—Authorized);

(2) RCW 90.50.030 (Bond proceeds—Administration);

(3) RCW 90.50.040 (Water pollution control facilities bond redemption fund—Bonds payable from sales tax revenues—Remedies of bondholders);

(4) RCW 90.50.050 (Legislature may provide additional means for bond payment);

(5) RCW 90.50.060 (Bonds legal investment for state and municipal corporation funds);

(6) RCW 90.50.080 (Definitions); and

(7) RCW 90.50.900 (Referral of act to electorate).

NEW SECTION. Sec. 23. The following sections are decodified:

(1) RCW 43.83B.010 (Declaration);

(2) RCW 43.83B.020 (General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required);

(3) RCW 43.83B.030 (Proceeds to be deposited in state and local improvements revolving account);

(4) RCW 43.83B.040 (Administration of proceeds—Use of funds);

(5) RCW 43.83B.050 (Definitions);

(6) RCW 43.83B.060 (Referral to electorate);

(7) RCW 43.83B.070 (Form, terms, conditions, etc., of bonds);

(8) RCW 43.83B.080 (Anticipation notes—Pledge and promise—Seal);

(9) RCW 43.83B.090 (Retirement of bonds from water supply facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders);

(10) RCW 43.83B.100 (Legislature may provide additional means for payment of bonds);

(11) RCW 43.83B.110 (Bonds legal investment for public funds);

(12) RCW 43.83B.355 (Form, sale, conditions, etc., of bonds—"Water supply facilities for water withdrawal and distribution" defined);

(13) RCW 43.83B.365 (Administration of proceeds from sale of bonds);

(14) RCW 43.83B.370 (Retirement of bonds and notes from emergency water projects bond redemption fund—Remedies of bond holders);

(15) RCW 43.83B.375 (Bonds legal investment for public funds);

(16) RCW 43.99D.005 (Transfer of duties to the department of health);

(17) RCW 43.99D.010 (Declaration);

(18) RCW 43.99D.015 (General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required);

(19) RCW 43.99D.020 (Proceeds to be deposited in state and local improvements revolving account—Water supply facilities);

(20) RCW 43.99D.025 (Administration of proceeds—Use of funds);

(21) RCW 43.99D.030 (Definitions);

(22) RCW 43.99D.035 (Form, terms, conditions, etc., of bonds);

(23) RCW 43.99D.040 (Anticipation notes—Payment—Pledge and promise—Seal);

(24) RCW 43.99D.045 (Retirement of bonds from 1979 water supply facilities bond redemption fund—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders);

(25) RCW 43.99D.050 (Legislature may provide additional means for payment of bonds);

(26) RCW 43.99D.055 (Bonds legal investment for public funds);

(27) RCW 43.99D.900 (Severability—1979 ex.s. c 258);

(28) RCW 43.99E.005 (Transfer of duties to the department of health);

(29) RCW 43.99E.010 (Declaration);

(30) RCW 43.99E.015 (General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required);

(31) RCW 43.99E.025 (Administration of proceeds);

(32) RCW 43.99E.030 (Definitions);

(33) RCW 43.99E.035 (Form, terms, conditions, etc., of bonds);

(34) RCW 43.99E.040 (Anticipation notes—Payment—Pledge and promise—Seal);

(35) RCW 43.99E.045 (Retirement of bonds from public water supply facilities bond redemption fund—Remedies of bondholders—Debt-limit general fund bond retirement account);

(36) RCW 43.99E.050 (Legislature may provide additional means for payment of bonds);

(37) RCW 43.99E.055 (Bonds legal investment for public funds); and

(38) RCW 43.99E.900 (Severability—1979 ex. s. c 234).

Sec. 24. RCW 28A.525.200 and 2006 c 263 s 320 are each amended to read as follows:

Notwithstanding any other provision of RCW 28A.525.010 through ~~((28A.525.222))~~ 28A.525.200, the allocation and distribution of funds by the superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, for the purposes of providing assistance in the construction of school plant facilities shall be governed by this chapter.

Sec. 25. RCW 28B.10.851 and 1991 sp.s. c 13 s 45 are each amended to read as follows:

The proceeds from ~~((the sale of the bonds authorized herein, together with))~~ all grants, donations, transferred funds and all other moneys which the state finance committee may direct the state treasurer to deposit therein shall be deposited in the state higher education construction account hereby created in the state treasury.

Sec. 26. RCW 28B.14D.040 and 1991 sp.s. c 13 s 8 are each amended to read as follows:

The proceeds from ~~((the sale of the bonds authorized in this chapter, together with))~~ all grants, donations, transferred funds, and all other moneys which the state finance committee or the board of regents or board of trustees of any of the state institutions of higher education may direct the state treasurer to deposit therein, shall be deposited in the higher education construction account hereby created in the state treasury.

Sec. 27. RCW 35.21.900 and 2006 c 35 s 10 are each amended to read as follows:

Cities are authorized to transfer real property pursuant to RCW 43.99C.070 and 43.83D.120 (as recodified by this act).

Sec. 28. RCW 35A.40.050 and 2007 c 64 s 1 are each amended to read as follows:

Excess and inactive funds on hand in the treasury of any code city may be invested in the same manner and subject to the same limitations as provided for city and town funds in all applicable statutes, including, but not limited to the following: RCW 35.39.030, 35.58.510, 35.81.070, 35.82.070, 36.29.020, 39.58.020, 39.58.080, 39.58.130, 39.60.010, 39.60.020, 41.16.040, 68.52.060, and 68.52.065~~((and 72.19.120))~~.

The responsibility for determining the amount of money available in each fund for investment purposes shall be placed upon the department, division, or board responsible for the administration of such fund.

Moneys thus determined available for this purpose may be invested on an individual fund basis or may, unless otherwise restricted by law be commingled within one common investment portfolio for the mutual benefit of all participating funds: PROVIDED, That if such moneys are commingled in a common investment portfolio, all income derived therefrom shall be apportioned among the various participating funds or the general or current expense fund as the governing body of the code city determines by ordinance or resolution.

Any excess or inactive funds on hand in the city treasury not otherwise invested for the specific benefit of any particular fund, may be invested by the city treasurer in United States government bonds, notes, bills or certificates of indebtedness for the benefit of the general or current expense fund.

Sec. 29. RCW 35A.79.020 and 2006 c 35 s 11 are each amended to read as follows:

Code cities are authorized to transfer real property pursuant to RCW 43.99C.070 and 43.83D.120 (as recodified by this act).

Sec. 30. RCW 41.16.040 and 2007 c 218 s 21 are each amended to read as follows:

The board shall have such general powers as are vested in it by the provisions of this chapter, and in addition thereto, the power to:

(1) Generally supervise and control the administration of this chapter and the firefighters' pension fund created hereby.

(2) Pass upon and allow or disallow all applications for pensions or other benefits provided by this chapter.

(3) Provide for payment from said fund of necessary expenses of maintenance and administration of said pension system and fund.

(4) Invest the moneys of the fund in a manner consistent with the investment policies outlined in RCW 35.39.060. Authorized investments shall include investment grade securities issued by the United States, state, municipal corporations, other public bodies, corporate bonds, and other investments authorized by RCW 35.39.030, 35.58.510, 35.81.070, 35.82.070, 36.29.020, 39.58.020, 39.58.080, 39.58.130, 39.60.010, 39.60.020, 68.52.060, and 68.52.065(~~and 72.19.120~~).

(5) Employ such agents, employees and other personnel as the board may deem necessary for the proper administration of this chapter.

(6) Compel witnesses to appear and testify before it, in the same manner as is or may be provided by law for the taking of depositions in the superior court. Any member of the board may administer oaths to witnesses who testify before the board of a nature and in a similar manner to oaths administered by superior courts of the state of Washington.

(7) Issue vouchers approved by the chairperson and secretary and to cause warrants therefor to be issued and paid from said fund for the payment of claims allowed by it.

(8) Keep a record of all its proceedings, which record shall be public; and prepare and file with the city treasurer and city clerk or comptroller prior to the date when any payments are to be made from the fund, a list of all persons entitled to payment from the fund, stating the amount and purpose of such payment, said list to be certified to and signed by the chairperson and secretary of the board and attested under oath.

(9) Make rules and regulations not inconsistent with this chapter for the purpose of carrying out and effecting the same.

(10) Appoint one or more duly licensed and practicing physicians who shall examine and report to the board upon all applications for relief and pension under this chapter. Such physicians shall visit and examine all sick firefighters and firefighters who are disabled when, in their judgment, the best interests of the relief and pension fund require it or when ordered by the board. They shall perform all operations on such sick and injured firefighters and render all medical aid and care necessary for the recovery of such firefighters on account of sickness or disability received while in the performance of duty as defined in this chapter. Such physicians shall be paid from said fund, the amount of said fees or salary to be set and agreed upon by the board and the physicians. No physician not regularly appointed or specially appointed and employed, as hereinafter provided, shall receive or be entitled to any fees or compensation from said fund as attending physician to a sick or injured firefighter. If any sick or injured firefighter refuses the services of the appointed physicians, or the specially appointed and employed physician, he or she shall be personally liable for the fees of any other physician employed by him or her. No person shall have a right of action against the board or the municipality for negligence of any physician employed by it. The board shall have the power and authority to select and employ, besides the regularly appointed physician, such other physician, surgeon or specialist for consultation with, or assistance to the regularly appointed physician, or for the purpose of performing operations or rendering services and treatment in particular cases, as it shall deem advisable, and to pay fees for such services from said fund. Said board shall hear and decide all applications for such relief or pensions under this chapter, and its decisions on such applications shall be final and conclusive and not subject to revision or reversal except by the board.

Sec. 31. RCW 43.70.900 and 2007 c 52 s 2 are each amended to read as follows:

All references to the secretary or department of social and health services in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in RCW 43.70.080, 18.104.005, (~~43.83B.005, 43.99D.005, 43.99E.005,~~) 70.08.005, 70.22.005, 70.24.005, 70.40.005, 70.41.005, and 70.54.005.

NEW SECTION. **Sec. 32.** RCW 43.75.225 is decodified.

Sec. 33. RCW 43.83.020 and 2004 c 276 s 907 are each amended to read as follows:

(1) The (~~proceeds from the sale of the bonds authorized herein shall be deposited in the~~) state building construction account (~~which~~) is hereby established in the state treasury and shall be used exclusively for the purposes of carrying out the provisions of the capital appropriation acts (~~and for payment of the expense incurred in the printing, issuance, and sale of such bonds~~).

(2) During the 2003-2005 biennium, the legislature may transfer moneys from the state building construction account to the conservation assistance revolving account such amounts as reflect the excess fund balance of the account.

Sec. 34. RCW 43.83A.030 and 1991 sp.s. c 13 s 43 are each amended to read as follows:

~~((The proceeds from the sale of bonds authorized by this chapter shall be deposited in))~~ (1) The state and local improvements revolving account is hereby created in the state treasury and shall be used exclusively for the purpose ~~((specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds))~~ of providing funds for the planning, acquisition, construction, and improvement of public waste disposal facilities in this state.

(2) As used in this section the phrase "public waste disposal facilities" shall not include the acquisition of equipment used to collect, carry, and transport garbage.

(3) As used in this section, the term "waste disposal facilities" shall mean any facilities or systems owned or operated by a public body for the collection, storage, treatment, disposal, recycling, control, or recovery of liquid wastes or solid wastes, including, but not limited to, sanitary sewage, storm water, residential, industrial, and commercial wastes, material segregated into recyclables and nonrecyclables, and any combination of such wastes; and all equipment, utilities, structures, real property, and interests in and improvements on real property, necessary for or incidental to such purpose.

(4) As used in this section, the term "public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington.

Sec. 35. RCW 43.83D.120 and 2006 c 35 s 3 are each amended to read as follows:

(1) Public bodies ~~(, as defined in RCW 43.83D.050,)~~ may transfer without further consideration real property and facilities acquired, constructed, or otherwise improved under ~~((this chapter))~~ the social and health services facilities 1972 bond issue to nonprofit corporations organized to provide individuals with social and health services, in exchange for the promise to continually operate services benefiting the public on the site, subject to all the conditions in this section. For purposes of this section, "transfer" may include lease renewals. The nonprofit corporation shall use the real property and facilities for the purpose of providing the following programs as designated by the department of social and health services: Facilities for social services, adult and juvenile correction or detention, child welfare, day care, drug abuse and alcoholism treatment, mental health, public health, developmental disabilities, and vocational rehabilitation.

(2) The deed transferring the property in subsection (1) of this section must provide for immediate reversion back to the public body if the nonprofit corporation ceases to use the property for the purposes described in subsection (1) of this section.

(3) The nonprofit corporation is authorized to sell the property transferred to it pursuant to subsection (1) of this section only if all of the following conditions are satisfied: (a) Any such sale must be subject to prior written approval by the department of social and health services; (b) all proceeds from such a sale must be applied to the purchase price of a different property or properties of equal or greater value than the original property; (c) any new property or properties must

be used for the purposes stated in subsection (1) of this section; (d) the new property or properties must be available for use within one year of sale; and (e) the nonprofit corporation must enter into an agreement with the public entity to reimburse the public entity for the value of the original property at the time of the sale if the nonprofit corporation ceases to use the new property for the purposes described in subsection (1) of this section.

(4) If the nonprofit corporation ceases to use the property for the purposes described in subsection (1) of this section, the property and facilities revert immediately to the public body. The public body shall then determine if the property, or the reimbursed amount in the case of a reimbursement under subsection (3)(e) of this section, may be used by another program as designated by the department of social and health services. These programs have priority in obtaining the property to ensure that the purposes specified in ~~((this chapter))~~ the social and health services facilities 1972 bond issue are carried out.

(5) As used in this section, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington.

Sec. 36. RCW 43.83H.030 and 1991 sp.s. c 13 s 56 are each amended to read as follows:

~~((The proceeds from the sale of bonds authorized by this chapter shall be deposited in))~~ (1) The state social and health services construction account is hereby created in the state treasury and shall be used exclusively for the ~~((purposes specified in this chapter and for the payment of expenses incurred in the issuance and sale of such bonds))~~ purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities.

(2) As used in this section, the term "social and health services facilities" shall include, without limitation, facilities for use in veterans' service programs, adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the social and health services construction account in the general fund by chapter 276, Laws of 1975 1st ex. sess., the capital appropriations act, or subsequent capital appropriations acts.

Sec. 37. RCW 43.83I.040 and 1975-'76 2nd ex.s. c 132 s 4 are each amended to read as follows:

~~((Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 43.83I.020, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in RCW 43.83I.010 through 43.83I.060, together with))~~ All grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account of the general fund hereby created in the state treasury. All such proceeds shall be used exclusively for the ~~((purposes specified in RCW 43.83I.010 through 43.83I.060 and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes))~~ purpose of providing

needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the department of fish and wildlife.

Sec. 38. RCW 43.99C.070 and 2006 c 35 s 2 are each amended to read as follows:

(1) Public bodies (~~(, as defined in RCW 43.99C.020,))~~ may transfer without further consideration real property and facilities acquired, constructed, or otherwise improved under ~~((this chapter))~~ the handicapped facilities 1979 bond issue to nonprofit corporations organized to provide services for individuals with physical or mental disabilities, in exchange for the promise to continually operate services benefiting the public on the site, subject to all the conditions in this section. For purposes of this section, "transfer" may include lease renewals. The nonprofit corporation shall use the real property and facilities for the purpose of providing the following limited programs as designated by the department of social and health services: Nonprofit community centers, close-to-home living units, employment and independent living training centers, vocational rehabilitation centers, developmental disabilities training centers, and community homes for individuals with mental illness.

(2) The deed transferring the property in subsection (1) of this section must provide for immediate reversion back to the public body if the nonprofit corporation ceases to use the property for the purposes described in subsection (1) of this section.

(3) The nonprofit corporation is authorized to sell the property transferred to it pursuant to subsection (1) of this section only if all of the following conditions are satisfied: (a) Any such sale must have the prior written approval by the department of social and health services; (b) all proceeds from such a sale must be applied to the purchase price of a different property or properties of equal or greater value than the original property; (c) any new property or properties must be used for the purposes stated in subsection (1) of this section; (d) the new property or properties must be available for use within one year of sale; and (e) the nonprofit corporation must enter into an agreement with the public entity to reimburse the public entity for the value of the original property at the time of the sale if the nonprofit corporation ceases to use the new property for the purposes described in subsection (1) of this section.

(4) If the nonprofit corporation ceases to use the property for the purposes described in subsection (1) of this section, the property and facilities revert immediately to the public body. The public body shall then determine if the property, or the reimbursed amount in the case of a reimbursement under subsection (3)(e) of this section, may be used by another program as designated by the department of social and health services. These programs have priority in obtaining the property to ensure that the purposes specified in ~~((this chapter))~~ the handicapped facilities 1979 bond issue are carried out.

(5) As used in this section, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington.

Sec. 39. RCW 43.99E.020 and 1979 ex.s. c 234 s 3 are each amended to read as follows:

~~((The proceeds from the sale of bonds authorized by this chapter shall be deposited in))~~ (1) The state and local improvements revolving account—water supply facilities is hereby created in the general fund and shall be used exclusively for the ~~((purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds))~~ purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state.

(2) As used in this section, the term "water supply facilities" means domestic, municipal, industrial, and agricultural (and any associated fishery, recreational, or other beneficial use) water supply or distribution systems including, but not limited to, all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to the acquisition, construction, installation, or use of any such water supply or distribution system.

Sec. 40. RCW 43.99F.030 and 1991 sp.s. c 13 s 44 are each amended to read as follows:

~~((The proceeds from the sale of bonds authorized by this chapter shall be deposited in))~~ (1) The state and local improvements revolving account, Waste Disposal Facilities, 1980 is hereby created in the state treasury and shall be used exclusively for the purpose ~~((specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds))~~ of providing funds to public bodies for the planning, design, acquisition, construction, and improvement of public waste disposal and management facilities, or for purposes of assisting a public body to obtain an ownership interest in waste disposal and management facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70.150.060, in this state.

(2) "Waste disposal and management facilities" means any facilities or systems for the control, collection, storage, treatment, disposal, recycling, or recovery of nonradioactive liquid wastes or nonradioactive solid wastes, or a combination thereof, including, but not limited to, sanitary sewage, storm water, residential, industrial, commercial, and agricultural wastes, and concentrations of organic sediments waste, inorganic nutrients, and toxic materials which are causing environmental degradation and loss of the beneficial use of the environment, and material segregated into recyclables and nonrecyclables. Waste disposal and management facilities may include all equipment, utilities, structures, real property, and interest in and improvements on real property necessary for or incidental to such purpose. As used in this chapter, the phrase "waste disposal and management facilities" shall not include the acquisition of equipment used to collect residential or commercial garbage.

(3) "Public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government.

(4) "Control" means those measures necessary to maintain and/or restore the beneficial uses of polluted land and water resources including, but not limited to, the diversion, sedimentation, flocculation, dredge and disposal, or containment

or treatment of nutrients, organic waste, and toxic material to restore the beneficial use of the state's land and water resources and prevent the continued pollution of these resources.

(5) "Planning" means the development of comprehensive plans for the purpose of identifying statewide or regional needs for specific waste disposal facilities as well as the development of plans specific to a particular project.

Sec. 41. RCW 43.99G.020 and 2012 c 198 s 4 are each amended to read as follows:

~~((Bonds issued under RCW 43.99G.010 are subject to the following conditions and limitations:~~

~~(1) General obligation bonds of the state of Washington in the sum of thirty-eight million fifty-four thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for grants and loans to local governments and subdivisions of the state for capital projects through the community economic revitalization board and for the department of enterprise services, military department, parks and recreation commission, and department of corrections to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of enterprise services, subject to legislative appropriation.~~

~~(2) General obligation bonds of the state of Washington in the sum of four million six hundred thirty-five thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the planning, design, acquisition, construction, and improvement of a Washington state agricultural trade center, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.~~

~~(3) General obligation bonds of the state of Washington in the sum of twenty-five million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the department of social and health services and the department of corrections to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, and~~

grounds, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the social and health services construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of social and health services, subject to legislative appropriation.

(4) General obligation bonds of the state of Washington in the sum of one million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the department of fish and wildlife to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the fisheries capital projects account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of fisheries, subject to legislative appropriation.

(5) General obligation bonds of the state of Washington in the sum of fifty-three million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for state agencies and the institutions of higher education, including the community colleges, to perform capital renewal projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.

(6) General obligation bonds of the state of Washington in the sum of twenty-two million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the University of Washington and the state community colleges to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, improving, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of

~~bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in~~) The higher education reimbursable short-term bond account is hereby created in the state treasury, ((shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection,)) and shall be administered by the University of Washington, subject to legislative appropriation. This account shall be used exclusively for the purpose of providing funds for the University of Washington and the state community colleges to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, improving, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects.

~~((7) General obligation bonds of the state of Washington in the sum of twenty-eight million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the institutions of higher education to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the higher education construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by Washington State University, subject to legislative appropriation.~~

(8) General obligation bonds of the state of Washington in the sum of seventy-five million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the institutions of higher education, including facilities for the community college system, to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account in the state treasury and shall be used exclusively for the purposes specified in this subsection and

for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection.)

Sec. 42. RCW 43.99H.020 and 1990 1st ex.s. c 15 s 2 and 1990 c 33 s 582 are each reenacted and amended to read as follows:

Bonds issued under RCW 43.99H.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion four hundred four million dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 198991 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects, and to provide for reimbursement of bond-funded accounts from the 198789 fiscal biennium. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Thirty million dollars to the state and local improvements revolving account—waste disposal facilities, created by RCW 43.83A.030 (as recodified by this act), to be used for the purposes described in RCW 43.83A.020 (as recodified by this act);

(2) Five million three hundred thousand dollars to the salmon enhancement construction account created by RCW 75.48.030;

(3) One hundred twenty million dollars to the state and local improvements revolving account—waste disposal facilities, 1980 created by RCW 43.99F.030 (as recodified by this act), to be used for the purposes described in ((~~RCW 43.99F.020~~)) RCW 43.99F.030 (as recodified by this act);

(4) Forty million dollars to the common school construction fund as referenced in RCW 28A.515.320.

(5) Three million two hundred thousand dollars to the state higher education construction account created by RCW 28B.10.851 (as recodified by this act);

(6) Eight hundred five million dollars to the state building construction account created by RCW 43.83.020;

(7) Nine hundred fifty thousand dollars to the higher education reimbursable short-term bond account created by RCW 43.99G.020(6) (as recodified by this act);

(8) Twenty-nine million seven hundred thirty thousand dollars to the outdoor recreation account created by ((~~RCW 43.99.060~~)) RCW 79A.25.060;

(9) Sixty million dollars to the state and local improvements revolving account—water supply facilities, created by RCW 43.99E.020 (as recodified by this act) to be used for the purposes described in ((~~chapter 43.99E RCW~~)) RCW 43.99E.020 (as recodified by this act);

(10) Four million three hundred thousand dollars to the state social and health services construction account created by RCW 43.83H.030 (as recodified by this act);

(11) Two hundred fifty thousand dollars to the fisheries capital projects account created by RCW 43.83I.040 (as recodified by this act);

(12) Four million nine hundred thousand dollars to the state ((~~facilities renewal~~) building construction account created by RCW ((~~43.99G.020(5)~~) 43.83.020;

(13) Two million three hundred thousand dollars to the essential rail assistance account created by ((~~RCW 47.76.030~~) RCW 47.76.250;

(14) One million one hundred thousand dollars to the essential rail bank account hereby created in the state treasury;

(15) Seventy-three million dollars to the east capitol campus construction account hereby created in the state treasury;

(16) Eight million dollars to the higher education construction account created in RCW 28B.14D.040 (as recodified by this act);

(17) Sixty-three million two hundred thousand dollars to the labor and industries construction account hereby created in the state treasury;

(18) Seventy-five million dollars to the higher education construction account created by RCW 28B.14D.040 (as recodified by this act);

(19) Twenty-six million five hundred fifty thousand dollars to the habitat conservation account hereby created in the state treasury; and

(20) Eight million dollars to the public safety reimbursable bond account hereby created in the state treasury.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation.

Bonds authorized for the purposes of subsection (17) of this section shall be issued only after the director of the department of labor and industries has certified, based on reasonable estimates, that sufficient revenues will be available from the accident fund created in RCW 51.44.010 and the medical aid fund created in RCW 51.44.020 to meet the requirements of RCW 43.99H.060(4) during the life of the bonds.

Bonds authorized for the purposes of subsection (18) of this section shall be issued only after the board of regents of the University of Washington has certified, based on reasonable estimates, that sufficient revenues will be available from nonappropriated local funds to meet the requirements of RCW 43.99H.060(4) during the life of the bonds.

Sec. 43. RCW 43.99I.020 and 2012 c 198 s 13 are each amended to read as follows:

Bonds issued under RCW 43.99I.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion two hundred seventy-one million sixtyfive thousand dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 199193 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds

issued for the purposes of this section shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Eight hundred thirty-five thousand dollars to the state higher education construction account created by RCW 28B.10.851 (as recodified by this act);

(2) Eight hundred seventy-one million dollars to the state building construction account created by RCW 43.83.020;

(3) Two million eight hundred thousand dollars to the (~~(energy efficiency services account created by RCW 39.35C.110)~~) enterprise services account;

(4) Ninety-eight million six hundred forty-eight thousand dollars to the higher education reimbursable construction account hereby created in the state treasury;

(5) Three million two hundred eighty-four thousand dollars to the (~~(data processing building construction account created in RCW 43.99L.100)~~) state general fund; and

(6) Nine hundred thousand dollars to the (~~(Washington state dairy products commission facility account created in RCW 43.99L.110)~~) state general fund.

These proceeds shall be used exclusively for the purposes specified in this section, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation.

Sec. 44. RCW 43.99K.020 and 1997 c 456 s 42 are each amended to read as follows:

The proceeds from the sale of the bonds authorized in RCW 43.99K.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Seven hundred eighty-five million four hundred thirty-eight thousand dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by (~~(RCW 43.99.060)~~) RCW 79A.25.060;

(3) Twenty-one million one hundred thousand dollars to the habitat conservation account created by (~~(RCW 43.98A.020)~~) RCW 79A.15.020;

(4) Two million nine hundred twelve thousand dollars to the public safety reimbursable bond account; and

(5) Ten million dollars to the higher education construction account created by RCW 28B.14D.040 (as recodified by this act).

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation.

Sec. 45. RCW 43.99L.020 and 1997 c 456 s 2 are each amended to read as follows:

The proceeds from the sale of the bonds authorized in RCW 43.99L.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Nine hundred fifteen million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) One million six hundred thousand dollars to the public safety reimbursable bond account; and

(3) Forty-four million three hundred thousand dollars to the higher education construction account created by RCW 28B.14D.040 (as recodified by this act).

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation.

Sec. 46. RCW 43.99P.020 and 1999 c 380 s 2 are each amended to read as follows:

The proceeds from the sale of the bonds authorized in RCW 43.99P.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Nine hundred fifty million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by (~~RCW 43.99.060~~) RCW 79A.25.060;

(3) Twenty-two million five hundred thousand dollars to the habitat conservation account created by (~~RCW 43.98A.020~~) RCW 79A.15.020;

(4) One hundred thirty-six million eight hundred thirty-six thousand dollars to the higher education construction account created by RCW 28B.14D.040 (as recodified by this act);

(5) Thirty-six million three hundred thousand dollars to the state higher education construction account created by RCW 28B.10.851 (as recodified by this act).

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation.

Sec. 47. RCW 43.99Q.020 and 2001 2nd sp.s. c 9 s 2 are each amended to read as follows:

The proceeds from the sale of the bonds authorized in RCW 43.99Q.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Seven hundred seventy-four million two hundred thousand dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by RCW 79A.25.060;

(3) Twenty-two million five hundred thousand dollars to the habitat conservation account created by RCW 79A.15.020;

(4) Sixty million dollars to the state taxable building construction account which is hereby established in the state treasury. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary to issue more than fifty million dollars of the bonds authorized in RCW 43.99Q.010 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 additional taxable bonds shall be transferred to

the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation;

(5) Twenty-nine million twenty-five thousand dollars to the higher education construction account created by RCW ((~~28B.140.040~~ [28B.14D.040])) 28B.14D.040 (as recodified by this act).

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation.

NEW SECTION. Sec. 48. RCW 67.40.040 (Deposit of proceeds in state convention and trade center account and appropriate subaccounts—Credit against future borrowings—Use) and 2010 1st sp.s. c 37 s 938 are each repealed.

Sec. 49. RCW 70.95.165 and 1989 c 431 s 11 are each amended to read as follows:

(1) Each county or city siting a solid waste disposal facility shall review each potential site for conformance with the standards as set by the department for:

- (a) Geology;
- (b) Groundwater;
- (c) Soil;
- (d) Flooding;
- (e) Surface water;
- (f) Slope;
- (g) Cover material;
- (h) Capacity;
- (i) Climatic factors;
- (j) Land use;
- (k) Toxic air emissions; and
- (l) Other factors as determined by the department.

(2) The standards in subsection (1) of this section shall be designed to use the best available technology to protect the environment and human health, and shall be revised periodically to reflect new technology and information.

(3) Each county shall establish a local solid waste advisory committee to assist in the development of programs and policies concerning solid waste handling and disposal and to review and comment upon proposed rules, policies, or ordinances prior to their adoption. Such committees shall consist of a minimum of nine members and shall represent a balance of interests including, but not limited to, citizens, public interest groups, business, the waste management industry, and local elected public officials. The members shall be appointed by the county legislative authority. A county or city shall not apply for funds from the state and local improvements revolving account, Waste Disposal Facilities, 1980, under ((~~chapter 43.99F~~)) RCW 43.99F.030 (as recodified by this act), for the preparation, update, or major amendment of a comprehensive solid waste management plan unless the plan or revision has been prepared with the active assistance and participation of a local solid waste advisory committee.

Sec. 50. RCW 70.95.267 and 1975-'76 2nd ex.s. c 41 s 10 are each amended to read as follows:

The department is authorized to use referendum 26 (~~((chapter 43.83A RCW))~~) (RCW 43.83A.030 (as recodified by this act)) funds of the Washington futures account to disburse to local governments in developing solid waste recovery and/or recycling projects.

Sec. 51. RCW 70.95.268 and 1984 c 123 s 10 are each amended to read as follows:

The department is authorized to use funds under (~~(chapter 43.99F)~~) RCW 43.99F.030 (as recodified by this act) to disburse to local governments in developing solid waste recovery or recycling projects. Priority shall be given to those projects that use incineration of solid waste to produce energy and to recycling projects.

Sec. 52. RCW 79.17.120 and 2006 c 263 s 334 are each amended to read as follows:

The purchases authorized under RCW 79.17.110 shall be classified as for the construction of common A.525.200school plant facilities under RCW 28A.525.010 through (~~(28A.525.222)~~) 28A.525.200 and shall be payable out of the common school construction fund as otherwise provided for in RCW 28A.515.320 if the school district involved was under emergency school construction classification as established by the superintendent of public instruction at any time during the period of its lease of state lands.

Sec. 53. RCW 87.80.130 and 2003 c 306 s 3 are each amended to read as follows:

(1) A board of joint control created under the provisions of this chapter shall have full authority within its area of jurisdiction to enter into and perform any and all necessary contracts; to accept grants and loans, including, but not limited to, those provided under chapter(~~(s)~~) 43.83B and (~~(43.99E RCW)~~) RCW 43.99E.020 (as recodified by this act), to appoint and employ and discharge the necessary officers, agents, and employees; to sue and be sued as a board but without personal liability of the members thereof in any and all matters in which all the irrigation entities represented on the board as a whole have a common interest without making the irrigation entities parties to the suit; to represent the entities in all matters of common interest as a whole within the scope of this chapter; and to do any and all lawful acts required and expedient to carry out the purposes of this chapter. A board of joint control may, subject to the same limitations as an irrigation district operating under chapter 87.03 RCW, acquire any property or property rights for use within the board's area of jurisdiction by power of eminent domain; acquire, purchase, or lease in its own name all necessary real or personal property or property rights; and sell, lease, or exchange any surplus real or personal property or property rights. Any transfers of water, however, are limited to transfers authorized under subsection (2) of this section.

(2)(a) A board of joint control is authorized and encouraged to pursue conservation and system efficiency improvements to optimize the use of appropriated waters and to either redistribute the saved water within its area of jurisdiction, or transfer the water to others, or both. A redistribution of saved water as an operational practice internal to the board of joint control's area of

jurisdiction, may be authorized if it can be made without detriment or injury to rights existing outside of the board of control's area of jurisdiction, including instream flow water rights established under state or federal law.

(b) Prior to undertaking a water conservation or system efficiency improvement project that will result in a redistribution of saved water, the board of joint control must consult with the department of ecology and, if the board's jurisdiction is within a United States reclamation project, the board must obtain the approval of the bureau of reclamation. The purpose of such consultation is to assure that the proposal will not impair the rights of other water holders or bureau of reclamation contract water users.

(c) A board of joint control does not have the power to authorize a change of any water right that would change the point or points of diversion, purpose of use, or place of use outside the board's area of jurisdiction, without the approval of the department of ecology pursuant to RCW 90.03.380 and, if the board's jurisdiction is within a United States reclamation project, the approval of the bureau of reclamation. Any change in place of use that results from a transfer of water between the individual entities of the board of joint control shall not result in any reduction in the total water supply available in a federal reclamation project. In making the determination of whether a change of place of use in an area covered by a federal reclamation project will result in a reduction in the total water supply available, the board of joint control shall consult with the bureau of reclamation.

(d) The board of joint control shall notify the department of ecology, and any Indian tribe requesting notice, of transfers of water between the individual entities of the board of joint control. This subsection (2)(d) applies only to a board of joint control created after January 1, 2003.

(3) A board of joint control is authorized to design, construct, and operate either drainage projects, or water quality enhancement projects, or both.

(4) Where the board of joint control area of jurisdiction is totally within a federal reclamation project, the board is authorized to accept operational responsibility for federal reserved works.

(5) Nothing contained in this chapter gives a board of joint control the authority to abridge the existing rights, responsibilities, and authorities of an individual irrigation entity or others within the area of jurisdiction; nor in a case where the board of joint control consists of representatives of two or more divisions of a federal reclamation project shall the board of joint control abridge any powers of an existing board of control created through federal contract; nor shall a board of joint control have any authority to abridge or modify a water right benefiting lands within its area of jurisdiction without consent of the party holding the ownership interest in the water right.

(6) A board of joint control created under this chapter may not use any authority granted to it by this chapter or by RCW 90.03.380 to authorize a transfer of or change in a water right or to authorize a redistribution of saved water before July 1, 1997.

Sec. 54. RCW 90.38.900 and 2013 2nd sp.s. c 11 s 7 are each amended to read as follows:

The policies and purposes of this chapter shall not be construed as replacing or amending the policies or the purposes for which funds available under chapter

43.83B RCW, (~~(43.99E,)~~) RCW 43.99E.020 (as recodified by this act) or chapter 90.90 RCW may be used within or without the Yakima river basin.

Sec. 55. RCW 90.42.060 and 1991 c 347 s 10 are each amended to read as follows:

The policies and purposes of this chapter shall not be construed as replacing or amending the policies or the purposes for which funds available under chapter 43.83B RCW or (~~(43.99E)~~) RCW 43.99E.020 (as recodified by this act) may be used.

NEW SECTION. **Sec. 56.** RCW 90.50.020 is recodified as a section in chapter 90.48 RCW.

Sec. 57. RCW 90.72.080 and 1992 c 100 s 7 are each amended to read as follows:

Counties that have formed shellfish protection districts shall receive high priority for state water quality financial assistance to implement shellfish protection programs, including grants and loans provided under (~~chapters 43.99F,)~~ RCW 43.99F.030 (as recodified by this act), chapters 70.146(-) and 90.50A RCW.

NEW SECTION. **Sec. 58.** RCW 28B.10.851, 28B.14.040, 43.75.225, 43.83A.030, 43.83H.030, 43.83I.040, 43.99E.020, 43.99F.030, and 43.99G.020 are each recodified as sections in chapter 43.83 RCW.

Passed by the House May 28, 2015.

Passed by the Senate May 28, 2015.

Approved by the Governor June 10, 2015.

Filed in Office of Secretary of State June 10, 2015.

CHAPTER 5

[Senate Bill 5015]

DAIRY INSPECTION PROGRAM--ASSESSMENT

AN ACT Relating to extending the dairy inspection program assessment expiration date; amending RCW 15.36.551; and providing an expiration date.

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

Sec. 1. RCW 15.36.551 and 2010 c 17 s 1 are each amended to read as follows:

There is levied on all milk processed in this state an assessment not to exceed fifty-four one-hundredths of one cent per hundredweight. The director shall determine, by rule, an assessment, that with contribution from the general fund, will support an inspection program to maintain compliance with the provisions of the pasteurized milk ordinance of the national conference on interstate milk shipment. All assessments shall be levied on the operator of the first milk processing plant receiving the milk for processing. This shall include milk processing plants that produce their own milk for processing and milk processing plants that receive milk from other sources. Milk processing plants whose monthly assessment for receipt of milk totals less than twenty dollars in any given month are exempted from paying this assessment for that month. All moneys collected under this section shall be paid to the director by the twentieth day of the succeeding month for the previous month's assessments. The director

shall deposit the funds into the dairy inspection account hereby created within the agricultural local fund established in RCW 43.23.230. The funds shall be used only to provide inspection services to the dairy industry. If the operator of a milk processing plant fails to remit any assessments, that sum shall be a lien on any property owned by him or her, and shall be reported by the director and collected in the manner and with the same priority over other creditors as prescribed for the collection of delinquent taxes under chapters 84.60 and 84.64 RCW.

This section expires June 30, (~~(2015)~~) 2020.

Passed by the Senate May 28, 2015.

Passed by the House May 28, 2015.

Approved by the Governor June 10, 2015.

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CHAPTER 6

[Senate Bill 5079]

CHILD ABUSE AND NEGLECT--MILITARY FAMILIES--NOTIFICATION

AN ACT Relating to notifying the military regarding child abuse and neglect allegations of families with an active military status; and reenacting and amending RCW 26.44.030.

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

Sec. 1. RCW 26.44.030 and 2013 c 273 s 2, 2013 c 48 s 2, and 2013 c 23 s 43 are each reenacted and amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombuds or any volunteer in the ombuds's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Organization" includes a sole proprietor, partnership, corporation, limited liability company, trust, association, financial institution, governmental entity, other than the federal government, and any other individual or group engaged in a trade, occupation, enterprise, governmental function, charitable function, or similar activity in this state whether or not the entity is operated as a nonprofit or for-profit entity.

(iii) "Reasonable cause" means a person witnesses or receives a credible written or oral report alleging abuse, including sexual contact, or neglect of a child.

(iv) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(v) "Sexual contact" has the same meaning as in RCW 9A.44.010.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11, 13, and 26 RCW, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is

discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency, including military law enforcement, if appropriate. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be

seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) Upon receiving a report of alleged abuse or neglect, the department shall use one of the following discrete responses to reports of child abuse or neglect that are screened in and accepted for departmental response:

(i) Investigation; or

(ii) Family assessment.

(b) In making the response in (a) of this subsection the department shall:

(i) Use a method by which to assign cases to investigation or family assessment which are based on an array of factors that may include the presence of: Imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics, such as the type of alleged maltreatment and the age of the alleged victim. Age of the alleged victim shall not be used as the sole criterion for determining case assignment;

(ii) Allow for a change in response assignment based on new information that alters risk or safety level;

(iii) Allow families assigned to family assessment to choose to receive an investigation rather than a family assessment;

(iv) Provide a full investigation if a family refuses the initial family assessment;

(v) Provide voluntary services to families based on the results of the initial family assessment. If a family refuses voluntary services, and the department cannot identify specific facts related to risk or safety that warrant assignment to investigation under this chapter, and there is not a history of reports of child

abuse or neglect related to the family, then the department must close the family assessment response case. However, if at any time the department identifies risk or safety factors that warrant an investigation under this chapter, then the family assessment response case must be reassigned to investigation;

(vi) Conduct an investigation, and not a family assessment, in response to an allegation that, the department determines based on the intake assessment:

(A) Poses a risk of "imminent harm" consistent with the definition provided in RCW 13.34.050, which includes, but is not limited to, sexual abuse and sexual exploitation as defined in this chapter;

(B) Poses a serious threat of substantial harm to a child;

(C) Constitutes conduct involving a criminal offense that has, or is about to occur, in which the child is the victim;

(D) The child is an abandoned child as defined in RCW 13.34.030;

(E) The child is an adjudicated dependent child as defined in RCW 13.34.030, or the child is in a facility that is licensed, operated, or certified for care of children by the department under chapter 74.15 RCW, or by the department of early learning.

(c) The department may not be held civilly liable for the decision to respond to an allegation of child abuse or neglect by using the family assessment response under this section unless the state or its officers, agents, or employees acted with reckless disregard.

(12)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(13) For reports of alleged abuse or neglect that are responded to through family assessment response, the department shall:

(a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;

(b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;

(c) Complete the family assessment response within forty-five days of receiving the report; however, upon parental agreement, the family assessment response period may be extended up to ninety days;

(d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;

(e) Implement the family assessment response in a consistent and cooperative manner;

(f) Have the parent or guardian sign an agreement to participate in services before services are initiated that informs the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not sign the consent form.

(14)(a) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:

(i) May interview children. If the department determines that the response to the allegation will be family assessment response, the preferred practice is to request a parent's, guardian's, or custodian's permission to interview the child before conducting the child interview unless doing so would compromise the safety of the child or the integrity of the assessment. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. If the allegation is investigated, parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(ii) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(b) The Washington state school directors' association shall adopt a model policy addressing protocols when an interview, as authorized by this subsection, is conducted on school premises. In formulating its policy, the association shall consult with the department and the Washington association of sheriffs and police chiefs.

(15) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombuds of the contents of the report. The department shall also notify the ombuds of the disposition of the report.

(16) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(17)(a) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(b) In the family assessment response, the department shall not make a finding as to whether child abuse or neglect occurred. No one shall be named as a perpetrator and no investigative finding shall be entered in the department's child abuse or neglect database.

(18) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor.

(19) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(20) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

(21) The department shall make efforts as soon as practicable to determine the military status of parents whose children are subject to abuse or neglect allegations. If the department determines that a parent or guardian is in the military, the department shall notify a department of defense family advocacy program that there is an allegation of abuse and neglect that is screened in and open for investigation that relates to that military parent or guardian.

Passed by the Senate May 28, 2015.

Passed by the House May 28, 2015.

Approved by the Governor June 10, 2015.

Filed in Office of Secretary of State June 10, 2015.

CHAPTER 7

[Second Engrossed Second Substitute Senate Bill 5177]

FORENSIC MENTAL HEALTH SERVICES

AN ACT Relating to improving forensic mental health services; amending RCW 10.77.084, 10.77.086, 10.77.088, 10.77.073, 10.77.220, 71.05.235, and 10.77.065; reenacting and amending RCW 10.77.065; adding new sections to chapter 10.77 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. (1) The legislature finds that there are currently no alternatives to competency restoration provided in the state hospitals. Subject to the availability of amounts appropriated for this specific purpose, the legislature encourages the department of social and health services to develop, on a phased-in basis, alternative locations and increased access to competency restoration services under chapter 10.77 RCW for individuals who do not require inpatient psychiatric hospitalization level services.

(2) The department of social and health services shall work with counties and the court to develop a screening process to determine which individuals are safe to receive competency restoration treatment outside the state hospitals.

NEW SECTION. Sec. 2. A new section is added to chapter 10.77 RCW to read as follows:

Within twenty-four hours of the signing of a court order requesting the secretary to provide a competency evaluation or competency restoration treatment:

(1) The clerk of the court shall provide the court order and the charging documents, including the request for bail and certification of probable cause, to the state hospital. If the order is for competency restoration treatment and the competency evaluation was provided by a qualified expert or professional

person who was not designated by the secretary, the clerk shall also provide the state hospital with a copy of all previous court orders related to competency or criminal insanity and a copy of any of the evaluation reports;

(2) The prosecuting attorney shall provide the discovery packet, including a statement of the defendant's criminal history, to the state hospital; and

(3) If the court order requires transportation of the defendant to a state hospital, the jail administrator shall provide the defendant's medical clearance information to the state hospital admission staff.

NEW SECTION. Sec. 3. A new section is added to chapter 10.77 RCW to read as follows:

(1) A city or county jail shall transport a defendant to a state hospital or other secure facility designated by the department within one day of receipt of an offer of admission of the defendant for competency evaluation or restoration services.

(2) City and county jails must cooperate with competency evaluators and the department to arrange for competency evaluators to have reasonable, timely, and appropriate access to defendants for the purpose of performing evaluations under this chapter to accommodate the seven-day performance target for completing competency evaluations for defendants in custody.

Sec. 4. RCW 10.77.084 and 2012 c 256 s 5 are each amended to read as follows:

(1)(a) If at any time during the pendency of an action and prior to judgment the court finds, following a report as provided in RCW 10.77.060, a defendant is incompetent, the court shall order the proceedings against the defendant be stayed except as provided in subsection (4) of this section.

(b) The court may order a defendant who has been found to be incompetent to undergo competency restoration treatment at a facility designated by the department if the defendant is eligible under RCW 10.77.086 or 10.77.088. At the end of ~~((the mental health treatment and))~~ each competency restoration period~~((, if any,))~~ or at any time a professional person determines competency has been, or is unlikely to be, restored, the defendant shall be returned to court for a hearing~~((,))~~, except that if the opinion of the professional person is that the defendant remains incompetent and the hearing is held before the expiration of the current competency restoration period, the parties may agree to waive the defendant's presence ~~((or))~~, to remote participation by the defendant at a hearing, or to presentation of an agreed order ~~((if the recommendation of the evaluator is for the continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to expiration of the defendant's authorized period of commitment, in which case))~~ in lieu of a hearing. The ~~((department))~~ facility shall promptly notify the court and all parties of the date ~~((of the defendant's admission and expiration of commitment))~~ on which the competency restoration period commences and expires so that a timely hearing date may be scheduled.

(c) If, ~~((after))~~ following notice and hearing~~((,))~~ or entry of an agreed order under (b) of this subsection, the court finds that competency has been restored, the court shall lift the stay entered under (a) of this subsection ~~((shall be lifted))~~. If the court finds that competency has not been restored, the court shall dismiss

the proceedings (~~(shall be dismissed)~~) without prejudice (~~(-If the court concludes that competency has not been restored, but)~~), except that the court may order a further period of competency restoration treatment if it finds that further treatment within the time limits established by RCW 10.77.086 or 10.77.088 is likely to restore competency, ((the court may order that treatment for purposes of competency restoration be continued. Such treatment may not extend beyond the combination of time provided for in)) and a further period of treatment is allowed under RCW 10.77.086 or 10.77.088.

~~((+))~~ (d) If at any time during the proceeding the court finds, following notice and hearing, a defendant is not likely to regain competency, the court shall dismiss the proceedings (~~(shall be dismissed)~~) without prejudice and refer the defendant (~~(shall be evaluated)~~) for civil commitment evaluation or proceedings if appropriate under RCW 10.77.065, 10.77.086, or 10.77.088.

(2) If the defendant is referred for evaluation by a designated mental health professional under this chapter, the designated mental health professional shall provide prompt written notification of the results of the evaluation and whether the person was detained. The notification shall be provided to the court in which the criminal action was pending, the prosecutor, the defense attorney in the criminal action, and the facility that evaluated the defendant for competency.

(3) The fact that the defendant is unfit to proceed does not preclude any pretrial proceedings which do not require the personal participation of the defendant.

(4) A defendant receiving medication for either physical or mental problems shall not be prohibited from standing trial, if the medication either enables the defendant to understand the proceedings against him or her and to assist in his or her own defense, or does not disable him or her from so understanding and assisting in his or her own defense.

(5) At or before the conclusion of any commitment period provided for by this section, the facility providing evaluation and treatment shall provide to the court a written report of evaluation which meets the requirements of RCW 10.77.060(3). For defendants charged with a felony, the report following the second competency restoration period or first competency restoration period if the defendant's incompetence is determined to be solely due to a developmental disability or the evaluator concludes that the defendant is not likely to regain competency must include an assessment of the defendant's future dangerousness which is evidence-based regarding predictive validity.

Sec. 5. RCW 10.77.086 and 2013 c 289 s 2 are each amended to read as follows:

(1)(a)(i) If the defendant is charged with a felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, (~~(or has been determined unlikely to regain competency pursuant to RCW 10.77.084(1)(b),))~~) but in any event for a period of no longer than ninety days, the court:

~~((+))~~ (A) Shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment; or

~~((+))~~ (B) May alternatively order the defendant to undergo evaluation and treatment at some other facility or provider as determined by the department, or

under the guidance and control of a professional person. The facilities or providers may include community mental health providers or other local facilities that contract with the department and are willing and able to provide treatment under this section. During the 2015-2017 fiscal biennium, the department may contract with one or more cities or counties to provide competency restoration services in a city or county jail if the city or county jail is willing and able to serve as a location for competency restoration services and if the secretary determines that there is an emergent need for beds and documents the justification, including a plan to address the emergency. Patients receiving competency restoration services in a city or county jail must be physically separated from other populations at the jail and restoration treatment services must be provided as much as possible within a therapeutic environment.

(ii) The ninety day period for evaluation and treatment under this subsection (1) includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

(b) For a defendant whose highest charge is a class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial period of commitment for competency restoration is forty-five days. The forty-five day period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

(c) If the court determines or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection (4) of this section.

(2) On or before expiration of the initial period of commitment under subsection (1) of this section the court shall conduct a hearing, at which it shall determine whether or not the defendant is incompetent.

(3) If the court finds by a preponderance of the evidence that a defendant charged with a felony is incompetent, the court shall have the option of extending the order of commitment or alternative treatment for an additional period of ninety days, but the court must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second restoration period. The defendant, the defendant's attorney, or the prosecutor has the right to demand that the hearing be before a jury. No extension shall be ordered for a second or third restoration period as provided in subsection (4) of this section if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension. The ninety-day period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

(4) For persons charged with a felony, at the hearing upon the expiration of the second restoration period or at the end of the first restoration period(;) in the case of a defendant with a developmental disability, if the jury or court finds that the defendant is incompetent, or if the court or jury at any stage finds that the defendant is incompetent and the court determines that the defendant is unlikely to regain competency, the charges shall be dismissed without prejudice,

and the court shall order the defendant be committed to a state hospital as defined in RCW 72.23.010 for up to seventy-two hours starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. The criminal charges shall not be dismissed if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months. The six-month period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

Sec. 6. RCW 10.77.088 and 2007 c 375 s 5 are each amended to read as follows:

(1)(a) If the defendant is charged with a nonfelony crime which is a serious offense as identified in RCW 10.77.092 and found by the court to be not competent, then the court (~~shall order the secretary to place the defendant~~):

(i) (~~At a secure mental health facility in the custody of the department or an agency designated by the department for mental health treatment and restoration of competency.~~) Shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment;

(ii) May alternatively order the defendant to undergo evaluation and treatment at some other facility or provider as determined by the department, or under the guidance and control of a professional person. The facilities or providers may include community mental health providers or other local facilities that contract with the department and are willing and able to provide treatment under this section. During the 2015-2017 fiscal biennium, the department may contract with one or more cities or counties to provide competency restoration services in a city or county jail if the city or county jail is willing and able to serve as a location for competency restoration services and if the secretary determines that there is an emergent need for beds and documents the justification, including a plan to address the emergency. Patients receiving competency restoration services in a city or county jail must be physically separated from other populations at the jail and restoration treatment services must be provided as much as possible within a therapeutic environment. The placement under (a)(i) and (ii) of this subsection shall not exceed fourteen days in addition to any unused time of the evaluation under RCW 10.77.060. The court shall compute this total period and include its computation in the order. The fourteen-day period plus any unused time of the evaluation under RCW 10.77.060 shall be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility;

~~((ii))~~ (iii) May alternatively order that the defendant be placed on conditional release for up to ninety days for mental health treatment and restoration of competency; or

~~((iii))~~ (iv) May order any combination of this subsection.

(b) If the court has determined or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in (c) of this subsection.

(c)(i) If the proceedings are dismissed under RCW 10.77.084 and the defendant was on conditional release at the time of dismissal, the court shall order the designated mental health professional within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.

(ii) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The seventy-two-hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two-hour period.

(2) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092:

The court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated mental health professional to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least twenty-four hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings.

Sec. 7. RCW 10.77.073 and 2013 c 284 s 1 are each amended to read as follows:

(1) The department shall reimburse a county for the cost of appointing a qualified expert or professional person under RCW 10.77.060(1)(a) subject to subsections (2) through (4) of this section if, at the time of a referral for an evaluation of competency to stand trial in a jail for an in-custody defendant, the department ~~((has not met))~~: (a) During the most recent quarter, did not perform at least one-third of the number of jail-based competency evaluations for in-custody defendants as were performed by qualified experts or professional persons appointed by the court in the referring county; or (b) did not meet the performance target for timely completion of competency evaluations under RCW 10.77.068(1)(a)~~((ii))~~ (iii) during the most recent quarter in fifty percent of cases submitted by the referring county, as documented in the most recent quarterly report under RCW 10.77.068(3) or confirmed by records maintained by the department~~(, the department shall reimburse the county for the cost of appointing a qualified expert or professional person under RCW 10.77.060(1)(a) subject to subsections (2) and (3) of this section))~~.

(2) Appointment of a qualified expert or professional person under this section must be from a list of qualified experts or professional persons assembled with participation by representatives of the prosecuting attorney and the defense bar of the county. The qualified expert or professional person shall complete an evaluation and report that includes the components specified in RCW 10.77.060(3).

(3) The county shall provide a copy of the evaluation report to the applicable state hospital upon referral of the defendant for admission to the state hospital. The county shall ~~((maintain data on the timeliness of competency evaluations completed under this section))~~:

(a) In consultation with the department, develop and maintain critical data elements, including data on the timeliness of competency evaluations completed under this section; and

(b) Share this data with the department upon the department's request.

(4) A qualified expert or professional person appointed by a court under this section must be compensated for competency evaluations in an amount that will encourage in-depth evaluation reports. Subject to the availability of amounts appropriated for this specific purpose, the department shall reimburse the county in an amount determined by the department to be fair and reasonable with the county paying any excess costs. The amount of reimbursement established by the department must at least meet the equivalent amount for evaluations conducted by the department.

~~((4)-(5))~~ (5) Nothing in this section precludes either party from objecting to the appointment of an evaluator on the basis that an inpatient evaluation is appropriate under RCW 10.77.060(1)(d).

~~((5)-(6))~~ (6) This section expires June 30, ~~((2016))~~ 2019.

Sec. 8. RCW 10.77.220 and 1982 c 112 s 3 are each amended to read as follows:

No person who is criminally insane confined pursuant to this chapter shall be incarcerated in a state correctional institution or facility ~~((PROVIDED, That nothing herein shall prohibit))~~. This section does not apply to confinement in a mental health facility located wholly within a correctional institution. Confinement of a person who is criminally insane in a county jail or other local facility while awaiting either placement in a treatment program or a court hearing pursuant to this chapter is permitted for no more than seven days.

NEW SECTION. **Sec. 9.** A new section is added to chapter 10.77 RCW to read as follows:

(1) If the issue of competency to stand trial is raised by the court or a party under RCW 10.77.060, the prosecutor may continue with the competency process or dismiss the charges without prejudice and refer the defendant for assessment by a mental health professional, chemical dependency professional, or developmental disabilities professional to determine the appropriate service needs for the defendant.

(2) This section does not apply to defendants with a current charge or prior conviction for a violent offense or sex offense as defined in RCW 9.94A.030, or a violation of RCW 9A.36.031(1) (d), (f), or (h).

NEW SECTION. **Sec. 10.** A new section is added to chapter 10.77 RCW to read as follows:

(1) In order to prioritize goals of accuracy, prompt service to the court, quality assurance, and integration with other services, an office of forensic mental health services is established within the department of social and health services. The office shall be led by a director on at least the level of deputy assistant secretary within the department who shall, after a reasonable period of transition, have responsibility for the following functions:

(a) Operational control of all forensic evaluation services, including specific budget allocation;

(b) Responsibility for training forensic evaluators;

(c) Development of a system to certify forensic evaluators, and to monitor the quality of forensic evaluation reports;

(d) Liaison with courts, jails, and community mental health programs to ensure proper flow of information, coordinate logistical issues, and solve problems in complex circumstances;

(e) Coordination with state hospitals to identify and develop best practice interventions and curricula for services that are unique to forensic patients;

(f) Promotion of congruence across state hospitals where appropriate, and promotion of interventions that flow smoothly into community interventions;

(g) Coordination with regional support networks, behavioral health organizations, community mental health agencies, and the department of corrections regarding community treatment and monitoring of persons on conditional release;

(h) Oversight of forensic data collection and analysis statewide, and appropriate dissemination of data trends and recommendations; and

(i) Oversight of the development, implementation, and maintenance of community forensic programs and services.

(2) The office of forensic mental health services must have a clearly delineated budget separate from the overall budget for state hospital services.

NEW SECTION. Sec. 11. A new section is added to chapter 10.77 RCW to read as follows:

The secretary shall adopt rules as may be necessary to implement chapter . . ., Laws of 2015 1st sp. sess. (this act).

NEW SECTION. Sec. 12. By December 31, 2015, the administrative office of the courts shall develop and prepare standard forms for court orders for: (1) Forensic evaluation and competency restoration services under chapter 10.77 RCW; and (2) involuntary civil commitment under chapter 71.05 RCW. In developing the standard court order forms, the administrative office of the courts shall consult with representatives from the superior courts and county clerks, the department of social and health services including the state hospitals, the attorney general's office, prosecuting attorneys, defense attorneys, the Washington state association of counties, disability rights Washington, and tribal and community mental health groups.

NEW SECTION. Sec. 13. There is established a court video testimony work group, to be composed of representatives from the administrative office of the courts, the superior courts, the department of social and health services including the state hospitals, prosecuting attorneys, defense attorneys, the Washington state association of counties, the attorney general's office, and disability rights Washington. The purpose of the work group is to consider and facilitate the use of video testimony by state competency evaluators and other representatives of the department of social and health services and the state hospitals in court matters under chapter 10.77 RCW. The work group must consider the applicability of local rules and the confrontation rights of the defendant. The administrative office of the courts is requested to convene and

provide staffing to the work group. The work group must complete its work by June 30, 2016.

Sec. 14. RCW 71.05.235 and 2008 c 213 s 5 are each amended to read as follows:

(1) If an individual is referred to a designated mental health professional under RCW 10.77.088(1)((~~b~~)) (c)(i), the designated mental health professional shall examine the individual within forty-eight hours. If the designated mental health professional determines it is not appropriate to detain the individual or petition for a ninety-day less restrictive alternative under RCW 71.05.230(4), that decision shall be immediately presented to the superior court for hearing. The court shall hold a hearing to consider the decision of the designated mental health professional not later than the next judicial day. At the hearing the superior court shall review the determination of the designated mental health professional and determine whether an order should be entered requiring the person to be evaluated at an evaluation and treatment facility. No person referred to an evaluation and treatment facility may be held at the facility longer than seventy-two hours.

(2) If an individual is placed in an evaluation and treatment facility under RCW 10.77.088(1)((~~b~~)) (c)(ii), a professional person shall evaluate the individual for purposes of determining whether to file a ninety-day inpatient or outpatient petition under chapter 71.05 RCW. Before expiration of the seventy-two hour evaluation period authorized under RCW 10.77.088(1)((~~b~~)) (c)(ii), the professional person shall file a petition or, if the recommendation of the professional person is to release the individual, present his or her recommendation to the superior court of the county in which the criminal charge was dismissed. The superior court shall review the recommendation not later than forty-eight hours, excluding Saturdays, Sundays, and holidays, after the recommendation is presented. If the court rejects the recommendation to unconditionally release the individual, the court may order the individual detained at a designated evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period and direct the individual to appear at a surety hearing before that court within seventy-two hours, or the court may release the individual but direct the individual to appear at a surety hearing set before that court within eleven days, at which time the prosecutor may file a petition under this chapter for ninety-day inpatient or outpatient treatment. If a petition is filed by the prosecutor, the court may order that the person named in the petition be detained at the evaluation and treatment facility that performed the evaluation under this subsection or order the respondent to be in outpatient treatment. If a petition is filed but the individual fails to appear in court for the surety hearing, the court shall order that a mental health professional or peace officer shall take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility to be brought before the court the next judicial day after detention. Upon the individual's first appearance in court after a petition has been filed, proceedings under RCW 71.05.310 and 71.05.320 shall commence. For an individual subject to this subsection, the prosecutor or professional person may directly file a petition for ninety-day inpatient or outpatient treatment and no petition for initial detention or fourteen-day detention is required before such a petition may be filed.

The court shall conduct the hearing on the petition filed under this subsection within five judicial days of the date the petition is filed. The court may continue the hearing upon the written request of the person named in the petition or the person's attorney, for good cause shown, which continuance shall not exceed five additional judicial days. If the person named in the petition requests a jury trial, the trial shall commence within ten judicial days of the date of the filing of the petition. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).

During the proceeding the person named in the petition shall continue to be detained and treated until released by order of the court. If no order has been made within thirty days after the filing of the petition, not including any extensions of time requested by the detained person or his or her attorney, the detained person shall be released.

(3) If a designated mental health professional or the professional person and prosecuting attorney for the county in which the criminal charge was dismissed or attorney general, as appropriate, stipulate that the individual does not present a likelihood of serious harm or is not gravely disabled, the hearing under this section is not required and the individual, if in custody, shall be released.

(4) The individual shall have the rights specified in RCW 71.05.360 (8) and (9).

Sec. 15. RCW 10.77.065 and 2014 c 10 s 3 are each amended to read as follows:

(1)(a)(i) The expert conducting the evaluation shall provide his or her report and recommendation to the court in which the criminal proceeding is pending. For a competency evaluation of a defendant who is released from custody, if the evaluation cannot be completed within twentyone days due to a lack of cooperation by the defendant, the evaluator shall notify the court that he or she is unable to complete the evaluation because of such lack of cooperation.

(ii) A copy of the report and recommendation shall be provided to the designated mental health professional, the prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held, or if there is no professional person, to the person designated under (a)(iv) of this subsection. Upon request, the evaluator shall also provide copies of any source documents relevant to the evaluation to the designated mental health professional.

(iii) Any facility providing inpatient services related to competency shall discharge the defendant as soon as the facility determines that the defendant is competent to stand trial. Discharge shall not be postponed during the writing and distribution of the evaluation report. Distribution of an evaluation report by a facility providing inpatient services shall ordinarily be accomplished within two working days or less following the final evaluation of the defendant. If the defendant is discharged to the custody of a local correctional facility, the local correctional facility must continue the medication regimen prescribed by the facility, when clinically appropriate, unless the defendant refuses to cooperate with medication and an involuntary medication order by the court has not been entered.

(iv) If there is no professional person at the local correctional facility, the local correctional facility shall designate a professional person as defined in RCW 71.05.020 or, in cooperation with the regional support network, a professional person at the regional support network to receive the report and recommendation.

(v) Upon commencement of a defendant's evaluation in the local correctional facility, the local correctional facility must notify the evaluator of the name of the professional person, or person designated under (a)(iv) of this subsection, to receive the report and recommendation.

(b) If the evaluator concludes, under RCW 10.77.060(3)(f), the person should be evaluated by a designated mental health professional under chapter 71.05 RCW, the court shall order such evaluation be conducted prior to release from confinement when the person is acquitted or convicted and sentenced to confinement for twenty-four months or less, or when charges are dismissed pursuant to a finding of incompetent to stand trial.

(2) The designated mental health professional shall provide written notification within twenty-four hours of the results of the determination whether to commence proceedings under chapter 71.05 RCW. The notification shall be provided to the persons identified in subsection (1)(a) of this section.

(3) The prosecuting attorney shall provide a copy of the results of any proceedings commenced by the designated mental health professional under subsection (2) of this section to the secretary.

(4) A facility conducting a civil commitment evaluation under RCW 10.77.086(4) or 10.77.088(1)(~~b~~)(c)(ii) that makes a determination to release the person instead of filing a civil commitment petition must provide written notice to the prosecutor and defense attorney at least twenty-four hours prior to release. The notice may be given by electronic mail, facsimile, or other means reasonably likely to communicate the information immediately.

(5) The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services under this chapter may also be disclosed to the courts solely to prevent the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

Sec. 16. RCW 10.77.065 and 2014 c 225 s 59 and 2014 c 10 s 3 are each reenacted and amended to read as follows:

(1)(a)(i) The expert conducting the evaluation shall provide his or her report and recommendation to the court in which the criminal proceeding is pending. For a competency evaluation of a defendant who is released from custody, if the evaluation cannot be completed within twentyone days due to a lack of cooperation by the defendant, the evaluator shall notify the court that he or she is unable to complete the evaluation because of such lack of cooperation.

(ii) A copy of the report and recommendation shall be provided to the designated mental health professional, the prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held, or if there is no professional person, to the person designated under (a)(iv) of this subsection. Upon request, the evaluator shall also provide copies of any source documents relevant to the evaluation to the designated mental health professional.

(iii) Any facility providing inpatient services related to competency shall discharge the defendant as soon as the facility determines that the defendant is competent to stand trial. Discharge shall not be postponed during the writing and distribution of the evaluation report. Distribution of an evaluation report by a facility providing inpatient services shall ordinarily be accomplished within two working days or less following the final evaluation of the defendant. If the defendant is discharged to the custody of a local correctional facility, the local correctional facility must continue the medication regimen prescribed by the facility, when clinically appropriate, unless the defendant refuses to cooperate with medication and an involuntary medication order by the court has not been entered.

(iv) If there is no professional person at the local correctional facility, the local correctional facility shall designate a professional person as defined in RCW 71.05.020 or, in cooperation with the behavioral health organization, a professional person at the behavioral health organization to receive the report and recommendation.

(v) Upon commencement of a defendant's evaluation in the local correctional facility, the local correctional facility must notify the evaluator of the name of the professional person, or person designated under (a)(iv) of this subsection, to receive the report and recommendation.

(b) If the evaluator concludes, under RCW 10.77.060(3)(f), the person should be evaluated by a designated mental health professional under chapter 71.05 RCW, the court shall order such evaluation be conducted prior to release from confinement when the person is acquitted or convicted and sentenced to confinement for twenty-four months or less, or when charges are dismissed pursuant to a finding of incompetent to stand trial.

(2) The designated mental health professional shall provide written notification within twenty-four hours of the results of the determination whether to commence proceedings under chapter 71.05 RCW. The notification shall be provided to the persons identified in subsection (1)(a) of this section.

(3) The prosecuting attorney shall provide a copy of the results of any proceedings commenced by the designated mental health professional under subsection (2) of this section to the secretary.

(4) A facility conducting a civil commitment evaluation under RCW 10.77.086(4) or 10.77.088(1)(~~(b)~~) (c)(ii) that makes a determination to release the person instead of filing a civil commitment petition must provide written notice to the prosecutor and defense attorney at least twenty-four hours prior to release. The notice may be given by electronic mail, facsimile, or other means reasonably likely to communicate the information immediately.

(5) The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services under this chapter may also be disclosed to the courts solely to prevent the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

NEW SECTION. Sec. 17. 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. 18. Section 15 of this act expires April 1, 2016.

NEW SECTION. Sec. 19. (1) Section 7 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

(2) Sections 1 through 6 and 8 through 15 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, 2015.

(3) Section 16 of this act takes effect April 1, 2016.

NEW SECTION. Sec. 20. Section 1, chapter 253, Laws of 2015 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 June 30, 2015.

Passed by the Senate May 28, 2015.

Passed by the House May 28, 2015.

Approved by the Governor June 10, 2015.

Filed in Office of Secretary of State June 10, 2015.

CHAPTER 8

[Substitute Senate Bill 5317]

MEDICAID--CHILDREN--SCREENINGS--AUTISM AND DEVELOPMENTAL DELAYS

AN ACT Relating to increasing child health equity by requiring screening for autism and developmental delays for children in medical assistance programs; amending RCW 74.09.520; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The bright futures guidelines issued by the American academy of pediatrics outline recommended well-child visit schedules and universal screening of children for autism and developmental delays. Private health plans established after March 2010 are required to comply with the bright futures guidelines as the standard for preventive services. The federal law does not require medicaid programs to follow the guidelines; however, thirty states completely cover the bright futures guidelines, six states cover all but one well-child screen, and six additional states cover all but developmental and autism screens as part of their medicaid programs.

(2) The 2012 Washington state legislature directed the Washington state institute for public policy to assess the costs and benefits of implementing the guidelines. The research indicates that fewer than half of children with developmental delays are identified before starting school and roughly half of children with autism spectrum disorder are diagnosed only after entering school, by which time significant delays may have occurred and opportunities for treatment may have been missed. Adopting the universal screening guidelines improves early diagnosis and enables early intervention with appropriate therapies and services. The annual cost to society for caring for children with autism or developmental delays can be significant, including cost of services, special education, informal care, and lost productivity. Early intervention and access to appropriate therapies mitigate long-term societal costs and improve the health and opportunity for the child.

(3) The more adverse experiences a child has, such as the burden of family economic hardship and social bias, the greater the likelihood of developmental delays and later health problems. Over forty-six percent of Washington's children have medicaid apple health for kids and have a much greater likelihood of reporting poor to very poor health compared to children who have commercial insurance. Disparities also exist in the diagnosis and initiation of treatment services for children of color. Research shows that children of color are diagnosed later and begin receiving early intervention services later. This health equity gap can be addressed by identifying and supporting children early through universal screening.

(4) Primary care providers currently see ninety-nine percent of children between birth and three years of age and are uniquely situated to access nearly all children with universal screening.

Sec. 2. RCW 74.09.520 and 2011 1st sp.s. c 15 s 27 are each amended to read as follows:

(1) The term "medical assistance" may include the following care and services subject to rules adopted by the authority or department: (a) Inpatient hospital services; (b) outpatient hospital services; (c) other laboratory and X-ray services; (d) nursing facility services; (e) physicians' services, which shall include prescribed medication and instruction on birth control devices; (f) medical care, or any other type of remedial care as may be established by the secretary or director; (g) home health care services; (h) private duty nursing services; (i) dental services; (j) physical and occupational therapy and related services; (k) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (l) personal care services, as provided in this section; (m) hospice services; (n) other diagnostic, screening, preventive, and rehabilitative services; and (o) like services when furnished to a child by a school district in a manner consistent with the requirements of this chapter. For the purposes of this section, neither the authority nor the department may cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services.

(2) The department shall adopt, amend, or rescind such administrative rules as are necessary to ensure that Title XIX personal care services are provided to eligible persons in conformance with federal regulations.

(a) These administrative rules shall include financial eligibility indexed according to the requirements of the social security act providing for medicaid eligibility.

(b) The rules shall require clients be assessed as having a medical condition requiring assistance with personal care tasks. Plans of care for clients requiring health-related consultation for assessment and service planning may be reviewed by a nurse.

(c) The department shall determine by rule which clients have a health-related assessment or service planning need requiring registered nurse

consultation or review. This definition may include clients that meet indicators or protocols for review, consultation, or visit.

(3) The department shall design and implement a means to assess the level of functional disability of persons eligible for personal care services under this section. The personal care services benefit shall be provided to the extent funding is available according to the assessed level of functional disability. Any reductions in services made necessary for funding reasons should be accomplished in a manner that assures that priority for maintaining services is given to persons with the greatest need as determined by the assessment of functional disability.

(4) Effective July 1, 1989, the authority shall offer hospice services in accordance with available funds.

(5) For Title XIX personal care services administered by aging and disability services administration of the department, the department shall contract with area agencies on aging:

(a) To provide case management services to individuals receiving Title XIX personal care services in their own home; and

(b) To reassess and reauthorize Title XIX personal care services or other home and community services as defined in RCW 74.39A.009 in home or in other settings for individuals consistent with the intent of this section:

(i) Who have been initially authorized by the department to receive Title XIX personal care services or other home and community services as defined in RCW 74.39A.009; and

(ii) Who, at the time of reassessment and reauthorization, are receiving such services in their own home.

(6) In the event that an area agency on aging is unwilling to enter into or satisfactorily fulfill a contract or an individual consumer's need for case management services will be met through an alternative delivery system, the department is authorized to:

(a) Obtain the services through competitive bid; and

(b) Provide the services directly until a qualified contractor can be found.

(7) Subject to the availability of amounts appropriated for this specific purpose, the authority may offer medicare part D prescription drug copayment coverage to full benefit dual eligible beneficiaries.

(8) Effective January 1, 2016, the authority shall require universal screening and provider payment for autism and developmental delays as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on the effective date of this section. This requirement is subject to the availability of funds.

Passed by the Senate May 28, 2015.

Passed by the House May 28, 2015.

Approved by the Governor June 10, 2015.

Filed in Office of Secretary of State June 10, 2015.

CHAPTER 9

[Engrossed Senate Bill 5761]

PROPERTY TAXES--EXEMPTION--TARGETED URBAN AREAS

AN ACT Relating to providing for property tax exemption for the value of new construction of industrial/manufacturing facilities in targeted urban areas; and adding a new chapter to Title 84 RCW.

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

NEW SECTION. **Sec. 1.** The legislature finds that:

(1) Many cities have planned under the growth management act, chapter 36.70A RCW, and designated and zoned lands for industrial and manufacturing use;

(2) The industrial and manufacturing industries provide family living wage jobs;

(3) In the current economic climate the creation of additional family living wage jobs is essential;

(4) It is critical that Washington state promote its continued strength in the fields of aerospace, technology, biomedical, and other industries that will provide family wage job growth; and

(5) Planning for industrial and manufacturing use is inadequate to attract new industry and manufacturing and an incentive should be created to stimulate the development of new industrial and manufacturing uses in the existing inventory of lands zoned for industrial and manufacturing use in targeted urban areas through a tax incentive as provided by this chapter.

NEW SECTION. **Sec. 2.** It is the purpose of this chapter to encourage new manufacturing and industrial uses on undeveloped or underutilized lands zoned for industrial and manufacturing uses in targeted urban areas, thereby increasing employment opportunities for family living wage jobs. Cities that plan under the growth management act meeting the criteria of this chapter where the governing authority of the affected city has found there is insufficient family living wage jobs for its wage earning population may designate a portion of the city's industrial and manufacturing zoned and undeveloped land to receive an ad valorem tax exemption for the value of new construction of industrial/manufacturing facilities within the designated area.

NEW SECTION. **Sec. 3.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "City" means any city that: (a) Has a population of at least eighteen thousand; and (b) is north or east of the largest city in the county in which the city is located and such county has a population of at least seven hundred thousand, but less than eight hundred thousand.

(2) "Family living wage job" means a job with a wage that is sufficient for raising a family. A family living wage job must have an average wage of eighteen dollars an hour or more, working two thousand eighty hours per year on the subject site, as adjusted annually for inflation by the consumer price index. The family living wage may be increased by the local authority based on regional factors and wage conditions.

(3) "Governing authority" means the local legislative authority of a city having jurisdiction over the property for which an exemption may be applied for under this chapter.

(4) "Growth management act" means chapter 36.70A RCW.

(5) "Industrial/manufacturing facilities" means building improvements that are ten thousand square feet or larger, representing a minimum improvement valuation of eight hundred thousand dollars for uses categorized as "division D: manufacturing" by the United States department of labor in the occupation safety and health administration's standard industrial classification manual.

(6) "Lands zoned for industrial and manufacturing uses" means lands in a city zoned as of December 31, 2014, for an industrial or manufacturing use consistent with the city's comprehensive plan where the lands are designated for industry.

(7) "Owner" means the property owner of record.

(8) "Targeted area" means an area of undeveloped lands zoned for industrial and manufacturing uses in the city that is located within or contiguous to an innovation partnership zone, foreign trade zone, or EB-5 regional center, and designated for possible exemption under the provisions of this chapter.

(9) "Undeveloped or underutilized" means that there are no existing building improvements on the property or portions of the property targeted for new or expanded industrial or manufacturing uses.

NEW SECTION. Sec. 4. (1)(a) The value of new construction of industrial/manufacturing facilities qualifying under this chapter is exempt from property taxation under this title, as provided in this section. The value of new construction of industrial/manufacturing facilities is exempt from taxation for properties for which an application for a certificate of tax exemption is submitted under this chapter before December 31, 2022. The value is exempt under this section for ten successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate.

(b) The exemption provided in this section does not include the value of land or nonindustrial/manufacturing-related improvements not qualifying under this chapter.

(2) The exemption provided in this section is in addition to any other exemptions, deferrals, credits, grants, or other tax incentives provided by law.

(3) This chapter does not apply to state levies or increases in assessed valuation made by the assessor on nonqualifying portions of buildings and value of land nor to increases made by lawful order of a county board of equalization, the department of revenue, or a county, to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

(4) This exemption does not apply to any county property taxes unless the governing body of the county adopts a resolution and notifies the governing authority of its intent to allow the property to be exempted from county property taxes.

(5) At the conclusion of the exemption period, the new industrial/manufacturing facilities cost must be considered as new construction for the purposes of chapter 84.55 RCW.

NEW SECTION. Sec. 5. An owner of property making application under this chapter must meet the following requirements:

(1) The new construction of industrial/manufacturing facilities must be located on land zoned for industrial and manufacturing uses, undeveloped or

underutilized, and as provided in section 6 of this act, designated by the city as a targeted area;

(2) The new construction of industrial/manufacturing facilities must meet all construction and development regulations of the city;

(3) The new construction of industrial/manufacturing facilities must be completed within three years from the date of approval of the application; and

(4) The applicant must enter into a contract with the city approved by the governing authority, or an administrative official or commission authorized by the governing authority, under which the applicant has agreed to the implementation of the development on terms and conditions satisfactory to the governing authority.

NEW SECTION. Sec. 6. (1) The following criteria must be met before an area may be designated as a targeted area:

(a) The area must be lands zoned for industrial and manufacturing uses; and

(b) The city must have determined that the targeting of the area, as evaluated by the governing authority, will assist in the new construction of industrial/manufacturing facilities that will provide employment for family living wage jobs.

(2) For the purpose of designating a targeted area, the governing authority may adopt a resolution of intention to so designate an area as generally described in the resolution. The resolution must state the time and place of a hearing to be held by the governing authority to consider the designation of the area and may include such other information pertaining to the designation of the area as the governing authority determines to be appropriate to apprise the public of the action intended.

(3) The governing authority must give notice of a hearing held under this chapter by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than thirty days before the date of the hearing in a paper having a general circulation in the city where the proposed targeted area is located. The notice must state the time, date, place, and purpose of the hearing and generally identify the area proposed to be designated as a targeted area.

(4) Following the hearing or a continuance of the hearing, and subject to the limit on targeted areas, the governing authority may designate all or a portion of the area described in the resolution of intent as a targeted area if it finds, in its sole discretion, that the criteria in subsection (1) of this section have been met.

NEW SECTION. Sec. 7. An owner of property seeking an exemption under this chapter must complete the following procedures:

(1) The owner must apply to the city on forms adopted by the governing authority. The application must contain the following:

(a) Information setting forth the grounds supporting the requested exemption including information indicated on the application form or in the guidelines;

(b) A description of the project and site plan, and other information requested;

(c) A statement of the expected number of new family living wage jobs to be created;

(d) A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the incentive provided under this chapter; and

(e) A statement that the applicant would not have built in this location but for the availability of the tax exemption under this chapter;

(2) The applicant must verify the application by oath or affirmation; and

(3) The application must be accompanied by the application fee, if any, required under this chapter. The governing authority may permit the applicant to revise an application before final action by the governing authority.

NEW SECTION. Sec. 8. The duly authorized administrative official or committee of the city may approve the application if it finds that:

(1) A minimum of twenty-five new family living wage jobs will be created on the subject site as a result of new construction of manufacturing/industrial facilities within one year of building occupancy;

(2) The proposed project is, or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved; and

(3) The criteria of this chapter have been satisfied.

NEW SECTION. Sec. 9. (1) The city governing authority or its authorized representative must approve or deny an application filed under this chapter within ninety days after receipt of the application.

(2) If the application is approved, the city must issue the owner of the property a conditional certificate of acceptance of tax exemption. The certificate must contain a statement by a duly authorized administrative official of the governing authority that the property has complied with the required criteria of this chapter.

(3) If the application is denied by the city, the city must state in writing the reasons for denial and send the notice to the applicant at the applicant's last known address within ten days of the denial.

(4) Upon denial by the city, an applicant may appeal the denial to the city's governing authority within thirty days after receipt of the denial. The appeal before the city's governing authority must be based upon the record made before the city with the burden of proof on the applicant to show that there was no substantial evidence to support the city's decision. The decision of the city in denying or approving the application is final.

NEW SECTION. Sec. 10. The governing authority may establish an application fee. This fee may not exceed an amount determined to be required to cover the cost to be incurred by the governing authority and the assessor in administering this chapter. The application fee must be paid at the time the application for limited exemption is filed. If the application is approved, the governing authority of the city must pay the application fee to the county assessor for deposit in the county current expense fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application is denied, the city's governing authority may retain that portion of the application fee attributable to its own administrative costs and refund the balance to the applicant.

NEW SECTION. Sec. 11. (1) Upon completion of the new construction of a manufacturing/industrial facility for which an application for an exemption

under this chapter has been approved and issued a certificate of occupancy, the owner must file with the city the following:

(a) A description of the work that has been completed and a statement that the new construction on the owner's property qualify the property for a partial exemption under this chapter;

(b) A statement of the new family living wage jobs to be offered as a result of the new construction of manufacturing/industrial facilities; and

(c) A statement that the work has been completed within three years of the issuance of the conditional certificate of tax exemption.

(2) Within thirty days after receipt of the statements required under subsection (1) of this section, the city must determine whether the work completed and the jobs to be offered are consistent with the application and the contract approved by the city and whether the application is qualified for a tax exemption under this chapter.

(3) If the criteria of this chapter have been satisfied and the owner's property is qualified for a tax exemption under this chapter, the city must file the certificate of tax exemption with the county assessor within ten days of the expiration of the thirty-day period provided under subsection (2) of this section.

(4) The city must notify the applicant that a certificate of tax exemption is denied if the city determines that:

(a) The work was not completed within three years of the application date;

(b) The work was not constructed consistent with the application or other applicable requirements;

(c) The jobs to be offered are not consistent with the application and criteria of this chapter; or

(d) The owner's property is otherwise not qualified for an exemption under this chapter.

(5) If the city finds that the work was not completed within the required time period due to circumstances beyond the control of the owner and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the governing authority or the city official authorized by the governing authority may extend the deadline for completion of the work for a period not to exceed twenty-four consecutive months.

(6) The city's governing authority may enact an ordinance to provide a process for an owner to appeal a decision by the city that the owner is not entitled to a certificate of tax exemption to the city. The owner may appeal a decision by the city to deny a certificate of tax exemption in superior court under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty days of notification by the city to the owner of the exemption denial.

NEW SECTION. Sec. 12. (1) Thirty days after the anniversary of the date of the certificate of tax exemption and each year for the tax exemption period, the owner of the new industrial/manufacturing facilities must file with a designated authorized representative of the city an annual report indicating the following:

(a) A statement of the family living wage jobs at the facility as of the anniversary date;

(b) A certification by the owner that the property has not changed use;

(c) A description of changes or improvements constructed after issuance of the certificate of tax exemption; and

(d) Any additional information requested by the city.

(2) A city that issues a certificate of tax exemption under this chapter must report annually by December 31st of each year, beginning in 2013, to the department of commerce. The report must include the following information:

(a) The number of tax exemption certificates granted;

(b) The total number and type of new manufacturing/industrial facilities constructed;

(c) The number of family living wage jobs resulting from the new manufacturing/industrial facilities; and

(d) The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.

NEW SECTION. Sec. 13. (1) If the value of improvements have been exempted under this chapter, the improvements continue to be exempted for the applicable period under this chapter so long as they are not converted to another use and continue to satisfy all applicable conditions including, but not limited to, zoning, land use, building, and family wage job creation.

(2) If an owner voluntarily opts to discontinue compliance with the requirements of this chapter, the owner must notify the assessor within sixty days of the change in use or intended discontinuance.

(3) If, after a certificate of tax exemption has been filed with the county assessor, the city discovers that a portion of the property is changed or will be changed to disqualify the owner for exemption eligibility under this chapter, the tax exemption must be canceled and the following occurs:

(a) Additional real property tax must be imposed on the value of the nonqualifying improvements in the amount that would be imposed if an exemption had not been available under this chapter, plus a penalty equal to twenty percent of the additional value. This additional tax is calculated based upon the difference between the property tax paid and the property tax that would have been paid if it had included the value of the nonqualifying improvements dated back to the date that the improvements were converted to a nonqualifying use;

(b) The tax must include interest upon the amounts of the additional tax at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the improvements had been assessed at a value without regard to this chapter; and

(c) The additional tax owed together with interest and penalty becomes a lien on the property and attaches at the time the property or portion of the property is removed from the qualifying use under this chapter or the amenities no longer meet the applicable requirements for exemption under this chapter. A lien under this section has priority to, and must be fully paid and satisfied before, a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the property may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent property taxes.

(4) Upon a determination that a tax exemption is to be terminated for a reason stated in this section, the city's governing authority must notify the record

owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to terminate the exemption. The owner may appeal the determination to the city, within thirty days by filing a notice of appeal with the city, which notice must specify the factual and legal basis on which the determination of termination is alleged to be erroneous. At an appeal hearing, all affected parties may be heard and all competent evidence received. After the hearing, the deciding body or officer must either affirm, modify, or repeal the decision of termination of exemption based on the evidence received. An aggrieved party may appeal the decision of the deciding body or officer to the superior court as provided in RCW 34.05.510 through 34.05.598.

(5) Upon determination by the city to terminate an exemption, the county officials having possession of the assessment and tax rolls must correct the rolls in the manner provided for omitted property under RCW 84.40.080. The county assessor must make such a valuation of the property and improvements as is necessary to permit the correction of the rolls. The value of the new industrial/manufacturing facilities added to the rolls is considered new construction for the purposes of chapter 84.40 RCW. The owner may appeal the valuation to the county board of equalization as provided in chapter 84.40 RCW. If there has been a failure to comply with this chapter, the property must be listed as an omitted assessment for assessment years beginning January 1st of the calendar year in which the noncompliance first occurred, but the listing as an omitted assessment may not be for a period more than three calendar years preceding the year in which the failure to comply was discovered.

NEW SECTION. Sec. 14. This act applies to taxes levied for collection in 2016 and thereafter.

NEW SECTION. Sec. 15. Sections 1 through 14 of this act constitute a new chapter in Title 84 RCW.

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 May 28, 2015.

Passed by the House May 28, 2015.

Approved by the Governor June 10, 2015.

Filed in Office of Secretary of State June 10, 2015.

CHAPTER 10

[Second Engrossed Substitute House Bill 1299]

TRANSPORTATION BUDGET

AN ACT Relating to transportation funding and appropriations; amending RCW 43.19.642, 46.63.170, 46.68.325, 47.29.170, 47.56.403, 47.56.876, 47.64.170, 82.70.020, 82.70.040, 82.70.050, and 82.70.900; amending 2014 c 222 ss 101, 103, 104, 105, 201-205, 207-223, 301, 303-311, 401, 402, 404-407, and 601 (uncodified); amending 2013 c 306 s 206 (uncodified); adding a new section to 2013 c 306 (uncodified); creating new sections; making appropriations and authorizing expenditures for capital improvements; providing an expiration date; providing a contingent effective date; and declaring an emergency.

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

2015-2017 FISCAL BIENNIUM

NEW SECTION. **Sec. 1.** (1) The transportation budget of the state is hereby adopted and, subject to the provisions set forth, the several amounts specified, or as much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds named to the designated state agencies and offices for employee compensation and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 2017.

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

(a) "Fiscal year 2016" or "FY 2016" means the fiscal year ending June 30, 2016.

(b) "Fiscal year 2017" or "FY 2017" means the fiscal year ending June 30, 2017.

(c) "FTE" means full-time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose that is not expended subject to the specified conditions and limitations to fulfill the specified purpose shall lapse.

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

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

GENERAL GOVERNMENT AGENCIES—OPERATING

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

Motor Vehicle Account—State Appropriation \$476,000

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

Grade Crossing Protective Account—State
Appropriation \$504,000

The appropriation in this section is subject to the following conditions and limitations: The utilities and transportation commission shall coordinate a state agency work group in 2016 that will identify issues, laws, and regulations relevant to consolidating rail employee safety and regulatory functions in the utilities and transportation commission, and report those findings to the joint transportation committee by December 31, 2016. State agencies in the work group must include the department of transportation, the department of labor and industries, the emergency management division of the state military department, and any other relevant agencies. The report must address: An inventory of state rail employee safety regulatory authority, including rail

employee safety laws and regulations; issues pertaining to state rail safety inspectors, including enforcement authority, staffing, training, and retention; and information relating to the enhancement of rail employee safety, yard conditions, lighting, and appliance maintenance.

Sec. 102 was partially vetoed. See message at end of chapter.

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

Motor Vehicle Account—State Appropriation	\$2,268,000
Puget Sound Ferry Operations Account—State Appropriation	\$110,000
TOTAL APPROPRIATION	\$2,378,000

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

(1) \$100,000 of the motor vehicle account—state appropriation is for the office of financial management, from amounts set aside out of statewide fuel taxes distributed to counties per RCW 46.68.120(3), to evaluate the concept of exchanging some amount of federal funds received by counties for state funds in order to reduce the administrative burden on counties associated with using federal funds on relatively small, locally administered projects. The analysis and findings must be done in consultation with the Washington state association of counties and the department of transportation. Preliminary findings, including a feasibility analysis and an outline of one or more conceptual approaches, must be produced by December 1, 2015, and final recommendations, including implementation and timing details for any preferred approaches, must be submitted to the governor and the transportation committees of the legislature by September 1, 2016.

(2) \$835,000 of the motor vehicle account—state appropriation is provided solely for the office of financial management, from amounts set aside out of statewide fuel taxes distributed to counties according to RCW 46.68.120(3), to contract with the Washington state association of counties to develop, implement, and report on transportation metrics associated with transportation system policy goals outlined in RCW 47.04.280. The Washington state association of counties, in cooperation with state agencies, must: Evaluate and implement opportunities to streamline reporting of county transportation financial data; expand reporting and collection of short-span bridge and culvert data; evaluate and report on the impact of increased freight and rail traffic on county roads; and to evaluate, implement, and report on the opportunities for improved capital project management and delivery.

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

Sec. 103 was partially vetoed. See message at end of chapter

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

Motor Vehicle Account—State Appropriation \$986,000

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

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

Motor Vehicle Account—State Appropriation \$1,212,000

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

Motor Vehicle Account—State Appropriation \$563,000

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

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

TRANSPORTATION AGENCIES—OPERATING

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

Highway Safety Account—State Appropriation.	\$3,154,000
Highway Safety Account—Federal Appropriation	\$27,383,000
Highway Safety Account—Private/Local Appropriation.	\$118,000
School Zone Safety Account—State Appropriation.	\$850,000
TOTAL APPROPRIATION	\$31,505,000

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

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

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

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

(2) \$99,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Substitute Senate Bill No. 5957),

Laws of 2015 (pedestrian safety reviews). If chapter . . . (Substitute Senate Bill No. 5957), Laws of 2015 is not enacted by June 30, 2015, the amount provided in this subsection lapses.

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

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

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

Rural Arterial Trust Account—State Appropriation	\$969,000
Motor Vehicle Account—State Appropriation	\$2,283,000
County Arterial Preservation Account—State Appropriation	\$1,481,000
TOTAL APPROPRIATION	\$4,733,000

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

Transportation Improvement Account—State Appropriation	\$3,915,000
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NEW SECTION. Sec. 204. FOR THE JOINT TRANSPORTATION COMMITTEE

Motor Vehicle Account—State Appropriation	\$1,727,000
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The appropriation in this section is subject to the following conditions and limitations:

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

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

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

Washington state patrol shall work with the consultant to identify costs for each recommendation.

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

(i) Provide a high-level overview of commercial vehicle enforcement programs, with a focus on weigh stations, including both state and federal funding programs. This overview must include a description of how the Washington state patrol and department of transportation allocate these state and federal funds.

(ii) Review Washington state patrol and department of transportation planning related to weigh station location and operation, and the extent to which their efforts complement, coordinate with, or overlap each other;

(iii) Identify best practices in the funding, placement, and operation of weigh stations;

(iv) Review plans by the department of transportation and Washington state patrol to reopen a Federal Way area southbound weigh station;

(v) Recommend changes in state statutes, policy, or agency practices and rules to improve the efficiency and effectiveness of weigh station funding, placement, and operation, including potential savings to be achieved by adopting the changes; and

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

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

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

(4) The legislature intends for the joint transportation committee to undertake a study during the 2017-2019 fiscal biennium of consolidating rail employee safety and regulatory functions in the utilities and transportation commission. The joint transportation committee should review the information provided by the utilities and transportation commission as required under section 102 of this act and should provide recommendations to the transportation

committees of the legislature regarding such a consolidation of rail employee safety and regulatory functions.

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

NEW SECTION. Sec. 205. FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account—State Appropriation	\$2,452,000
Multimodal Transportation Account—State Appropriation	\$112,000
TOTAL APPROPRIATION	\$2,564,000

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

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

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

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

Motor Vehicle Account—State Appropriation	\$979,000
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The appropriation in this section is subject to the following conditions and limitations: \$250,000 of the motor vehicle account—state appropriation is provided solely to conduct a study of freight infrastructure needs, including an update of the long-term marine cargo forecast. The board must work with the Washington public ports association to evaluate: (1) Forecasted cargo movement by commodity, type, and mode of land transport; and (2) current and projected

freight infrastructure capacity needs. A report on the study must be delivered to the joint transportation committee by December 1, 2015.

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

State Patrol Highway Account—State	
Appropriation	\$407,771,000
State Patrol Highway Account—Federal	
Appropriation	\$12,779,000
State Patrol Highway Account—Private/Local	
Appropriation	\$3,631,000
Highway Safety Account—State Appropriation.	\$1,323,000
Multimodal Transportation Account—State	
Appropriation	\$276,000
TOTAL APPROPRIATION	\$425,780,000

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

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

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

(3) \$23,000 of the state patrol highway account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Second Substitute House Bill No. 1276), Laws of 2015 (impaired driving). If chapter . . . (Engrossed Second Substitute House Bill No. 1276), Laws of 2015 is not enacted by June 30, 2015, the amount provided in this subsection lapses.

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

Marine Fuel Tax Refund Account—State	
Appropriation	\$34,000
License Plate Technology Account—State	
Appropriation.	\$3,200,000
Motorcycle Safety Education Account—State	
Appropriation	\$4,442,000
State Wildlife Account—State Appropriation	\$949,000
Highway Safety Account—State Appropriation.	\$183,610,000
Highway Safety Account—Federal Appropriation	\$3,573,000
Motor Vehicle Account—State Appropriation	\$86,014,000
Motor Vehicle Account—Federal Appropriation	\$362,000
Motor Vehicle Account—Private/Local Appropriation	\$1,544,000

Ignition Interlock Device Revolving Account—State	
Appropriation	\$5,133,000
Department of Licensing Services Account—State	
Appropriation	\$6,575,000
TOTAL APPROPRIATION	\$295,436,000

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

(1) \$24,212,000 of the highway safety account—state appropriation and \$3,200,000 of the license plate technology account—state appropriation are provided solely for business and technology modernization. The department and the state chief information officer or his or her designee must provide a joint project status report to the transportation committees of the legislature on at least a calendar quarter basis. The report must include, but is not limited to: Detailed information about the planned and actual scope, schedule, and budget; status of key vendor and other project deliverables; and a description of significant changes to planned deliverables or system functions over the life of the project. Project staff will periodically brief the committees or the committees' staff on system security and data protection measures.

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

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

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

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

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

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

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

(6) Within existing resources and in consultation with the traffic safety commission, the Washington state patrol, and a representative of the insurance

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

(7) \$57,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Substitute House Bill No. 1157), Laws of 2015 or chapter . . . (Substitute Senate Bill No. 5025), Laws of 2015 (quick title service fees). If both chapter . . . (Substitute House Bill No. 1157), Laws of 2015 and chapter . . . (Substitute Senate Bill No. 5025), Laws of 2015 are not enacted by June 30, 2015, the amount provided in this subsection lapses.

(8) \$283,000 of the highway safety account—state appropriation and \$33,000 of the ignition interlock device revolving account—state appropriation are provided solely for the implementation of chapter . . . (Engrossed Second Substitute House Bill No. 1276), Laws of 2015 (impaired driving). If chapter . . . (Engrossed Second Substitute House Bill No. 1276), Laws of 2015 is not enacted by June 30, 2015, the amount provided in this subsection lapses.

(9) \$63,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute Senate Bill No. 5656), Laws of 2015 (distracted driving). If chapter . . . (Engrossed Substitute Senate Bill No. 5656), Laws of 2015 is not enacted by June 30, 2015, the amount provided in this subsection lapses.

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

High Occupancy Toll Lanes Operations Account—State

Appropriation \$2,688,000

Motor Vehicle Account—State Appropriation \$503,000

State Route Number 520 Corridor Account—State

Appropriation \$39,543,000

State Route Number 520 Civil Penalties Account—State

Appropriation \$6,703,000

Tacoma Narrows Toll Bridge Account—State

Appropriation \$25,660,000

Interstate 405 Express Toll Lanes Operations

Account—State Appropriation \$9,931,000

TOTAL APPROPRIATION \$85,028,000

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

(1) \$1,300,000 of the Tacoma Narrows toll bridge account—state appropriation and \$8,157,000 of the state route number 520 corridor account—state appropriation are provided solely for the purposes of addressing unforeseen operations and maintenance costs on the Tacoma Narrows bridge and the state

route number 520 bridge, respectively. The office of financial management shall place the amounts provided in this section, which represent a portion of the required minimum fund balance under the policy of the state treasurer, in unallotted status. The office may release the funds only when it determines that all other funds designated for operations and maintenance purposes have been exhausted.

(2) \$4,778,000 of the state route number 520 civil penalties account—state appropriation and \$2,065,000 of the Tacoma Narrows toll bridge account—state appropriation are provided solely for expenditures related to the toll adjudication process. The department shall report on the civil penalty process to the office of financial management and the house of representatives and senate transportation committees by the end of each calendar quarter. The reports must include a summary table for each toll facility that includes: The number of notices of civil penalty issued; the number of recipients who pay before the notice becomes a penalty; the number of recipients who request a hearing and the number who do not respond; workload costs related to hearings; the cost and effectiveness of debt collection activities; and revenues generated from notices of civil penalty.

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

(4) \$3,100,000 of the Interstate 405 express toll lanes operations account—state appropriation, \$1,498,000 of the state route number 520 corridor account—state appropriation, and \$1,291,000 of the high occupancy toll lanes operations account—state appropriation are provided solely for the operation and maintenance of roadside toll collection systems.

(5) \$6,831,000 of the Interstate 405 express toll lanes operations account—state appropriation is provided solely for operational costs related to the express toll lane facility, including the customer service center vendor, transponders, credit card fees, printing and postage, rent, office supplies, telephone and communications equipment, computers, and vehicle operations.

(6) \$56,000 of the high occupancy toll lanes operations account—state appropriation, \$1,124,000 of the state route number 520 corridor account—state appropriation, and \$596,000 of the Tacoma Narrows toll bridge account—state appropriation are provided solely for the department to develop a request for proposals for a new tolling customer service center. The department must address the replacement of the Wave2Go ferry ticketing system that is reaching the end of its useful life by developing functional and technical requirements that integrate Washington state ferries ticketing into the new tolling division customer service center toll collection system. The department shall continue to report quarterly to the governor, legislature, and state auditor on: (a) The department's effort to mitigate risk to the state, (b) the development of a request for proposals, and (c) the overall progress towards procuring a new tolling customer service center.

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

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

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

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

(8) \$5,000 of the motor vehicle account—state appropriation is provided solely for membership dues for the alliance for toll interoperability.

(9) \$1,925,000 of the state route number 520 civil penalties account—state appropriation is provided solely to implement chapter . . . (Substitute Senate Bill No. 5481), Laws of 2015 (tolling customer service reform) to improve integration between the Good to Go! electronic tolling system with the pay-by-mail system through increased communication with customers and improvements to the Good to Go! web site allowing customers to manage all of their toll accounts regardless of method of payment. Within the amounts provided, the department must include in the request for proposals for a new customer service center the requirement that the new tolling customer service center link to the vehicle records system of the department of licensing to enable vehicle record updates that relate to tolling customer accounts to occur between the two systems seamlessly. The department must work with the department of licensing to develop the appropriate specifications to include in the request for proposals to allow the new tolling customer service center to link to the vehicle records system without cost to the department of licensing and report to the transportation committees of the legislature when the appropriate specifications have been completed. By June 30, 2017, the department shall report how many people with Good to Go! accounts were issued civil penalties for each toll facility and whether the number was reduced each fiscal year in the biennium. The department shall also report on the number of customer contacts that occur, number of civil penalties reduced or waived, the amount of the total civil penalties that are waived, and the number of customers that are referred to the administrative law judge process during the biennium.

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

Transportation Partnership Account—State	
Appropriation	\$1,460,000
Motor Vehicle Account—State Appropriation	\$67,458,000
Multimodal Transportation Account—State	
Appropriation	\$2,883,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation	\$1,460,000
Puget Sound Ferry Operations Account—State	

Appropriation	\$263,000
TOTAL APPROPRIATION	\$73,524,000

The appropriations in this section are subject to the following conditions and limitations: \$1,460,000 of the transportation partnership account—state appropriation and \$1,460,000 of the transportation 2003 account (nickel account)—state appropriation are provided solely for maintaining the department's project management reporting system.

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

Motor Vehicle Account—State Appropriation	\$27,098,000
State Route Number 520 Corridor Account—State Appropriation	\$34,000
TOTAL APPROPRIATION	\$27,132,000

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

Aeronautics Account—State Appropriation	\$8,143,000
Aeronautics Account—Federal Appropriation	\$4,100,000
Aeronautics Account—Private/Local Appropriation	\$60,000
TOTAL APPROPRIATION	\$12,303,000

The appropriations in this section are subject to the following conditions and limitations: \$4,137,000 of the aeronautics account—state appropriation is provided solely for airport investment studies and the airport aid grant program, which provides competitive grants to public airports for pavement, safety, maintenance, planning, and security. Of this amount, \$637,000 lapses if chapter . . . (Substitute Senate Bill No. 5324), Laws of 2015 (aircraft excise taxes) is not enacted by June 30, 2015, and an expenditure to the aeronautics account is not provided in the 2015-2017 omnibus appropriations act by June 30, 2015.

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

Motor Vehicle Account—State Appropriation	\$52,070,000
Motor Vehicle Account—Federal Appropriation	\$500,000
Multimodal Transportation Account—State Appropriation	\$250,000
TOTAL APPROPRIATION	\$52,820,000

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

- (1) The real estate services division of the department must recover the cost of its efforts from sale proceeds and fund additional future sales from those proceeds.
- (2) The legislature recognizes that the trail known as the Rocky Reach Trail, and its extensions, serve to separate motor vehicle traffic from pedestrians and bicyclists, increasing motor vehicle safety on state route number 2 and the coincident section of state route number 97. Consistent with chapter 47.30 RCW and pursuant to RCW 47.12.080, the legislature declares that transferring

portions of WSDOT Inventory Control (IC) No. 2-09-04686 containing the trail and associated buffer areas to the Washington state parks and recreation commission is consistent with the public interest. The legislature directs the department to transfer the property to the Washington state parks and recreation commission.

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

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

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

(3) During the 2015-2017 fiscal biennium, in instances on private property when naturally occurring beaver dams and the water contained behind the dams pose an imminent threat to Washington state highway infrastructure, personal property, and individual safety in the event of dam failure, the department shall: (a) Notify the private property owner or owners of the threat; (b) perform a risk assessment to the state highway infrastructure, personal property, and public safety or loss of life; (c) coordinate with the department of fish and wildlife to perform an environmental risk assessment and develop a suggested beaver management plan to reduce or eliminate the risk of failure; and (d) produce a joint agency management plan with the department of fish and wildlife for the site and involve local jurisdictions and nongovernmental organizations to help execute the recommendations as devised by the state agencies. Further, within that joint agency plan, the department and department of fish and wildlife shall identify and prioritize potential remedies to include culvert replacement, infrastructure upgrade, wildlife management tools, dam maintenance, water level controls, and any other identifiable solution.

Sec. 213 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 214. **FOR THE DEPARTMENT OF TRANSPORTATION—ECONOMIC PARTNERSHIPS—PROGRAM K**
 Motor Vehicle Account—State Appropriation \$582,000

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

(1) The economic partnerships program must continue to explore retail partnerships at state-owned park and ride facilities, as authorized in RCW 47.04.295.

(2) Within the amounts provided in this section, the economic partnership program shall consult with the department's tolling division and participate in the division's ongoing efforts to reduce the costs associated with the Tacoma Narrows bridge. This participation must include examining opportunities for the state to contract with one or more private sector partners to collect tolls and provide services to drivers crossing the bridge.

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

Motor Vehicle Account—State Appropriation	\$397,329,000
Motor Vehicle Account—Federal Appropriation	\$7,000,000
Tacoma Narrows Toll Bridge Account—State Appropriation.	\$1,768,000
State Route Number 520 Corridor Account—State Appropriation.	\$4,448,000
TOTAL APPROPRIATION	\$410,545,000

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

(1) \$2,605,000 of the motor vehicle account—state appropriation is provided solely for utility fees assessed by local governments as authorized under RCW 90.03.525 for the mitigation of storm water runoff from state highways.

(2) \$4,448,000 of the state route number 520 corridor account—state appropriation is provided solely to maintain the state route number 520 floating bridge. These funds must be used in accordance with RCW 47.56.830(3).

(3) \$1,768,000 of the Tacoma Narrows toll bridge account—state appropriation is provided solely to maintain the new Tacoma Narrows bridge. These funds must be used in accordance with RCW 47.56.830(3).

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

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

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

Motor Vehicle Account—State Appropriation	\$51,572,000
Motor Vehicle Account—Federal Appropriation	\$2,050,000
Motor Vehicle Account—Private/Local Appropriation	\$250,000
TOTAL APPROPRIATION	\$53,872,000

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

(1) \$6,000,000 of the motor vehicle account—state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. By September 1st of each even-numbered year, the

department shall provide a report to the legislature listing all low-cost enhancement projects prioritized on a statewide rather than regional basis completed in the prior year.

(2) During the 2015-2017 fiscal biennium, the department shall continue a pilot program that expands private transportation providers' access to high occupancy vehicle lanes. Under the pilot program, when the department reserves a portion of a highway based on the number of passengers in a vehicle, the following vehicles must be authorized to use the reserved portion of the highway if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles. For purposes of this subsection, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees. Nothing in this subsection is intended to authorize the conversion of public infrastructure to private, for-profit purposes or to otherwise create an entitlement or other claim by private users to public infrastructure.

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

Motor Vehicle Account—State Appropriation	\$27,842,000
Motor Vehicle Account—Federal Appropriation	\$280,000
Multimodal Transportation Account—State Appropriation	\$1,131,000
TOTAL APPROPRIATION	\$29,253,000

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

(1) \$288,000 of the motor vehicle account—state appropriation is provided solely for enhanced disadvantaged business enterprise outreach to increase the pool of disadvantaged businesses available for department contracts and to collaborate with the department of labor and industries to recruit women and persons of color to participate in existing transportation apprenticeship programs. The department must submit a status report on disadvantaged business enterprise outreach and apprenticeship recruitment to the transportation committees of the legislature by November 15, 2015.

(2) \$3,000,000 of the motor vehicle account—state appropriation is provided solely for the headquarters communications office. Within the amount provided in this subsection, the department shall complete the web content management system and upgrade the department's web site.

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

Motor Vehicle Account—State Appropriation	\$21,374,000
Motor Vehicle Account—Federal Appropriation	\$24,885,000

Multimodal Transportation Account—State	
Appropriation	\$662,000
Multimodal Transportation Account—Federal	
Appropriation	\$2,809,000
Multimodal Transportation Account—Private/Local	
Appropriation	\$100,000
TOTAL APPROPRIATION	\$49,830,000

The appropriations in this section are subject to the following conditions and limitations: \$368,000 of the motor vehicle account—state appropriation is provided solely for the purchase of an economic impact model. The department shall work with appropriate local jurisdictions to improve consistency between existing and planned transportation demand models. The department shall report back to the transportation committees of the legislature and the office of financial management by December 31, 2015, with any recommendations requiring legislative action.

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

Motor Vehicle Account—State Appropriation	\$75,700,000
Motor Vehicle Account—Federal Appropriation	\$500,000
Multimodal Transportation Account—State	
Appropriation	\$3,243,000
TOTAL APPROPRIATION	\$79,443,000

The appropriations in this section are subject to the following conditions and limitations: The department of enterprise services must provide a detailed accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.

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

State Vehicle Parking Account—State Appropriation	\$754,000
Regional Mobility Grant Program Account—State	
Appropriation	\$60,000,000
Rural Mobility Grant Program Account—State	
Appropriation	\$17,000,000
Multimodal Transportation Account—State	
Appropriation	\$50,546,000
Multimodal Transportation Account—Federal	
Appropriation	\$3,242,000
TOTAL APPROPRIATION	\$131,542,000

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

- (1) \$35,000,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation. Of this amount:

(a) \$7,500,000 of the multimodal transportation account—state appropriation is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers must be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$27,500,000 of the multimodal transportation account—state appropriation is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must, to the greatest extent practicable, have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies must be prorated based on the amount expended for demand response service and route deviated service in calendar year 2013 as reported in the "Summary of Public Transportation - 2013" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) \$17,000,000 of the rural mobility grant program account—state appropriation is provided solely for grants to aid small cities in rural areas as prescribed in RCW 47.66.100.

(3)(a) \$6,000,000 of the multimodal transportation account—state appropriation is provided solely for a vanpool grant program for: (i) Public transit agencies to add vanpools or replace vans; and (ii) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; operating costs for public transit agencies are not eligible for funding under this grant program. Additional employees may not be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. The department shall encourage grant applicants and recipients to leverage funds other than state funds.

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

(c) \$400,000 of the amount provided in this subsection is provided solely for the purchase of additional vans for use by vanpools serving or traveling through the Joint Base Lewis-McChord I-5 corridor between mile post 116 and 127.

(4) \$10,000,000 of the regional mobility grant program account—state appropriation is reappropriated and provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2015-2 ALL PROJECTS as developed May 26, 2015, Program - Public Transportation Program (V).

(5)(a) \$50,000,000 of the regional mobility grant program account—state appropriation is provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2015-2 ALL PROJECTS as developed May 26, 2015, Program - Public Transportation Program (V). The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, must be reviewed by the department to determine whether the grant should be terminated. The

department shall promptly close out grants when projects have been completed, and any remaining funds must be used only to fund projects identified in the LEAP transportation document referenced in this subsection. The department shall provide annual status reports on December 15, 2015, and December 15, 2016, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule. A grantee may not receive more than twenty-five percent of the amount appropriated in this subsection. The department shall not approve any increases or changes to the scope of a project for the purpose of a grantee expending remaining funds on an awarded grant.

(b) In order to be eligible to receive a grant under (a) of this subsection during the 2015-2017 fiscal biennium, a transit agency must establish a process for private transportation providers to apply for the use of park and ride facilities. For purposes of this subsection, (i) "private transportation provider" means: An auto transportation company regulated under chapter 81.68 RCW; a passenger charter carrier regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; a private nonprofit transportation provider regulated under chapter 81.66 RCW; or a private employer transportation service provider; and (ii) "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees.

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

(7) \$5,670,000 of the multimodal transportation account—state appropriation and \$754,000 of the state vehicle parking account—state appropriation are provided solely for CTR grants and activities.

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

(9)(a) \$1,000,000 of the multimodal transportation account—state appropriation is provided solely for the Everett connector service for Island and Skagit transit agencies. The amount provided in this subsection is contingent on Island Transit charging fares that achieve a farebox recovery ratio similar to comparable transit systems.

(b) The amount provided in (a) of this subsection must be held in unallotted status until the office of financial management determines that fares have been both adopted and implemented by Island Transit that achieve a farebox recovery ratio similar to comparable transit systems. Island Transit must notify the office of financial management when it has met the requirements of this subsection.

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

Puget Sound Ferry Operations Account—State	
Appropriation	\$483,637,000
Puget Sound Ferry Operations Account—Private/Local	
Appropriation	\$121,000
TOTAL APPROPRIATION	\$483,758,000

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

(1) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2015-2017 supplemental and 2017-2019 omnibus transportation appropriations act requests, as determined jointly by the office of financial management, the Washington state ferries, and the transportation committees of the legislature. This level of detail must include the administrative functions in the operating as well as capital programs.

(2) Until a reservation system is operational on the San Juan islands inter-island route, the department shall provide the same priority loading benefits on the San Juan islands inter-island route to home health care workers as are currently provided to patients traveling for purposes of receiving medical treatment.

(3) For the 2015-2017 fiscal biennium, the department may enter into a distributor controlled fuel hedging program and other methods of hedging approved by the fuel hedging committee.

(4) \$87,036,000 of the Puget Sound ferry operations account—state appropriation is provided solely for auto ferry vessel operating fuel in the 2015-2017 fiscal biennium, which reflect cost savings from a reduced biodiesel fuel requirement and, therefore, is contingent upon the enactment of section 701 of this act. The amount provided in this subsection represents the fuel budget for the purposes of calculating any ferry fare fuel surcharge.

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

(6) During the 2015-2017 fiscal biennium, the department shall not operate a winter sailing schedule for a time period longer than twelve weeks.

(7) \$496,000 of the Puget Sound ferry operations account—state appropriation is provided solely for ferry terminal traffic control at the Fauntleroy ferry terminal. The department shall utilize existing contracts to provide a uniformed officer to assist with ferry terminal traffic control at the Fauntleroy ferry terminal.

(8) \$1,151,000 of the Puget Sound ferry operations account—state appropriation is provided solely for improvements to the reservation system. The department shall actively encourage ferry reservation customers to use the online option for making and changing reservations.

(9) \$30,000 of the Puget Sound ferry operations account—state appropriation is provided solely for the marine division assistant secretary's designee to the board of pilotage commissioners, who serves as the board chair. As the agency chairing the board, the department shall direct the board chair, in his or her capacity as chair, to require that the report to the governor and chairs of the transportation committees required under RCW 88.16.035(1)(f) be filed by September 1, 2015, and annually thereafter, and that the report include the establishment of policies and procedures necessary to increase the diversity of pilots, trainees, and applicants, including a diversity action plan. The diversity action plan must articulate a comprehensive vision of the board's diversity goals and the steps it will take to reach those goals.

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

Multimodal Transportation Account—State	
Appropriation	\$58,744,000
Multimodal Transportation Account—Private/Local	
Appropriation	\$45,000
TOTAL APPROPRIATION	\$58,789,000

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

Motor Vehicle Account—State Appropriation	\$8,986,000
Motor Vehicle Account—Federal Appropriation	\$2,567,000
Multiuse Roadway Safety Account—State Appropriation	\$131,000
TOTAL APPROPRIATION	\$11,684,000

TRANSPORTATION AGENCIES—CAPITAL

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

Freight Mobility Investment Account—State	
Appropriation	\$8,852,000
Freight Mobility Multimodal Account—State	
Appropriation	\$9,937,000
Freight Mobility Multimodal Account—Private/Local	
Appropriation	\$1,320,000
Highway Safety Account—State Appropriation	\$2,250,000
Motor Vehicle Account—State Appropriation	\$83,000
Motor Vehicle Account—Federal Appropriation	\$3,250,000
TOTAL APPROPRIATION	\$25,692,000

NEW SECTION. Sec. 302. FOR THE WASHINGTON STATE PATROL

State Patrol Highway Account—State Appropriation	\$5,310,000
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The appropriation in this section is subject to the following conditions and limitations:

- (1) \$250,000 of the state patrol highway account—state appropriation is provided solely for unforeseen emergency repairs on facilities.
- (2) \$560,000 of the state patrol highway account—state appropriation is provided solely for the replacement of the roofs of the Shelton academy multipurpose building, Tacoma district office building, Kennewick detachment building, and Ridgefield and Plymouth weigh station buildings.
- (3) \$150,000 of the state patrol highway account—state appropriation is provided solely for upgrades to scales at Goldendale required to meet current certification requirements.
- (4) \$2,350,000 of the state patrol highway account—state appropriation is provided solely for funding to repair and replace the academy asphalt emergency vehicle operation course.
- (5) \$500,000 of the state patrol highway account—state appropriation is provided solely for replacement of generators at Marysville, Baw Faw, Gardner, Pilot Rock, and Ridpath.

(6) \$150,000 of the state patrol highway account—state appropriation is provided solely for painting and caulking in several locations.

(7) \$350,000 of the state patrol highway account—state appropriation is provided solely for pavement preservation at the Wenatchee district office and the Spokane district office.

(8) \$700,000 of the state patrol highway account—state appropriation is provided solely for energy upgrades at two district offices and two detachments.

(9) \$300,000 of the state patrol highway account—state appropriation is provided solely for repair of the academy training tank.

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

Rural Arterial Trust Account—State

Appropriation \$46,000,000

Motor Vehicle Account—State Appropriation \$10,706,000

County Arterial Preservation Account—State

Appropriation \$31,250,000

TOTAL APPROPRIATION \$87,956,000

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

Small City Pavement and Sidewalk Account—State

Appropriation \$3,931,000

Highway Safety Account—State Appropriation. \$10,000,000

Transportation Improvement Account—State

Appropriation \$179,452,000

TOTAL APPROPRIATION \$193,383,000

The appropriations in this section are subject to the following conditions and limitations: The highway safety account—state appropriation is provided solely for:

(1) The arterial preservation program to help low tax-based, medium-sized cities preserve arterial pavements;

(2) The small city pavement program to help cities meet urgent preservation needs; and

(3) The small city low-energy street light retrofit demonstration program.

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

Transportation Partnership Account—State

Appropriation \$211,000

Motor Vehicle Account—State Appropriation \$4,270,000

TOTAL APPROPRIATION \$4,481,000

The appropriations in this section are subject to the following conditions and limitations: \$211,000 of the transportation partnership account—state appropriation is provided solely for completion of a new traffic management center in Shoreline, Washington. By September 30, 2015, the department shall report to the transportation committees of the legislature and the office of financial management on the resulting vacancy rate of the existing regional headquarters building in Shoreline, plans to consolidate department staff into the

building, and the schedule for terminating the current lease of the Goldsmith building in Seattle, and provide an update on future plans to consolidate agency staff within the region.

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

Multimodal Transportation Account—State	
Appropriation	\$21,388,000
Transportation Partnership Account—State	
Appropriation	\$1,075,309,000
Motor Vehicle Account—State Appropriation	\$64,991,000
Motor Vehicle Account—Federal Appropriation	\$251,313,000
Motor Vehicle Account—Private/Local Appropriation	\$167,259,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation	\$104,366,000
State Route Number 520 Corridor Account—State	
Appropriation	\$367,792,000
State Route Number 520 Corridor Account—Federal	
Appropriation	\$104,801,000
State Route Number 520 Civil Penalties Account—	
State Appropriation	\$15,000,000
Alaskan Way Viaduct Replacement Project Account—	
State Appropriation	\$50,110,000
Special Category C Account—State Appropriation	\$6,000,000
TOTAL APPROPRIATION	\$2,228,329,000

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

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2015-1 as developed May 26, 2015, Program - Highway Improvements Program (I). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 601 of this act.

(2) Except as provided otherwise in this section, the entire motor vehicle account—state appropriation and motor vehicle account—federal appropriation are provided solely for the projects and activities listed in LEAP Transportation Document 2015-2 ALL PROJECTS as developed May 26, 2015, Program - Highway Improvements Program (I). Any federal funds gained through efficiencies, adjustments to the federal funds forecast, additional congressional action not related to a specific project or purpose, or the federal funds redistribution process must then be applied to highway and bridge preservation activities. However, no additional federal funds may be allocated to the I-5/Columbia River Crossing project (400506A).

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

(4) The transportation 2003 account (nickel account)—state appropriation includes up to \$104,366,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

(5) The transportation partnership account—state appropriation includes up to \$508,793,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

(6) \$3,700,000 of the motor vehicle account—state appropriation is provided solely for the I-5/JBLM Early Corridor Design project (300596S) to complete an environmental impact statement for a project that creates additional general purpose lanes on Interstate 5 in the Joint Base Lewis-McChord corridor. The design of this project must be high occupancy vehicle lane ready for a future connection to the Interstate 5 high occupancy vehicle lane system that currently terminates in Tacoma.

(7) \$346,263,000 of the transportation partnership account—state appropriation, \$15,300,000 of the motor vehicle account—federal appropriation, \$154,263,000 of the motor vehicle account—private/local appropriation, \$69,479,000 of the transportation 2003 account (nickel account)—state appropriation, \$50,110,000 of the Alaskan Way viaduct replacement project account—state appropriation, and \$4,346,000 of the multimodal transportation account—state appropriation are provided solely for the SR 99/Alaskan Way Viaduct Replacement project (809936Z).

(8) \$17,000,000 of the multimodal transportation account—state appropriation is provided solely for transit mitigation for the SR 99/Viaduct Project - Construction Mitigation project (809940B).

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

(10) \$13,881,000 of the transportation partnership account—state appropriation, \$9,753,000 of the transportation 2003 account (nickel account)—state appropriation, \$42,000 of the multimodal transportation account—state appropriation, \$6,000,000 of the special category C account—state appropriation, and \$6,348,000 of the motor vehicle account—federal appropriation are provided solely for the US 395/North Spokane Corridor project (600010A). Any future savings on the project must stay on the US 395/Interstate 90 corridor and be made available to the current phase of the North Spokane corridor project or any future phase of the project in 2015-2017.

(11) \$46,894,000 of the transportation partnership account—state appropriation, \$10,317,000 of the transportation 2003 account (nickel account)—state appropriation, and \$1,000 of the motor vehicle account—private/local appropriation are provided solely for the I-405/Kirkland Vicinity Stage 2 - Widening project (8B11002). This project must be completed as soon as practicable as a design-build project. Any future savings on this project or other Interstate 405 corridor projects must stay on the Interstate 405 corridor and

be made available to either the I-405/SR 167 Interchange - Direct Connector project (140504C) or the I-405 Renton to Bellevue project in the 2015-2017 fiscal biennium.

(12)(a) The SR 520 Bridge Replacement and HOV project (8BI1003) is supported over time from multiple sources, including a \$300,000,000 TIFIA loan, \$923,000,000 in Garvee bonds, toll revenues, state bonds, interest earnings, and other miscellaneous sources.

(b) The state route number 520 corridor account—state appropriation includes up to \$343,505,000 in proceeds from the sale of bonds authorized in RCW 47.10.879 and 47.10.886.

(c) The state route number 520 corridor account—federal appropriation includes up to \$104,801,000 in proceeds from the sale of bonds authorized in RCW 47.10.879 and 47.10.886.

(d) \$82,195,000 of the transportation partnership account—state appropriation, \$104,801,000 of the state route number 520 corridor account—federal appropriation, and \$367,792,000 of the state route number 520 corridor account—state appropriation are provided solely for the SR 520 Bridge Replacement and HOV project (8BI1003). Of the amounts appropriated in this subsection (12)(d), \$232,598,000 of the state route number 520 corridor account—state appropriation must be put into unallotted status and is subject to review by the office of financial management. The director of the office of financial management shall consult with the joint transportation committee prior to making a decision to allot these funds.

(e) When developing the financial plan for the project, the department shall assume that all maintenance and operation costs for the new facility are to be covered by tolls collected on the toll facility and not by the motor vehicle account.

(13) \$15,000,000 of the state route number 520 civil penalties account—state appropriation is provided solely for the department to continue to work with the Seattle department of transportation in their joint planning, design, right-of-way acquisition, outreach, and operation of the remaining west side elements including, but not limited to, the Montlake lid, the bicycle/pedestrian path, the effective network of transit connections, and the Portage Bay bridge of the SR 520 Bridge Replacement and HOV project.

(14) \$548,000 of the motor vehicle account—federal appropriation and \$19,000 of the motor vehicle account—state appropriation are provided solely for the 31st Ave SW Overpass Widening and Improvement project (L1100048).

(15) The legislature finds that there are sixteen companies involved in wood preserving in the state that employ four hundred workers and have an annual payroll of fifteen million dollars. Prior to the department's switch to steel guardrails, ninety percent of the twenty-five hundred mile guardrail system was constructed of preserved wood and one hundred ten thousand wood guardrail posts were produced annually for state use. Moreover, the policy of using steel posts requires the state to use imported steel. Given these findings, where practicable, and until June 30, 2017, the department shall include the design option to use wood guardrail posts, in addition to steel posts, in new guardrail installations. The selection of posts must be consistent with the agency design manual policy that existed before December 2009.

(16) For urban corridors that are all or partially within a metropolitan planning organization boundary, for which the department has not initiated environmental review, and that require an environmental impact statement, at least one alternative must be consistent with the goals set out in RCW 47.01.440.

(17) The department shall itemize all future requests for the construction of buildings on a project list and submit them through the transportation executive information system as part of the department's 2016 budget submittal. It is the intent of the legislature that new facility construction must be transparent and not appropriated within larger highway construction projects.

(18) \$59,438,000 of the motor vehicle account—federal appropriation, \$572,000 of the motor vehicle account—state appropriation, and \$388,000 of the motor vehicle account—private/local appropriation are provided solely for fish passage barrier and chronic deficiency improvements (0BI4001).

(19) Any new advisory group that the department convenes during the 2015-2017 fiscal biennium must consider the interests of the entire state of Washington.

(20) Practical design offers targeted benefits to a state transportation system within available fiscal resources. This delivers value not just for individual projects, but for the entire system. Applying practical design standards will also preserve and enhance safety and mobility. The department shall implement a practical design strategy for transportation design standards. By June 30, 2016, the department shall report to the governor and the house of representatives and senate transportation committees on where practical design has been applied or is intended to be applied in the department and the cost savings resulting from the use of practical design. This subsection takes effect if chapter . . . (Substitute House Bill No. 2012), Laws of 2015 is not enacted by June 30, 2015.

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

Transportation Partnership Account—State

Appropriation \$12,057,000

Motor Vehicle Account—State Appropriation \$56,024,000

Motor Vehicle Account—Federal Appropriation \$391,681,000

Motor Vehicle Account—Private/Local Appropriation \$8,104,000

Transportation 2003 Account (Nickel Account)—State

Appropriation \$40,457,000

Tacoma Narrows Toll Bridge Account—State

Appropriation \$4,564,000

Recreational Vehicle Account—State Appropriation \$1,509,000

High Occupancy Toll Lanes Operations Account—State

Appropriation \$800,000

State Route Number 520 Corridor Account—State

Appropriation \$720,000

TOTAL APPROPRIATION \$515,916,000

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

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and

activities as listed by fund, project, and amount in LEAP Transportation Document 2015-1 as developed May 26, 2015, Program - Highway Preservation Program (P). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 601 of this act.

(2) Except as provided otherwise in this section, the entire motor vehicle account—state appropriation and motor vehicle account—federal appropriation are provided solely for the projects and activities listed in LEAP Transportation Document 2015-2 ALL PROJECTS as developed May 26, 2015, Program - Highway Preservation Program (P). Any federal funds gained through efficiencies, adjustments to the federal funds forecast, additional congressional action not related to a specific project or purpose, or the federal funds redistribution process must then be applied to highway and bridge preservation activities. However, no additional federal funds may be allocated to the I-5/Columbia River Crossing project (400506A).

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

(4) The transportation 2003 account (nickel account)—state appropriation includes up to \$38,492,000 in proceeds from the sale of bonds authorized in RCW 47.10.861.

(5) The department shall examine the use of electric arc furnace slag for use as an aggregate for new roads and paving projects in high traffic areas and report back to the legislature by December 1, 2015, on its current use in other areas of the country and any characteristics that can provide greater wear resistance and skid resistance in new pavement construction.

(6) \$39,000,000 of the motor vehicle account—federal appropriation is provided solely for the preservation of structurally deficient bridges or bridges that are at risk of becoming structurally deficient. These funds must be used widely around the state of Washington. The department shall provide a report that identifies the scope, cost, and benefit of each project funded in this subsection as part of its 2016 agency budget request.

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

Motor Vehicle Account—State Appropriation	\$5,898,000
Motor Vehicle Account—Federal Appropriation	\$6,132,000
Motor Vehicle Account—Private/Local Appropriation	\$200,000
TOTAL APPROPRIATION	\$12,230,000

The appropriations in this section are subject to the following conditions and limitations: \$791,000 of the motor vehicle account—state appropriation is provided solely for project 000005Q as state matching funds for federally selected competitive grants or congressional earmark projects. These moneys must be placed into reserve status until such time as federal funds are secured that require a state match.

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

Puget Sound Capital Construction Account—State	
Appropriation	\$40,347,000
Puget Sound Capital Construction Account—Federal	
Appropriation	\$126,515,000
Puget Sound Capital Construction Account—Private/Local	
Appropriation	\$10,331,000
Multimodal Transportation Account—State	
Appropriation	\$2,734,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation	\$81,583,000
TOTAL APPROPRIATION	\$261,510,000

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

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed in LEAP Transportation Document 2015-2 ALL PROJECTS as developed May 26, 2015, Program - Washington State Ferries Capital Program (W).

(2) \$73,000,000 of the transportation 2003 account (nickel account)—state appropriation is provided solely for the acquisition of a 144-car vessel (L1000063). The department shall use as much already procured equipment as practicable on the 144-car vessels.

(3) \$40,617,000 of the Puget Sound capital construction account—federal appropriation and \$608,000 of the Puget Sound capital construction account—state appropriation are provided solely for the Mukilteo ferry terminal (952515P).

(4) \$4,000,000 of the Puget Sound capital construction account—state appropriation is provided solely for emergency capital repair costs (999910K). Funds may only be spent after approval by the office of financial management.

(5) Consistent with RCW 47.60.662, which requires the Washington state ferry system to collaborate with passenger-only ferry and transit providers to provide service at existing terminals, the department shall ensure that multimodal access, including for passenger-only ferries and transit service providers, is not precluded by any future terminal modifications.

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

(7) Funding is included in the future biennia of the LEAP transportation document referenced in subsection (1) of this section for future vessel purchases. Given that the recent purchase of new vessels varies from the current long range plan, the department shall include in its updated long range plan revised estimates for new vessel costs, size, and purchase time frames.

(8) \$325,000 of the Puget Sound capital construction account—state appropriation is provided solely for the ferry system to participate in the

development of one account-based system for customers of both the ferry system and tolling system. The current Wave2Go ferry ticketing system is reaching the end of its useful life and the department is expected to develop a replacement account-based system as part of the new tolling division customer service center toll collection system.

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

Essential Rail Assistance Account—State	
Appropriation	\$820,000
Transportation Infrastructure Account—State	
Appropriation	\$7,033,000
Multimodal Transportation Account—State	
Appropriation	\$12,759,000
Multimodal Transportation Account—Federal	
Appropriation	\$363,318,000
TOTAL APPROPRIATION	\$383,930,000

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

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document 2015-2 ALL PROJECTS as developed May 26, 2015, Program - Rail Program (Y).

(2) \$5,000,000 of the transportation infrastructure account—state appropriation is provided solely for new low-interest loans approved by the department through the freight rail investment bank (FRIB) program. The department shall issue FRIB program loans with a repayment period of no more than ten years, and charge only so much interest as is necessary to recoup the department's costs to administer the loans. For the 2015-2017 fiscal biennium, the department shall first award loans to 2015-2017 FRIB loan applicants in priority order, and then offer loans to 2015-2017 unsuccessful freight rail assistance program grant applicants, if eligible. If any funds remain in the FRIB program, the department may reopen the loan program and shall evaluate new applications in a manner consistent with past practices as specified in section 309, chapter 367, Laws of 2011. The department shall report annually to the transportation committees of the legislature and the office of financial management on all FRIB loans issued.

(3)(a) \$4,514,000 of the multimodal transportation account—state appropriation, \$270,000 of the essential rail assistance account—state appropriation, and \$455,000 of the transportation infrastructure account—state appropriation are provided solely for new statewide emergent freight rail assistance projects identified in the LEAP transportation document referenced in subsection (1) of this section.

(b) Of the amounts provided in this subsection, \$367,000 of the transportation infrastructure account—state appropriation and \$1,100,000 of the multimodal transportation account—state appropriation are provided solely to reimburse Highline Grain, LLC for approved work completed on Palouse River and Coulee City (PCC) railroad track in Spokane county between the BNSF Railway Interchange at Cheney and Geiger Junction and must be administered in

a manner consistent with freight rail assistance program projects. The value of the public benefit of this project is expected to meet or exceed the cost of this project in: Shipper savings on transportation costs; jobs saved in rail-dependent industries; and/or reduced future costs to repair wear and tear on state and local highways due to fewer annual truck trips (reduced vehicle miles traveled). The amounts provided in this subsection are not a commitment for future legislatures, but it is the legislature's intent that future legislatures will work to approve biennial appropriations until the full \$7,337,000 cost of this project is reimbursed.

(4) \$363,191,000 of the multimodal transportation account—federal appropriation and \$5,740,000 of the multimodal transportation account—state appropriation are provided solely for expenditures related to passenger high-speed rail grants. Except for the Mount Vernon project (P01101A), the multimodal transportation account—state funds reflect no more than one and one-half percent of the total project funds, and are provided solely for expenditures that are not eligible for federal reimbursement.

(5)(a) \$550,000 of the essential rail assistance account—state appropriation and \$305,000 of the multimodal transportation account—state appropriation are provided solely for the purpose of the rehabilitation and maintenance of the Palouse river and Coulee City railroad line (F01111B).

(b) Expenditures from the essential rail assistance account—state in this subsection may not exceed the combined total of:

(i) Revenues deposited into the essential rail assistance account from leases and sale of property pursuant to RCW 47.76.290; and

(ii) Revenues transferred from the miscellaneous program account to the essential rail assistance account, pursuant to RCW 47.76.360, for the purpose of sustaining the grain train program by maintaining the Palouse river and Coulee City railroad.

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

Highway Infrastructure Account—State Appropriation	\$782,000
Highway Infrastructure Account—Federal Appropriation	\$202,000
Transportation Partnership Account—State Appropriation	\$1,507,000
Highway Safety Account—State Appropriation	\$9,965,000
Motor Vehicle Account—State Appropriation	\$500,000
Motor Vehicle Account—Federal Appropriation	\$17,829,000
Multimodal Transportation Account—State Appropriation	\$15,331,000
TOTAL APPROPRIATION	\$46,116,000

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

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document 2015-2 ALL PROJECTS as developed May 26, 2015, Program - Local Programs Program (Z).

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

(a) \$13,820,000 of the multimodal transportation account—state appropriation and \$1,507,000 of the transportation partnership account—state appropriation are provided solely for pedestrian and bicycle safety program projects.

(b) \$6,100,000 of the motor vehicle account—federal appropriation and \$6,750,000 of the highway safety account—state appropriation are provided solely for newly selected safe routes to school projects. \$6,794,000 of the motor vehicle account—federal appropriation, \$1,133,000 of the multimodal transportation account—state appropriation, and \$3,215,000 of the highway safety account—state appropriation are reappropriated for safe routes to school projects selected in the previous biennia.

(3) The department shall submit a report to the transportation committees of the legislature by December 1, 2015, and December 1, 2016, on the status of projects funded as part of the pedestrian safety/safe routes to school grant program (OLP600P). The report must include, but is not limited to, a list of projects selected and a brief description of each project's status.

(4) \$500,000 of the motor vehicle account—state appropriation is provided solely for the Edmonds waterfront at-grade train crossings alternatives analysis project (L2000135). The department shall work with the city of Edmonds and provide a preliminary report of key findings to the transportation committees of the legislature and the office of financial management by December 1, 2015.

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

(1) As part of its budget submittal for the 2016 supplemental budget, the department of transportation shall provide an update to the report provided to the legislature in 2015 that: (a) Compares the original project cost estimates approved in the 2003 and 2005 project lists to the completed cost of the project, or the most recent legislatively approved budget and total project costs for projects not yet completed; (b) identifies highway projects that may be reduced in scope and still achieve a functional benefit; (c) identifies highway projects that have experienced scope increases and that can be reduced in scope; (d) identifies highway projects that have lost significant local or regional contributions that were essential to completing the project; and (e) identifies contingency amounts allocated to projects.

(2) As part of its budget submittal for the 2016 supplemental budget, the department of transportation shall provide an annual report on the number of toll credits the department has accumulated and how the department has used the toll credits.

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

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

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

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

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

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

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

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

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

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

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

(2) For completed projects, the report must:

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

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

(3) For prospective projects, the report must:

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

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

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

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

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

TRANSFERS AND DISTRIBUTIONS

NEW SECTION. Sec. 401. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES

DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE

Transportation Partnership Account—State	
Appropriation	\$2,559,000
Highway Bond Retirement Account—State	
Appropriation	\$1,169,927,000
Ferry Bond Retirement Account—State Appropriation	\$29,230,000
Transportation Improvement Board Bond Retirement Account—State Appropriation	\$16,129,000
Nondebt-Limit Reimbursable Bond Retirement Account—State Appropriation	\$25,837,000
Toll Facility Bond Retirement Account—State	
Appropriation	\$62,885,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation	\$719,000
TOTAL APPROPRIATION	\$1,307,286,000

NEW SECTION. Sec. 402. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

Transportation Partnership Account—State	
Appropriation	\$512,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation	\$143,000
TOTAL APPROPRIATION	\$655,000

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

Toll Facility Bond Retirement Account—Federal	
Appropriation	\$200,637,000
Toll Facility Bond Retirement Account—State	
Appropriation	\$12,455,000
TOTAL APPROPRIATION	\$213,092,000

NEW SECTION. Sec. 404. FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account—State Appropriation: For motor vehicle fuel tax distributions to cities and counties	\$489,359,000
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NEW SECTION. Sec. 405. FOR THE STATE TREASURER—TRANSFERS

Motor Vehicle Account—State Appropriation: For motor vehicle fuel tax refunds and statutory transfers	\$1,269,319,000
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NEW SECTION. Sec. 406. FOR THE DEPARTMENT OF LICENSING—TRANSFERS

Motor Vehicle Account—State Appropriation: For motor vehicle fuel tax refunds and transfers	\$143,664,000
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**NEW SECTION. Sec. 407. FOR THE STATE TREASURER—
ADMINISTRATIVE TRANSFERS**

- (1) Multimodal Transportation Account—State
Appropriation: For transfer to the Puget Sound
Ferry Operations Account—State \$10,000,000
- (2) Multimodal Transportation Account—State
Appropriation: For transfer to the Puget Sound
Capital Construction Account—State \$12,000,000
- (3) State Route Number 520 Civil Penalties
Account—State Appropriation: For transfer to the
State Route Number 520 Corridor Account—State \$916,000
- (4) Highway Safety Account—State Appropriation:
For transfer to the State Patrol Highway
Account—State \$20,000,000
- (5) Highway Safety Account—State
Appropriation: For transfer to the Puget Sound Ferry
Operations Account—State \$10,000,000
- (6) Tacoma Narrows Toll Bridge Account—State
Appropriation: For transfer to the Motor Vehicle
Account—State \$950,000
- (7) Motor Vehicle Account—State Appropriation:
For transfer to the Puget Sound Capital Construction
Account—State \$12,000,000
- (8) Rural Mobility Grant Program Account—State
Appropriation: For transfer to the Multimodal
Transportation Account—State \$3,000,000
- (9) Motor Vehicle Account—State Appropriation:
For transfer to the Puget Sound Ferry Operations
Account—State \$10,000,000

NEW SECTION. Sec. 408. STATUTORY APPROPRIATIONS

In addition to the amounts appropriated in this act for revenue for distribution, state contributions to the law enforcement officers' and firefighters' retirement system, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under any proper bond covenant made under law.

NEW SECTION. Sec. 409. The department of transportation is authorized to undertake federal advance construction projects under the provisions of 23 U.S.C. Sec. 115 in order to maintain progress in meeting approved highway construction and preservation objectives. The legislature recognizes that the use of state funds may be required to temporarily fund expenditures of the federal appropriations for the highway construction and preservation programs for federal advance construction projects prior to conversion to federal funding.

COMPENSATION

NEW SECTION. Sec. 501. COMPENSATION

The appropriations for state agencies in this act are subject to the following conditions and limitations: State employee compensation adjustments for employees who are not represented or who bargain under statutory authority other than chapter 47.64 RCW or RCW 41.56.473 or 41.56.475 will be provided in accordance with funding adjustments provided in the 2015-2017 omnibus appropriations act.

NEW SECTION. Sec. 502. COLLECTIVE BARGAINING AGREEMENTS NOT IMPAIRED

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

NEW SECTION. Sec. 503. COLLECTIVE BARGAINING AGREEMENTS

Sections 504 through 516 of this act represent the results of the 2015-2017 collective bargaining process required under chapters 47.64 and 41.56 RCW. Provisions of the collective bargaining agreements contained in sections 504 through 516 of this act are described in general terms. Only major economic terms are included in the descriptions. These descriptions do not contain the complete contents of the agreements. The collective bargaining agreements contained in sections 504 through 516 of this act may also be funded by expenditures from nonappropriated accounts. If positions are funded with lidded grants or dedicated fund sources with insufficient revenue, additional funding from other sources is not provided.

NEW SECTION. Sec. 504. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—OPEIU

An agreement has been reached between the governor and the office and professional employees international union local eight (OPEIU) through an interest arbitration decision pursuant to chapter 47.64 RCW for the 2015-2017 fiscal biennium. Funding is provided for the awarded three percent general wage increase effective July 1, 2015, and a two and one-half percent general wage increase effective July 1, 2016. The agreement also includes and funding is provided to move the relief dispatcher classification to the next higher classification and increase in call back pay.

NEW SECTION. Sec. 505. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—FASPAA

An agreement has been reached between the governor and the ferry agents, supervisors, and project administrators association through an interest arbitration decision pursuant to chapter 47.64 RCW for the 2015-2017 fiscal biennium. Funding is provided for the awarded three percent general wage increase effective July 1, 2015, and a three percent general wage increase effective July 1, 2016. The agreement also includes and funding is provided for an increase in the vacation accrual rate schedule for employees hired before June 30, 2011, effective July 1, 2015.

NEW SECTION. Sec. 506. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—SEIU LOCAL 6

An agreement has been reached between the governor and the service employees international union local six pursuant to chapter 47.64 RCW for the 2015-2017 fiscal biennium. Funding is provided for the negotiated three percent general wage increase effective July 1, 2015, and a one and eight-tenths percent general wage increase effective July 1, 2016. The agreement also includes and funding is provided for an increase in shift premium and foreman pay.

NEW SECTION. Sec. 507. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—CARPENTERS

An agreement has been reached between the governor and the Pacific Northwest regional council of carpenters through an interest arbitration award pursuant to chapter 47.64 RCW for the 2015-2017 fiscal biennium. Funding is provided for the awarded three percent general wage increase effective July 1, 2015, and a three percent general wage increase effective July 1, 2016.

NEW SECTION. Sec. 508. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—METAL TRADES

An agreement has been reached between the governor and the Puget Sound metal trades council through an interest arbitration decision pursuant to chapter 47.64 RCW for the 2015-2017 fiscal biennium. Funding is provided for the awarded three percent general wage increase effective July 1, 2015, and a four percent general wage increase effective July 1, 2016.

NEW SECTION. Sec. 509. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—MEBA-UL

An agreement has been reached between the governor and the marine engineers' beneficial association unlicensed engine room employees through an interest arbitration decision pursuant to chapter 47.64 RCW for the 2015-2017 fiscal biennium. Funding is provided for the awarded four percent general wage increase effective July 1, 2015, and a two and three-quarters percent general wage increase effective July 1, 2016. The agreement also includes and funding is provided for an increase in holiday pay from eight hours to twelve hours per holiday, an increase in maintenance and cure payments to injured employees, and an increase in the contribution to the training school.

NEW SECTION. Sec. 510. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—MEBA-L

An agreement has been reached between the governor and the marine engineers' beneficial association licensed engineer officers through an interest arbitration decision pursuant to chapter 47.64 RCW for the 2015-2017 fiscal biennium. Funding is provided for the awarded four percent general wage increase effective July 1, 2015, and a two and three-quarters percent general wage increase effective July 1, 2016. The agreement also includes and funding is provided for an increase holiday pay from eight hours to twelve hours per holiday, reimbursement for the cost of obtaining specified credentials, an increase in the contribution to temporary relief for employee's health care, an increase in maintenance and cure payments to injured employees, and an increase in the contribution to the training school.

NEW SECTION. Sec. 511. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—MM&P MATES

An agreement has been reached between the governor and the masters, mates, and pilots - mates through an interest arbitration decision pursuant to chapter 47.64 RCW for the 2015-2017 fiscal biennium. Funding is provided for the awarded three percent general wage increase effective July 1, 2015, and three percent general wage increase effective July 1, 2016. The agreement also includes and funding is provided for an increase in call back pay and an increase in the Friday Harbor stipend. The agreement also eliminates a two-tiered vacation accrual schedule, replacing it with one schedule that includes increased accrual rates, effective July 1, 2016.

NEW SECTION. Sec. 512. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—MM&P MASTERS

An agreement has been reached between the governor and the masters, mates, and pilots - masters through an interest arbitration decision pursuant to chapter 47.64 RCW for the 2015-2017 fiscal biennium. Funding is provided for the awarded three percent general wage increase effective July 1, 2015. The agreement also includes and funding is provided for increased vacation accrual rates for those employees hired before June 30, 2011, effective July 1, 2015, an increase in call back pay, an increase in assignment pay, and an increase in the Friday Harbor stipend.

NEW SECTION. Sec. 513. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—MM&P WATCH SUPERVISORS

An agreement has been reached between the governor and the masters, mates, and pilots - watch supervisors through an interest arbitration decision pursuant to chapter 47.64 RCW for the 2015-2017 fiscal biennium. Funding is provided for the awarded five percent general wage increase effective July 1, 2015, and five percent general wage increase effective July 1, 2016. The agreement also includes and funding is provided for an increase in the basic shift premium, effective July 1, 2015.

NEW SECTION. Sec. 514. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS—IBU

An agreement has been reached between the governor and the inlandboatmen's union of the Pacific through an interest arbitration decision pursuant to chapter 47.64 RCW for the 2015-2017 fiscal biennium. Funding is provided for the awarded two and one-half percent general wage increase effective July 1, 2015, and a two and one-half percent general wage increase effective July 1, 2016. The agreement also eliminates the entry level rate schedule and moves those employees to the higher temporary rate schedule, for which funding is provided.

NEW SECTION. Sec. 515. COLLECTIVE BARGAINING AGREEMENTS—WSP TROOPERS ASSOCIATION

An agreement has been reached between the governor and the Washington state patrol troopers association through an interest arbitration decision under

chapter 41.56 RCW for the 2015-2017 fiscal biennium. Funding is provided for the awarded seven percent general wage increase effective July 1, 2015, and a three percent general wage increase effective July 1, 2016. Funding is also provided for a three percent specialty pay for breath alcohol concentration technicians.

NEW SECTION. Sec. 516. COLLECTIVE BARGAINING AGREEMENTS—WSP LIEUTENANTS ASSOCIATION

An agreement has been reached between the governor and the Washington state patrol lieutenants association through an interest arbitration decision under chapter 41.56 RCW for the 2015-2017 fiscal biennium. Funding is provided for the awarded five percent salary increase effective July 1, 2015, and a five percent salary increase effective July 1, 2016. Funding is also provided to increase the annual clothing allowance and increase accumulated holiday credits.

IMPLEMENTING PROVISIONS

NEW SECTION. Sec. 601. FUND TRANSFERS

(1) The transportation 2003 projects or improvements and the 2005 transportation partnership projects or improvements are listed in the LEAP list titled 2015-1 as developed May 26, 2015, which consists of a list of specific projects by fund source and amount over a ten-year period. Current fiscal biennium funding for each project is a line-item appropriation, while the outer year funding allocations represent a ten-year plan. The department is expected to use the flexibility provided in this section to assist in the delivery and completion of all transportation partnership account and transportation 2003 account (nickel account) projects on the LEAP transportation documents referenced in this act. However, this section does not apply to the I-5/Columbia River Crossing project (400506A). For the 2015-2017 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects funded with transportation 2003 account (nickel account) appropriations, or transportation partnership account appropriations, in order to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

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

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

(c) Each transfer between projects may only occur if the director of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature. Until the legislature reconvenes to consider the 2016 supplemental omnibus transportation appropriations act, any unexpended 2013-2015 appropriation balance as approved by the office of financial management, in consultation with the legislative staff of the house of representatives and senate transportation committees, may be considered when transferring funds between projects;

(d) Transfers from a project may be made if the funds appropriated to the project are in excess of the amount needed to complete the project;

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

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

(g) Transfers between projects may be made, without the approval of the director of the office of financial management, by the department of transportation until the transfer amount by project exceeds two hundred fifty thousand dollars, or ten percent of the total project, whichever is less. These transfers must be reported quarterly to the director of financial management and the chairs of the house of representatives and senate transportation committees.

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

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

(4) The office of financial management shall document approved transfers and schedule changes in the transportation executive information system, compare changes to the legislative baseline funding and schedules identified by project identification number identified in the LEAP transportation documents referenced in this act, and transmit revised project lists to chairs of the transportation committees of the legislature on a quarterly basis.

NEW SECTION. Sec. 602. FOR THE DEPARTMENT OF TRANSPORTATION

As part of its 2016 supplemental budget submittal, the department shall provide a report to the legislature and the office of financial management that:

(1) Identifies, by capital project, the amount of state funding that has been reappropriated from the 2013-2015 fiscal biennium into the 2015-2017 fiscal biennium; and

(2) Identifies, for each project, the amount of cost savings or increases in funding that have been identified as compared to the 2013 enacted omnibus transportation appropriations act.

(3) As part of the agency request for capital programs, the department shall load reappropriations separately from funds that were assumed to be required for the 2015-2017 fiscal biennium into budgeting systems.

NEW SECTION. Sec. 603. FOR THE DEPARTMENT OF TRANSPORTATION

(1) The department shall submit a report to the transportation committees of the legislature detailing engineering errors on highway construction projects resulting in project cost increases in excess of five hundred thousand dollars. The department must submit a full report within ninety days of the negotiated change order resulting from the engineering error.

(2) The department's full report must include an assessment and review of:

(a) How the engineering error happened;

(b) The department of the employee or employees responsible for the engineering error, without disclosing the name of the employee or employees;

(c) What corrective action was taken;

(d) The estimated total cost of the engineering error and how the department plans to mitigate that cost;

(e) Whether the cost of the engineering error will impact the overall project financial plan; and

(f) What action the secretary has recommended to avoid similar engineering errors in the future.

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

The department of transportation may provide up to \$3,000,000 in toll credits to Kitsap Transit for its role in passenger-only ferry service and ferry corridor-related projects. The number of toll credits provided must be equal to, but no more than, the number sufficient to meet federal match requirements for grant funding for passenger-only ferry service, but must not exceed the amount authorized in this section.

NEW SECTION. Sec. 605. To the extent that any appropriation authorizes expenditures of state funds from the motor vehicle account, special category C account, Tacoma Narrows toll bridge account, transportation 2003 account (nickel account), transportation partnership account, transportation improvement account, Puget Sound capital construction account, multimodal transportation account, state route number 520 corridor account, or other transportation capital project account in the state treasury for a state transportation program that is specified to be funded with proceeds from the sale of bonds authorized in chapter 47.10 RCW, the legislature declares that any such expenditures made prior to the issue date of the applicable transportation bonds for that state transportation program are intended to be reimbursed from proceeds of those transportation bonds in a maximum amount equal to the amount of such appropriation.

NEW SECTION. Sec. 606. FOR THE DEPARTMENT OF TRANSPORTATION—WEB SITE REPORTING REQUIREMENTS

(1) The department of transportation shall post on its web site every report that is due from the department to the legislature during the 2015-2017 fiscal biennium on one web page. The department must post both completed reports and planned reports on a single web page.

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

NEW SECTION. Sec. 607. VOLUNTARY RETIREMENT AND SEPARATION INCENTIVES

As a management tool to reduce costs and make more effective use of resources, while improving employee productivity and morale, agencies may implement a voluntary retirement and/or separation program that is cost neutral or results in cost savings, including costs to the state pension systems, over a two-year period following the commencement of the program, provided that the program is approved by the director of financial management. Agencies participating in this authorization may offer voluntary retirement and/or separation incentives and options according to procedures and guidelines established by the office of financial management, in consultation with the office of the state human resources director and the department of retirement systems. The options may include, but are not limited to, financial incentives for

voluntary separation or retirement. An employee does not have any contractual right to a financial incentive offered pursuant to this section. Offers must be reviewed and monitored jointly by the office of the state human resources director and the department of retirement systems. Agencies must submit a report by June 30, 2017, to the legislature and the office of financial management on the outcome of their approved incentive program. The report should include information on the details of the program, including the incentive payment amount for each participant, the total cost to the state, and the projected or actual net dollar savings over the two-year period.

The department of retirement systems may collect from employers the actuarial cost of any incentive provided under this program, or any other incentive to retire provided by employers to members of the state's pension systems, for deposit in the appropriate pension account.

MISCELLANEOUS 2015-2017 FISCAL BIENNIUM

Sec. 701. RCW 43.19.642 and 2013 c 306 s 701 are each amended to read as follows:

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

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

(3) All state agencies using biodiesel fuel shall, beginning on July 1, 2006, file biannual reports with the department of enterprise services documenting the use of the fuel and a description of how any problems encountered were resolved.

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

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

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

(5) During the 20112013 (~~and~~), 2013-2015, and 2015-2017 fiscal biennia, the Washington state ferries is required to use a minimum of five percent biodiesel as compared to total volume of all diesel purchases made by the Washington state ferries for the operation of the Washington state ferries diesel-powered vessels, as long as the price of a B5 biodiesel blend does not exceed the price of conventional diesel fuel by five percent or more.

Sec. 702. RCW 46.63.170 and 2013 c 306 s 711 are each amended to read as follows:

(1) The use of automated traffic safety cameras for issuance of notices of infraction is subject to the following requirements:

(a) The appropriate local legislative authority must prepare an analysis of the locations within the jurisdiction where automated traffic safety cameras are proposed to be located: (i) Before enacting an ordinance allowing for the initial use of automated traffic safety cameras; and (ii) before adding additional cameras or relocating any existing camera to a new location within the jurisdiction. Automated traffic safety cameras may be used to detect one or more of the following: Stoplight, railroad crossing, or school speed zone violations. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance. Beginning one year after June 7, 2012, cities and counties using automated traffic safety cameras must post an annual report of the number of traffic accidents that occurred at each location where an automated traffic safety camera is located as well as the number of notices of infraction issued for each camera and any other relevant information about the automated traffic safety cameras that the city or county deems appropriate on the city's or county's web site.

(b) Use of automated traffic safety cameras is restricted to the following locations only: (i) Intersections of two arterials with traffic control signals that have yellow change interval durations in accordance with RCW 47.36.022, which interval durations may not be reduced after placement of the camera; (ii) railroad crossings; and (iii) school speed zones.

(c) During the (~~2011-2013 and~~) 2013-2015 and 2015-2017 fiscal biennia, automated traffic safety cameras may be used to detect speed violations for the purposes of (~~section 201(2), chapter 367, Laws of 2011 and~~) section 201(4), chapter 306, Laws of 2013 and section 201(1) of this act if the local legislative authority first enacts an ordinance authorizing the use of cameras to detect speed violations.

(d) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle. The primary purpose of camera placement is to take pictures of the vehicle and vehicle license plate when an infraction is occurring. Cities and counties shall consider installing cameras in a manner that minimizes the impact of camera flash on drivers.

(e) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (3)(a) of this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a

proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

(f) The registered owner of a vehicle is responsible for an infraction under RCW 46.63.030(1)(d) unless the registered owner overcomes the presumption in RCW 46.63.075, or, in the case of a rental car business, satisfies the conditions under subsection (3) of this section. If appropriate under the circumstances, a renter identified under subsection (3)(a) of this section is responsible for an infraction.

(g) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images prepared under this section are for the exclusive use of law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this section. No photograph, microphotograph, or electronic image may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.

(h) All locations where an automated traffic safety camera is used must be clearly marked at least thirty days prior to activation of the camera by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera. Signs placed in automated traffic safety camera locations after June 7, 2012, must follow the specifications and guidelines under the manual of uniform traffic control devices for streets and highways as adopted by the department of transportation under chapter 47.36 RCW.

(i) If a county or city has established an authorized automated traffic safety camera program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system, and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

(2) Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(~~(3)~~) (2). The amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction. However, the amount of the fine issued for a traffic control signal violation detected through the use of an automated traffic safety camera shall not exceed the monetary penalty for a violation of RCW 46.61.050 as provided under RCW 46.63.110, including all applicable statutory assessments.

(3) If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

(4) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(5) For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit in a school speed zone as detected by a speed measuring device. During the ~~((2011-2013 and))~~ 2013-2015 and 2015-2017 fiscal biennia, an automated traffic safety camera includes a camera used to detect speed violations for the purposes of ~~((section 201(2), chapter 367, Laws of 2011 and))~~ section 201(4), chapter 306, Laws of 2013 and section 201(1) of this act.

(6) During the 2011-2013 and 2013-2015 fiscal biennia, this section does not apply to automated traffic safety cameras for the purposes of section 216(5), chapter 367, Laws of 2011 and section 216(6), chapter 306, Laws of 2013.

Sec. 703. RCW 46.68.325 and 2013 c 306 s 706 are each amended to read as follows:

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

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

(3) During the ~~((2011-2013 and))~~ 2013-2015 and 2015-2017 fiscal biennia, the legislature may transfer from the rural mobility grant program account to the multimodal transportation account such amounts as reflect the excess fund balance of the rural mobility grant program account.

Sec. 704. RCW 47.29.170 and 2013 c 306 s 708 are each amended to read as follows:

Before accepting any unsolicited project proposals, the commission must adopt rules to facilitate the acceptance, review, evaluation, and selection of unsolicited project proposals. These rules must include the following:

(1) Provisions that specify unsolicited proposals must meet predetermined criteria;

(2) Provisions governing procedures for the cessation of negotiations and consideration;

(3) Provisions outlining that unsolicited proposals are subject to a two-step process that begins with concept proposals and would only advance to the second step, which are fully detailed proposals, if the commission so directed;

(4) Provisions that require concept proposals to include at least the following information: Proposers' qualifications and experience; description of the proposed project and impact; proposed project financing; and known public benefits and opposition; and

(5) Provisions that specify the process to be followed if the commission is interested in the concept proposal, which must include provisions:

(a) Requiring that information regarding the potential project would be published for a period of not less than thirty days, during which time entities could express interest in submitting a proposal;

(b) Specifying that if letters of interest were received during the thirty days, then an additional sixty days for submission of the fully detailed proposal would be allowed; and

(c) Procedures for what will happen if there are insufficient proposals submitted or if there are no letters of interest submitted in the appropriate time frame.

The commission may adopt other rules as necessary to avoid conflicts with existing laws, statutes, or contractual obligations of the state.

The commission may not accept or consider any unsolicited proposals before July 1, ~~((2015))~~ 2017.

Sec. 705. RCW 47.56.403 and 2013 c 306 s 709 are each amended to read as follows:

(1) The department may provide for the establishment, construction, and operation of a pilot project of high occupancy toll lanes on state route 167 high occupancy vehicle lanes within King county. The department may issue, buy, and redeem bonds, and deposit and expend them; secure and remit financial and other assistance in the construction of high occupancy toll lanes, carry insurance, and handle any other matters pertaining to the high occupancy toll lane pilot project.

(2) Tolls for high occupancy toll lanes will be established as follows:

(a) The schedule of toll charges for high occupancy toll lanes must be established by the transportation commission and collected in a manner determined by the commission.

(b) Toll charges shall not be assessed on transit buses and vanpool vehicles owned or operated by any public agency.

(c) The department shall establish performance standards for the state route 167 high occupancy toll lane pilot project. The department must automatically adjust the toll charge, using dynamic tolling, to ensure that toll-paying single-occupant vehicle users are only permitted to enter the lane to the extent that average vehicle speeds in the lane remain above forty-five miles per hour at least

ninety percent of the time during peak hours. The toll charge may vary in amount by time of day, level of traffic congestion within the highway facility, vehicle occupancy, or other criteria, as the commission may deem appropriate. The commission may also vary toll charges for single-occupant inherently low-emission vehicles such as those powered by electric batteries, natural gas, propane, or other clean burning fuels.

(d) The commission shall periodically review the toll charges to determine if the toll charges are effectively maintaining travel time, speed, and reliability on the highway facilities.

(3) The department shall monitor the state route 167 high occupancy toll lane pilot project and shall annually report to the transportation commission and the legislature on operations and findings. At a minimum, the department shall provide facility use data and review the impacts on:

- (a) Freeway efficiency and safety;
- (b) Effectiveness for transit;
- (c) Person and vehicle movements by mode;

(d) Ability to finance improvements and transportation services through tolls; and

(e) The impacts on all highway users. The department shall analyze aggregate use data and conduct, as needed, separate surveys to assess usage of the facility in relation to geographic, socioeconomic, and demographic information within the corridor in order to ascertain actual and perceived questions of equitable use of the facility.

(4) The department shall modify the pilot project to address identified safety issues and mitigate negative impacts to high occupancy vehicle lane users.

(5) Authorization to impose high occupancy vehicle tolls for the state route 167 high occupancy toll pilot project expires if either of the following two conditions apply:

(a) If no contracts have been let by the department to begin construction of the toll facilities associated with this pilot project within four years of July 24, 2005; or

(b) If high occupancy vehicle tolls are being collected on June 30, ~~((2015))~~ 2017.

(6) The department of transportation shall adopt rules that allow automatic vehicle identification transponders used for electronic toll collection to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology permits.

(7) The conversion of a single existing high occupancy vehicle lane to a high occupancy toll lane as proposed for SR-167 must be taken as the exception for this pilot project.

(8) A violation of the lane restrictions applicable to the high occupancy toll lanes established under this section is a traffic infraction.

(9) Procurement activity associated with this pilot project shall be open and competitive in accordance with chapter 39.29 RCW.

Sec. 706. RCW 47.56.876 and 2013 c 306 s 710 are each amended to read as follows:

A special account to be known as the state route number 520 civil penalties account is created in the state treasury. All state route number 520 bridge

replacement and HOV program civil penalties generated from the nonpayment of tolls on the state route number 520 corridor must be deposited into the account, as provided under RCW 47.56.870(4)(b)(vii). Moneys in the account may be spent only after appropriation. Expenditures from the account may be used to fund any project within the state route number 520 bridge replacement and HOV program, including mitigation. During the ~~((2011-2013 and))~~ 2013-2015 and 2015-2017 fiscal biennia, the legislature may transfer from the state route number 520 civil penalties account to the state route number 520 corridor account such amounts as reflect the excess fund balance of the state route number 520 civil penalties account. Funds transferred must be used solely for capital expenditures for the state route number 520 bridge replacement and HOV project ~~((8BH003))~~.

Sec. 707. RCW 47.64.170 and 2013 c 306 s 521 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) 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, except to the extent provided in subsection (11) of this section and RCW 47.64.270(4), 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 except during the 2015-2017 fiscal biennium.

(9) Except as provided in subsection (11) of this section:

(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.

(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.

(11)(a) For the collective bargaining agreements negotiated for the 2011-2013 fiscal biennium, the legislature may consider a request for funds to implement a collective bargaining agreement even if the request for funds was not received by the office of financial management by October 1st and was not transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060.

(b) For the 2013-2015 fiscal biennium, a collective bargaining agreement related to employee health care benefits negotiated between the employer and coalition pursuant to RCW 41.80.020(3) regarding the dollar amount expended on behalf of each employee must be a separate agreement for which the governor may request funds necessary to implement the agreement. The legislature may act upon a 2013-2015 collective bargaining agreement related to employee health care benefits if an agreement is reached and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(c) For the collective bargaining agreements negotiated for the 2013-2015 fiscal biennium, the legislature may consider a request for funds to implement a collective bargaining agreement reached after October 1st after a determination of financial infeasibility by the director of the office of financial management if the request for funds is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060.

Sec. 708. RCW 82.70.020 and 2014 c 222 s 704 are each amended to read as follows:

(1) Employers in this state who are taxable under chapter 82.04 or 82.16 RCW and provide financial incentives to their own or other employees for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting before July 1, (~~2015~~) 2017, are allowed a credit against taxes payable under chapters 82.04 and 82.16 RCW for amounts paid to

or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, not to exceed sixty dollars per employee per fiscal year.

(2) Property managers who are taxable under chapter 82.04 or 82.16 RCW and provide financial incentives to persons employed at a worksite in this state managed by the property manager for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting before July 1, (~~2015~~) 2017, are allowed a credit against taxes payable under chapters 82.04 and 82.16 RCW for amounts paid to or on behalf of these persons for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, not to exceed sixty dollars per person per fiscal year.

(3) The credit under this section is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per fiscal year. No refunds may be granted for credits under this section.

(4) A person may not receive credit under this section for amounts paid to or on behalf of the same employee under both chapters 82.04 and 82.16 RCW.

(5) A person may not take a credit under this section for amounts claimed for credit by other persons.

Sec. 709. RCW 82.70.040 and 2014 c 222 s 705 are each amended to read as follows:

(1)(a)(i) The department shall keep a running total of all credits allowed under RCW 82.70.020 during each fiscal year. The department shall not allow any credits that would cause the total amount allowed to exceed two million seven hundred fifty thousand dollars in any fiscal year. This limitation includes any deferred credits carried forward under subsection (2)(b)(i) of this section from prior years.

(ii) During the 2013-2015 and 2015-2017 fiscal (~~biennium~~) biennia, the department shall not allow any credits that would cause the total amount allowed to exceed one million five hundred thousand dollars in any fiscal year. This limitation includes any deferred credits carried forward under subsection (2)(b)(i) of this section from prior years.

(b) If the total amount of credit applied for by all applicants in any year exceeds the limit in this subsection, the department shall ratably reduce the amount of credit allowed for all applicants so that the limit in this subsection is not exceeded. If a credit is reduced under this subsection, the amount of the reduction may not be carried forward and claimed in subsequent fiscal years.

(2)(a) Tax credits under RCW 82.70.020 may not be claimed in excess of the amount of tax otherwise due under chapter 82.04 or 82.16 RCW.

(b)(i) Through June 30, 2005, a person with taxes equal to or in excess of the credit under RCW 82.70.020, and therefore not subject to the limitation in (a) of this subsection, may elect to defer tax credits for a period of not more than three years after the year in which the credits accrue. No credits deferred under this subsection (2)(b)(i) may be used after June 30, 2008. A person deferring tax credits under this subsection (2)(b)(i) must submit an application as provided in RCW 82.70.025 in the year in which the deferred tax credits will be used. This application is subject to the provisions of subsection (1) of this section for the

year in which the tax credits will be applied. If a deferred credit is reduced under subsection (1)(b) of this section, the amount of deferred credit disallowed because of the reduction may be carried forward as long as the period of deferral does not exceed three years after the year in which the credit was earned.

(ii) For credits approved by the department after June 30, 2005, the approved credit may be carried forward to subsequent years until used. Credits carried forward as authorized by this subsection are subject to the limitation in subsection (1)(a) of this section for the fiscal year for which the credits were originally approved.

(3) No person shall be approved for tax credits under RCW 82.70.020 in excess of two hundred thousand dollars in any fiscal year. This limitation does not apply to credits carried forward from prior years under subsection (2)(b) of this section.

(4) No person may claim tax credits after June 30, (~~2015~~) 2017.

(5) Credits may not be carried forward other than as authorized in subsection (2)(b) of this section.

(6) No person is eligible for tax credits under RCW 82.70.020 if the additional revenues for the multimodal transportation account created by Engrossed Substitute House Bill No. 2231 are terminated.

Sec. 710. RCW 82.70.050 and 2014 c 222 s 706 are each amended to read as follows:

(1) During the 2013-2015 and 2015-2017 fiscal (~~(biennium))~~ biennia, the director shall on the 25th of February, May, August, and November of each year advise the state treasurer of the amount of credit taken under RCW 82.70.020 during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(2) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, shall deposit to the general fund a sum equal to the dollar amount of the credit provided under RCW 82.70.020 from the multimodal transportation account.

Sec. 711. RCW 82.70.900 and 2014 c 222 s 707 are each amended to read as follows:

This chapter expires June 30, (~~2015~~) 2017.

**2013-2015 FISCAL BIENNIUM
GENERAL GOVERNMENT AGENCIES—OPERATING**

Sec. 801. 2014 c 222 s 101 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Motor Vehicle Account—State Appropriation (~~\$433,000~~)
..... \$432,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation is provided solely for staffing costs to be dedicated to state transportation activities. Staff hired to support transportation activities must have practical experience with complex construction projects.

Sec. 802. 2014 c 222 s 103 (uncodified) is amended to read as follows:

Highway Safety Account—Federal Appropriation	(\$40,780,000)
	<u>\$40,772,000</u>
Highway Safety Account—Private/Local Appropriation	\$118,000
School Zone Safety Account—State Appropriation	(\$1,700,000)
	<u>\$1,600,000</u>
TOTAL APPROPRIATION	(\$45,625,000)
	<u>\$45,516,000</u>

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

(1) The commission shall develop and implement, in collaboration with the Washington state patrol, a target zero team pilot program in Yakima and Spokane counties. The pilot program must demonstrate the effectiveness of intense, high visibility driving under the influence enforcement in Washington state. The commission shall apply to the national highway traffic safety administration for federal highway safety grants to cover the cost of the pilot program.

(2) \$20,000,000 of the highway safety account—federal appropriation is provided solely for federal funds that may be obligated to the commission pursuant to 23 U.S.C. Sec. 164 during the 2013-2015 fiscal biennium.

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

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

(b) By January 1, 2015, any local authority that is operating an automated traffic safety camera to detect speed violations must provide a summary to the transportation committees of the legislature concerning the use of the cameras and data regarding infractions, revenues, and costs.

(4)(a) The commission shall coordinate with counties to implement and administer a statewide yellow dot program that will provide a yellow dot window decal and yellow dot folder during the 2013-2015 fiscal biennium.

(b) The commission may utilize available federal dollars and state dollars to implement and administer the program. The commission may accept donations and partnership funds through the state's existing donation process and deposit the funds to the highway safety account for the start-up and continued support of the program.

(c) The commission, in conjunction with counties, shall maintain a separate web page that allows a person to download the yellow dot form to be placed in the yellow dot folder and lists the locations in which a person may pick up the yellow dot window decal and folder. The commission and counties may not collect any personal information. A person using the program is responsible for maintaining the information in the yellow dot folder. Participation in the program does not create any new or distinct obligation for emergency medical responders or law enforcement personnel to determine if there is a yellow dot folder in the motor vehicle or use the information contained in the yellow dot folder.

(d) The commission may adopt rules necessary to implement this subsection.

Sec. 902. 2014 c 222 s 202 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account—State Appropriation	((\$939,000))
	<u>\$937,000</u>
Motor Vehicle Account—State Appropriation	((\$2,195,000))
	<u>\$2,191,000</u>
County Arterial Preservation Account—State Appropriation	((\$1,446,000))
	<u>\$1,443,000</u>
TOTAL APPROPRIATION	((\$4,580,000))
	<u>\$4,571,000</u>

Sec. 903. 2014 c 222 s 203 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Transportation Improvement Account—State	
Appropriation	((\$3,900,000))
	<u>\$3,894,000</u>

Sec. 904. 2014 c 222 s 204 (uncodified) is amended to read as follows:

FOR THE JOINT TRANSPORTATION COMMITTEE

Motor Vehicle Account—State Appropriation	((\$1,575,000))
	<u>\$1,574,000</u>

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

(1)(a) \$325,000 of the motor vehicle account—state appropriation is for a study of transportation cost drivers and potential efficiencies to contain project costs and gain more value from investments in Washington state's transportation system. The goal is to enable the department of transportation to construct bridge and highway projects more quickly and to build and operate them at a lower cost, while ensuring that appropriate environmental and regulatory protections are maintained and a quality project is delivered. The joint transportation committee must convene an advisory panel to provide study guidance and discuss potential efficiencies and recommendations. The scope of the study must be limited to state-level policies and practices relating to the planning, design, permitting, construction, financing, and operation of department of transportation roadway and bridge projects. The study must:

- (i) Identify best practices;
- (ii) Identify inefficiencies in state policy or agency practice where changes may save money;
- (iii) Recommend changes to improve efficiency and save money; and
- (iv) Identify potential savings to be achieved by adopting changes in practice or policy.

(b) The joint transportation committee shall issue a report of its findings to the house of representatives and senate transportation committees by December 31, 2013.

(2) The joint transportation committee shall coordinate a work group comprised of the department of licensing, the department of revenue, county

auditors or other agents, and subagents to identify possible issues relating to the administration of, compliance with, and enforcement of the existing statutory requirement for a person to provide an unexpired driver's license when registering a vehicle. The work group shall provide recommendations on how administration and enforcement may be modified, as needed, to address any identified issues, including whether statutory changes may be needed. A report presenting the recommendations must be presented to the house of representatives and senate transportation committees by December 31, 2013.

(3) The joint transportation committee shall continue to convene a subcommittee for legislative oversight of the I-5/Columbia river crossing bridge replacement project. The Columbia river crossing legislative oversight subcommittee must be made up of six members: Two appointed by the cochairs of the senate transportation committee, two appointed by the chair and ranking member of the house of representatives transportation committee, one designee of the governor, and one citizen jointly appointed by the four members of the joint transportation executive committee. The citizen appointee must be a Washington state resident of the area served by the bridge. At least two of the legislative members must be from the legislative districts served by the bridge. In addition to reviewing project and financing information, the subcommittee must also coordinate with the Oregon legislative oversight committee for the Columbia river crossing bridge.

(4) The joint transportation committee shall convene a work group to identify and evaluate internal refinance opportunities for the Tacoma Narrows bridge. The study must include a staff work group, including staff from the office of financial management, the transportation commission, the department of transportation, the office of the state treasurer, and the legislative transportation committees. The joint transportation committee shall issue a report of its findings to the house of representatives and the senate transportation committees by December 31, 2013.

(5) The joint transportation committee shall study and review the use of surplus property proceeds to fund facility replacement projects, and the possibility of using the north central region as a pilot. The joint transportation committee shall consult with the department of transportation and the office of financial management regarding the department's current process for prioritizing and funding facility improvement and replacement projects.

(6) \$250,000 of the motor vehicle account—state appropriation is for the joint transportation committee to evaluate the current status of electric vehicle charging stations in Washington, and to make recommendations regarding potential business models for financially-sustainable electric vehicle charging networks and alternative roles for public and private sector participation in those business models. Public sector participation may include public financing, funding, facilitation, and other incentives to encourage installation of electric vehicle charging stations. In conducting the study, the committee must coordinate with the department of transportation and consult with local governments and stakeholders in the electric vehicle industry. The committee may also consult with users of electric vehicles and stakeholders representing manufacturers and operators of electric vehicle charging stations. The committee shall submit an interim report by December 31, 2014, and a final report by March 1, 2015.

(7) The joint transportation committee shall coordinate a work group to review the existing titling and registration processes along with policies that county auditors, subagents, and agents must comply with when conducting title and registration transactions. The goal and related outcomes of the work group review are to provide recommendations to streamline processes, modernize policies, and identify potential information technology opportunities. Members of the work group shall only include county auditors, subagents, agents, and the department of licensing. The work group shall submit a report to the transportation committees of the legislature on or before December 1, 2014.

(8) The joint transportation committee shall coordinate a work group comprised of representatives from the department of licensing, the Washington state traffic safety commission, and other stakeholders as deemed necessary, along with interested legislators, to develop parameters for and make recommendations regarding a pilot program that would allow students to meet traffic safety education requirements online. Additionally, the work group shall make recommendations related to requiring driver training to individuals between the ages of eighteen and twenty-four who have not previously passed a driver training education program or other methods of enhancing the safety of this high-risk group. The joint transportation committee shall issue a report of its findings to the transportation committees of the house of representatives and senate by December 1, 2014.

Sec. 905. 2014 c 222 s 205 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account—State Appropriation . . . . .	..((\$3,516,000))
	<u>\$3,389,000</u>
Multimodal Transportation Account—State	
Appropriation	\$112,000
TOTAL APPROPRIATION . . . . .	..((\$3,628,000))
	<u>\$3,501,000</u>

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

(1) Consistent with RCW 43.135.055, 47.60.290, and 47.60.315, during the 2013-2015 fiscal biennium, the legislature authorizes the transportation commission to periodically review and, if necessary, adjust the schedule of fares for the Washington state ferry system only in amounts not greater than those sufficient to generate the amount of revenue required by the biennial transportation budget. When adjusting ferry fares, the commission must consider input from affected ferry users by public hearing and by review with the affected ferry advisory committees, in addition to the data gathered from the current ferry user survey.

(2) Consistent with RCW 43.135.055 and 47.46.100, during the 2013-2015 fiscal biennium, the legislature authorizes the transportation commission to periodically review and, if necessary, adjust the schedule of toll charges applicable to the Tacoma Narrows bridge only in amounts not greater than those sufficient to support (a) any required costs for operating and maintaining the toll bridge, including the cost of insurance, (b) any amount required by law to meet the redemption of bonds and applicable interest payments, and (c) repayment of the motor vehicle fund.

(3) Consistent with RCW 43.135.055 and 47.56.880, during the 2013-2015 fiscal biennium, the legislature authorizes the transportation commission to set, periodically review, and, if necessary, adjust the schedule of toll charges applicable to the Interstate 405 express toll lanes.

(4)(a) \$400,000 of the motor vehicle account—state appropriation is provided solely for the development of the business case for the transition to a road usage charge system as the basis for funding the state transportation system, from the current motor fuel tax system. The funds are provided for fiscal year 2014 only.

(b) The legislature finds that the efforts started in the 2011-2013 fiscal biennium regarding the transition to a road usage charge system represent an important first step in the policy and conceptual development of potential alternative systems to fund transportation projects, but that the governance for the development needs clarification. The legislature also finds that significant amounts of research and public education are occurring in similar efforts in several states and that these efforts can and should be leveraged to advance the evaluation in Washington. The legislature intends, therefore, that the commission and its staff lead the policy development of the business case for a road usage charge system, with the goal of providing the business case to the governor and the legislative committees of the legislature in time for inclusion in the 2014 supplemental omnibus transportation appropriations act. The legislature intends for additional oversight in the business case development, with guidance from a steering committee as provided in chapter 86, Laws of 2012, augmented with participation by the joint transportation committee. The legislature further intends that the department of transportation continue to address administrative, technical, and conceptual operational issues related to road usage charge systems, and that the department serve as a resource for information gleaned from other states on this topic for the commission's efforts.

(c) For the purposes of this subsection (4), the commission shall:

(i) Develop preliminary road usage charge policies that are necessary to develop the business case, as well as supporting research and data that will guide the potential application in Washington;

(ii) Develop the preferred operational concept or concepts that reflect the preliminary policies;

(iii) Evaluate the business case for the road usage charge system that would result from implementing the preliminary policies and preferred operational concept or concepts. The evaluation must assess likely financial outcomes if the system were to be implemented; and

(iv) Identify and document policy and other issues that are deemed important to further refine the preferred operational concept or concepts and to gain public acceptance. These identified issues should form the basis for continued work beyond this funding cycle.

(d) The commission shall convene a steering committee to guide the development of the business case. The membership must be the same as provided in chapter 86, Laws of 2012, except that the membership must also include the joint transportation committee executive members.

(e) The commission shall submit a report of the business case to the governor and the transportation committees of the legislature by December 15, 2013. The report must also include a proposed budget and work plan for fiscal

year 2015. A progress report must be submitted to the governor and the joint transportation committee by November 1, 2013, including a presentation to the joint transportation committee.

(5) \$174,000 of the motor vehicle account—state appropriation is provided solely for the voice of Washington survey program. The funding must be utilized for continued program maintenance and two transportation surveys for the 2013-2015 fiscal biennium.

(6)(a) \$450,000 of the motor vehicle account—state appropriation is provided solely for a work plan to further develop the concept of a road usage charge system. The work plan must include: Refinement of initial policy analysis and development, a concept of operations that incorporates refined policy inputs, and a financial analysis evaluating the operational concept. The refinement of initial policy analysis and development funded under this subsection must be supplemented by the products of complementary policy refinement tasks delegated to the department of transportation in section 214 (~~(of this act)~~), chapter 222, Laws of 2014 and the office of the state treasurer in section 703 (~~(of this act)~~), chapter 222, Laws of 2014. It is the intent of the legislature that consideration for potential planning for a pilot project and any risk analysis occur in the 2015 legislative session.

(b)(i) For the purposes of the refinement of initial policy analysis and development, the work plan must consider phasing and staging of how a road usage charge would be implemented as it relates to the types of vehicles that would be subject to a road usage charge and the nature and manner of a transition period.

(ii) For the purposes of this subsection (6)(b), the legislature intends that the commission focus its analysis by assuming that the exemptions under a road usage charge would be the same as those under the motor vehicle fuel and special fuel taxes. In addition, the commission must engage the road usage charge steering committee, which was reauthorized in chapter 306, Laws of 2013 for fiscal year 2014 and is hereby reauthorized in this act with the same membership, to continue in its role and, at a minimum, to guide the work specified in (a) of this subsection, including the following: Assessing and recommending the type of vehicles that would be subject to the road usage charge, and assessing and recommending the options for the timing and duration of the transition period. The steering committee shall report its findings and guidance to the commission by December 1, 2014.

(c)(i) For the purposes of the development of the concept of operations, the development must incorporate the products of (b) of this subsection, and, to the extent practicable, the products of work conducted by the department of transportation in section 214 (~~(of this act)~~), chapter 222, Laws of 2014 and the office of the state treasurer in section 703 (~~(of this act)~~), chapter 222, Laws of 2014.

(ii) To reduce system development and operational costs, for road user charge options that rely on in-vehicle devices to record mileage, the work plan must recommend how the state can utilize the technology and back-office platforms that are scheduled to be provided by commercial account managers under the Oregon road usage charge program.

(iii) In addition to a time permit and an odometer charge, the concept of operations recommendation must be developed to include a means for periodic

transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol must be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol.

(4) \$569,000 of the ignition interlock device revolving account—state appropriation is provided solely for the ignition interlock program at the Washington state patrol to provide funding for two staff to work and provide support for the program in working with manufacturers, service centers, technicians, and participants in the program.

(5) \$370,000 of the state patrol highway account—state appropriation is provided solely for costs associated with the pilot program described under section 216(5) (~~of this act~~), chapter 222, Laws of 2014. The Washington state patrol may incur costs related only to the assignment of cadets and necessary computer equipment and to the reimbursement of the department of transportation for contract costs. The appropriation in this subsection must be funded from the portion of the automated traffic safety camera infraction fines deposited into the state patrol highway account; however, if the fines deposited into the state patrol highway account from automated traffic safety camera infractions do not reach three hundred seventy thousand dollars, the department of transportation shall remit funds necessary to the Washington state patrol to ensure the completion of the pilot program. The Washington state patrol may not incur overtime as a result of this pilot program. The Washington state patrol shall not assign troopers to operate or deploy the pilot program equipment used in roadway construction zones.

(6) The cost allocation for any costs incurred for the facilities at the Olympia, Washington airport used for the Washington state patrol aviation section must be split evenly between the state patrol highway account and the general fund.

(7) The Washington state patrol shall work with the state interoperability executive committee to compile a list of recent studies evaluating the potential savings and benefits of consolidating law enforcement and emergency dispatching centers and report to the joint transportation committee by December 1, 2014, on the findings and recommendations of those studies. As part of this study, the Washington state patrol must look for potential efficiencies within state government.

Sec. 908. 2014 c 222 s 208 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING

Marine Fuel Tax Refund Account—State	
Appropriation	\$34,000
Motorcycle Safety Education Account—State	
Appropriation	(\$4,396,000)
	<u>\$4,392,000</u>
State Wildlife Account—State Appropriation	(\$867,000)
	<u>\$863,000</u>
Highway Safety Account—State Appropriation.	(\$158,505,000)
	<u>\$160,664,000</u>

Highway Safety Account—Federal Appropriation	((<u>\$4,363,000</u>))
	<u>\$4,355,000</u>
Motor Vehicle Account—State Appropriation	((<u>\$81,352,000</u>))
	<u>\$83,169,000</u>
Motor Vehicle Account—Federal Appropriation	\$467,000
Motor Vehicle Account—Private/Local Appropriation	((<u>\$1,544,000</u>))
	<u>\$1,601,000</u>
Ignition Interlock Device Revolving Account—State Appropriation	((<u>\$2,871,000</u>))
	<u>\$3,271,000</u>
Department of Licensing Services Account—State Appropriation	((<u>\$5,983,000</u>))
	<u>\$6,002,000</u>
TOTAL APPROPRIATION	((<u>\$260,382,000</u>))
	<u>\$264,818,000</u>

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

(1) \$1,235,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Substitute House Bill No. 1752), Laws of 2013 (requirements for the operation of commercial motor vehicles in compliance with federal regulations). If chapter . . . (Substitute House Bill No. 1752), Laws of 2013 is not enacted by June 30, 2013, the amount provided in this subsection lapses.

(2) \$1,000,000 of the highway safety account—state appropriation is provided solely for information technology field system modernization.

(3) \$5,286,000 of the highway safety account—state appropriation is provided solely for business and technology modernization.

(4) \$2,355,000 of the motor vehicle account—state appropriation is provided solely for replacing prorated and fuel tax computer systems used to administer interstate licensing and the collection of fuel tax revenues.

(5) \$1,491,000 of the highway safety account—state appropriation is provided solely for the implementation of an updated central issuance system.

(6) \$201,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Substitute Senate Bill No. 5152), Laws of 2013 (Sounders FC and Seahawks license plates). If chapter . . . (Substitute Senate Bill No. 5152), Laws of 2013 is not enacted by June 30, 2013, the amount provided in this subsection lapses.

(7) \$425,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Substitute Senate Bill No. 5182), Laws of 2013 (vehicle owner information). If chapter . . . (Substitute Senate Bill No. 5182), Laws of 2013 is not enacted by June 30, 2013, the amount provided in this subsection lapses.

(8) \$289,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Second Engrossed Substitute Senate Bill No. 5785), Laws of 2014 (license plates). If chapter . . . (Second Engrossed Substitute Senate Bill No. 5785), Laws of 2014 is not enacted by June 30, 2014, the amount provided in this subsection lapses.

(9) The appropriation in this section reflects the department charging an amount sufficient to cover the full cost of providing the data requested under RCW 46.12.630(1)(b).

(10)(a) The department must convene a work group to examine the use of parking placards and special license plates for persons with disabilities and develop a strategic plan for ending any abuse. In developing this plan, the department must work with the department of health, disabled citizen advocacy groups, and representatives from local government.

(b) The work group must be composed of no more than two representatives from each of the entities listed in (a) of this subsection. The work group may, when appropriate, consult with any other public or private entity in order to complete the strategic plan.

(c) The strategic plan must include:

(i) Oversight measures to ensure that parking placards and special license plates for persons with disabilities are being properly issued, including: (A) The entity responsible for coordinating a randomized review of applications for special parking privileges; (B) a volunteer panel of medical professionals to conduct such reviews; (C) a means to protect the anonymity of both the medical professional conducting a review and the medical professional under review; (D) a means to protect the privacy of applicants by removing any personally identifiable information; and (E) possible sanctions against a medical professional for repeated improper issuances of parking placards or special license plates for persons with disabilities, including those sanctions listed in chapter 18.130 RCW; and

(ii) The creation of a publicly accessible system in which the validity of parking placards and special license plates for persons with disabilities may be verified. This system must not allow the public to access any personally identifiable information or protected health information of a person who has been issued a parking placard or special license plate.

(d) The work group must convene by July 1, 2013, and terminate by December 1, 2013.

(e) By December 1, 2013, the work group must deliver to the legislature and the appropriate legislative committees the strategic plan required under this subsection, together with its findings, recommendations, and any necessary draft legislation in order to implement the strategic plan.

(11) \$3,082,000 of the highway safety account—state appropriation is provided solely for exam and licensing activities, including the workload associated with providing driver record abstracts, and is subject to the following additional conditions and limitations:

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

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

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

46.52.130 (2)(e)(v) and (4), to statutorily authorized persons or entities purchasing a driving record abstract.

(12) \$229,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Second Substitute House Bill No. 1129), Laws of 2014 (ferry vessel replacement). If chapter . . . (Engrossed Second Substitute House Bill No. 1129), Laws of 2014 is not enacted by June 30, 2014, the amount provided in this subsection lapses.

~~((14))~~ (13) \$42,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (House Bill No. 2100), Laws of 2014 (Seattle University license plates). If chapter . . . (House Bill No. 2100), Laws of 2014 is not enacted by June 30, 2014, the amount provided in this subsection lapses.

~~((15))~~ (14) \$46,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (House Bill No. 2700), Laws of 2014 (breast cancer awareness license plates). If chapter . . . (House Bill No. 2700), Laws of 2014 is not enacted by June 30, 2014, the amount provided in this subsection lapses.

~~((17))~~ (15) \$32,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (House Bill No. 2741), Laws of 2014 (initial vehicle registration). If chapter . . . (House Bill No. 2741), Laws of 2014 is not enacted by June 30, 2014, the amount provided in this subsection lapses.

~~((18))~~ (16) Within existing resources, the department must convene a work group that includes, at a minimum, representatives from the department of transportation, the trucking industry, manufacturers of compressed natural gas and liquefied natural gas, and any other stakeholders as deemed necessary, for the following purposes:

(a) To evaluate the annual license fee in lieu of fuel tax under RCW 82.38.075 to determine a fee that more closely represents the average consumption of vehicles by weight and to make recommendations to the transportation committees of the legislature by December 1, 2014, on an updated fee schedule; and

(b) To develop a transition plan to move vehicles powered by liquefied natural gas and compressed natural gas from the annual license fee in lieu of fuel tax to the fuel tax under RCW 82.38.030. The transition plan must incorporate stakeholder feedback and must include draft legislation and cost and revenue estimates. The transition plan must be submitted to the transportation committees of the legislature by December 1, 2015.

(c) This subsection takes effect if both chapter . . . (Engrossed Substitute Senate Bill No. 6440), Laws of 2014 (compressed natural gas and liquefied natural gas) and chapter . . . (Substitute House Bill No. 2753), Laws of 2014 (compressed natural gas and liquefied natural gas) are not enacted by June 30, 2014.

~~((19))~~ (17) \$36,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Substitute Senate Bill No. 5467), Laws of 2014 (vehicle owner list furnishment requirements). If chapter . . . (Substitute Senate Bill No. 5467), Laws of 2014 is not enacted by June 30, 2014, the amount provided in this subsection lapses.

~~((20))~~ (18) The department must convene a work group to study the issue of regulating tow truck operators that are not licensed as registered tow truck operators under chapter 46.55 RCW. The work group must examine the advisability of regulating such operators, including any potential benefits to public safety, and possible methodologies for accomplishing this regulation. The work group must include the department, representatives of the Washington state patrol, organized groups of registered tow truck operators, and automobile clubs. The work group may also include hulk haulers, wreckers, transporters, and other stakeholders relating to the issue of unregulated towing for monetary compensation. The work group shall convene as necessary and report its recommendations and draft legislation to the transportation committees of the legislature by December 1, 2014.

~~((21))~~ (19) The department when modernizing its computer systems must place personal and company data elements in separate data fields to allow the department to select discrete data elements when providing information or data to persons or entities outside the department. This requirement must be included as part of the systems design in the department's business and technology modernization. A person's photo, social security number, or medical information must not be made available through public disclosure or data being provided under RCW 46.12.630 or 46.12.635.

(20) \$50,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter 30, Laws of 2014 (snowmobile license fees).

(21) \$30,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter 100, Laws of 2014 (DUI prior offenses).

Sec. 909. 2014 c 222 s 209 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TOLL OPERATIONS AND MAINTENANCE—PROGRAM B

High(-)Occupancy Toll Lanes Operations Account—State

Appropriation ~~((1,942,000))~~
..... \$1,884,000

Motor Vehicle Account—State Appropriation ~~((514,000))~~
..... \$513,000

State Route Number 520 Corridor Account—State
Appropriation ~~((34,267,000))~~
..... \$33,133,000

State Route Number 520 Civil Penalties Account—State
Appropriation ~~((4,156,000))~~
..... \$4,601,000

Tacoma Narrows Toll Bridge Account—State
Appropriation ~~((25,007,000))~~
..... \$25,905,000

Puget Sound Ferry Operations Account—State
Appropriation \$250,000

Interstate 405 Express Toll Lanes Operations
Account—State Appropriation \$2,019,000

TOTAL APPROPRIATION ~~((68,155,000))~~

\$68,305,000

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

(1)(a) The legislature finds that the department's tolling division has expanded greatly in recent years to address the demands of administering several newly tolled facilities using emerging toll collection technologies. The legislature intends for the department to continue its good work in administering the tolled facilities of the state, while at the same time implementing controls and processes to ensure the efficient and judicious administration of toll payer dollars.

(b) The legislature finds that the department has undertaken a cost-of-service study in the winter and spring of 2013 for the purposes of identifying in detail the costs of operating and administering tolling on state route number 520, state route number 167 high-occupancy toll lanes, and the Tacoma Narrows bridge. The purpose of the study is to provide results to establish a baseline by which future activity may be compared and opportunities identified for cost savings and operational efficiencies. In addition, the legislature finds that the state auditor has undertaken a performance audit of the department's contract for the customer service center and back office processing of tolling transactions. The audit findings, which are expected to include lessons learned, are due in late spring 2013.

(c) Using the results of the cost-of-service study and the state audit as a basis, the department shall conduct a review of operations using lean management principles in order to eliminate inefficiencies and redundancies, incorporate lessons learned, and identify opportunities to conduct operations more efficiently and effectively. Within current statutory and budgetary tolling policy, the department shall use the results of the review to improve operations in order to conduct toll operations within the appropriations provided in subsections (2) through (4) of this section. The department shall submit the review, along with the status of and plans for the implementation of review recommendations, to the office of financial management and the house of representatives and senate transportation committees by October 15, 2013.

(2) \$10,343,000 of the Tacoma Narrows toll bridge account—state appropriation, \$16,534,000 of the state route number 520 corridor account—state appropriation, \$1,217,000 of the high-occupancy toll lanes operations account—state appropriation, and \$514,000 of the motor vehicle account—state appropriation are provided solely for nonvendor costs of administering toll operations, including the costs of: Staffing the division, consultants and other personal service contracts required for technical oversight and management assistance, insurance, payments related to credit card processing, transponder purchases and inventory management, facility operations and maintenance, and other miscellaneous nonvendor costs.

(3) \$11,265,000 of the Tacoma Narrows toll bridge account—state appropriation, \$9,730,000 of the state route number 520 corridor account—state appropriation, and \$625,000 of the high-occupancy toll lanes operations account—state appropriation are provided solely for vendor-related costs of operating tolled facilities, including the costs of: The customer service center;

cash collections on the Tacoma Narrows bridge; electronic payment processing; and toll collection equipment maintenance, renewal, and replacement.

(4) \$1,300,000 of the Tacoma Narrows toll bridge account—state appropriation and \$6,000,000 of the state route number 520 corridor account—state appropriation are provided solely for the purposes of addressing unforeseen operations and maintenance costs on the Tacoma Narrows bridge and the state route number 520 bridge, respectively. The office of financial management shall place the amounts provided in this section, which represent a portion of the required minimum fund balance under the policy of the state treasurer, in unallotted status. The office may release the funds only when it determines that all other funds designated for operations and maintenance purposes have been exhausted.

(5) (~~(\$4,156,000)~~) \$4,606,000 of the state route number 520 civil penalties account—state appropriation and (~~(\$1,039,000)~~) \$2,539,000 of the Tacoma Narrows toll bridge account—state appropriation are provided solely for expenditures related to the toll adjudication process. The department shall report on the civil penalty process to the office of financial management and the house of representatives and senate transportation committees by the end of each calendar quarter. The reports must include a summary table for each toll facility that includes: The number of notices of civil penalty issued; the number of recipients who pay before the notice becomes a penalty; the number of recipients who request a hearing and the number who do not respond; workload costs related to hearings; the cost and effectiveness of debt collection activities; and revenues generated from notices of civil penalty.

(6) The Tacoma Narrows toll bridge account—state appropriation in this section reflects reductions in management costs of \$1,235,000.

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

(8) The department shall make detailed quarterly reports to the governor and the transportation committees of the legislature on the use of consultants in the tolling program. The reports must include the name of the contractor, the scope of work, the type of contract, timelines, deliverables, any new task orders, and any extensions to existing consulting contracts.

(9)(a) \$250,000 of the Puget Sound ferry operations account—state appropriation is provided solely for the development of a plan to integrate and transition customer service, reservation, and payment systems currently provided by the marine division to ferry users into the statewide tolling customer service center.

(b)(i) The department shall develop a plan that addresses:

(A) A phased implementation approach, beginning with "Good To Go" as a payment option for ferry users;

(B) The feasibility, schedule, and cost of creating a single account-based system for toll road and ferry users;

(C) Transitioning customer service currently provided by the marine division to the statewide tolling customer service center; and

(D) Transitioning existing and planned ferry reservation system support from the marine division to the statewide tolling customer service center.

(ii) The plan must be provided to the office of financial management and the transportation committees of the legislature by January 14, 2014.

(10)(a) \$2,019,000 of the Interstate 405 express toll lanes operations account—state appropriation is provided solely for operating and maintenance costs of the Interstate 405 express toll lanes program, including staff costs related to operating an additional toll facility, consulting support for operations, purchase of transponders, costs related to adjudication, credit card fees, printing and postage, and customer service center support. Of the amount provided in this subsection, \$519,000 of the Interstate 405 express toll lanes operations account—state appropriation must be placed in unallotted status by the office of financial management until a plan to begin tolling the Interstate 405 express toll lanes during the summer of 2015 is finalized and approved by the office of financial management, in consultation with the chairs and ranking member of the transportation committees of the legislature.

(b) The funds provided in (a) of this subsection are provided through a transfer from the motor vehicle account—state appropriation in section 407(19) ~~((of this act))~~, chapter 222, Laws of 2014. These funds are a loan to the Interstate 405 express toll lanes operations account—state appropriation, and the legislature assumes that these funds will be reimbursed to the motor vehicle account at a later date when the Interstate 405 express toll lanes are operational.

(11) \$1,060,000 of the Tacoma narrows toll bridge account—state appropriation, \$2,003,000 of the state route number 520 corridor account—state appropriation, and \$99,000 of the high occupancy toll lanes operations account—state appropriation are provided solely in anticipation of, and to prepare for, the procurement of a new tolling customer service center. Of the amounts provided in this subsection, \$480,000 of the Tacoma narrows toll bridge account—state appropriation, \$906,000 of the state route number 520 corridor account—state appropriation, and \$45,000 of the high occupancy toll lanes operations account—state appropriation must be placed in unallotted status by the office of financial management until a procurement plan is finalized and approved by the office of financial management, in consultation with the chairs and ranking member of the transportation committees of the legislature. Beginning July 1, 2014, the department shall report quarterly to the governor, legislature, and state auditor on: (a) The department's effort to mitigate risk to the state, (b) the development of a request for proposals, and (c) the overall progress towards procuring a new tolling customer service center.

Sec. 910. 2014 c 222 s 210 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—INFORMATION TECHNOLOGY—PROGRAM C

Transportation Partnership Account—State

Appropriation	\$1,460,000
Motor Vehicle Account—State Appropriation	(\$65,936,000)
	<u>\$65,821,000</u>

Multimodal Transportation Account—State

Appropriation	\$2,883,000
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Transportation 2003 Account (Nickel Account)—State

Appropriation	\$1,460,000
Puget Sound Ferry Operations Account—State	
Appropriation	\$263,000
TOTAL APPROPRIATION	(\$72,002,000)
	<u>\$71,887,000</u>

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

(1) \$290,000 of the motor vehicle account—state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(2) \$1,460,000 of the transportation partnership account—state appropriation and \$1,460,000 of the transportation 2003 account (nickel account)—state appropriation are provided solely for maintaining the department's project management reporting system.

Sec. 911. 2014 c 222 s 211 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—FACILITY MAINTENANCE, OPERATIONS, AND CONSTRUCTION—PROGRAM D—OPERATING

Motor Vehicle Account—State Appropriation	(\$26,114,000)
	<u>\$26,045,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$850,000 of the motor vehicle account—state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

Sec. 912. 2014 c 222 s 212 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—AVIATION—PROGRAM F

Aeronautics Account—State Appropriation	(\$7,909,000)
	<u>\$7,903,000</u>
Aeronautics Account—Federal Appropriation	\$2,150,000
TOTAL APPROPRIATION	(\$10,059,000)
	<u>\$10,053,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$4,065,000 of the aeronautics account—state appropriation is provided solely for airport investment studies and the airport aid grant program, which provides competitive grants to public airports for pavement, safety, maintenance, planning, and security.

Sec. 913. 2014 c 222 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM DELIVERY MANAGEMENT AND SUPPORT—PROGRAM H

Motor Vehicle Account—State Appropriation	(\$48,687,000)
	<u>\$48,555,000</u>
Motor Vehicle Account—Federal Appropriation	\$500,000
Multimodal Transportation Account—State	
Appropriation	\$250,000
TOTAL APPROPRIATION	(\$49,437,000)

\$49,305,000

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

(1) \$4,423,000 of the motor vehicle account—state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(2) The real estate services division of the department must recover the cost of its efforts from sale proceeds and fund additional future sales from those proceeds.

(3) The legislature recognizes that the Dryden pit site (WSDOT Inventory Control (IC) No. 2-04-00103) is unused state-owned real property under the jurisdiction of the department, and that the public would benefit significantly from the complete enjoyment of the natural scenic beauty and recreational opportunities available at the site. Therefore, pursuant to RCW 47.12.080, the legislature declares that transferring the property to the department of fish and wildlife for recreational use and fish and wildlife restoration efforts is consistent with the public interest in order to preserve the area for the use of the public and the betterment of the natural environment. The department shall work with the department of fish and wildlife and transfer and convey the Dryden pit site to the department of fish and wildlife as-is for an adjusted fair market value reflecting site conditions, the proceeds of which must be deposited in the motor vehicle fund. The department is not responsible for any costs associated with the cleanup or transfer of this property. This subsection expires June 30, 2014.

(4) The legislature recognizes that the trail known as the Apple Capital Loop, and its extensions, serve to separate motor vehicle traffic from pedestrians and bicyclists, increasing motor vehicle safety on existing state route number 28. Consistent with chapter 47.30 RCW and pursuant to RCW 47.12.080, the legislature declares that transferring portions of WSDOT Inventory Control (IC) Nos. 2-09-04537 and 2-09-04569 to Douglas county and the city of East Wenatchee is consistent with the public interest. The legislature directs the department to transfer the property to Douglas county and the city of East Wenatchee. The department must be paid fair market value for any portions of the transferred real property that is later abandoned, vacated, or ceases to be publicly maintained for trail purposes. Douglas county and the city of East Wenatchee must agree to accept responsibility for trail segments within their respective jurisdictions and sign an agreement with the state that the transfer of these parcels to their respective jurisdictions extinguishes any state obligations to improve, maintain, or be in any way responsible for these assets. This subsection expires June 30, 2014.

(5) The legislature recognizes that the SR 20/Cook Road realignment and extension project in the city of Sedro-Woolley will enhance the state and local highway systems by providing a more direct route from state route number 20 and state route number 9 to Interstate 5, and will reduce traffic on state route number 20 and state route number 9, improving the capacity of each route. Furthermore, the legislature declares that certain portions of the department's property held for highway purposes located primarily to the north and west of state route number 20, between state route number 20 to the south and F and S Grade Road to the north, in the incorporated limits of Sedro-Woolley in Skagit

county, can help facilitate completion of the project. Therefore, consistent with RCW 47.12.063, 47.12.080, and 47.12.120, it is the intent of the legislature that the department sell, transfer, or lease, as appropriate, to the city of Sedro-Woolley only those portions of the property necessary to construct the project, including necessary staging areas. However, any staging areas should revert to the department within three years of completion of the project.

(6) Within the amounts provided in this section, the department shall create a quality assurance position. This position must provide independent project quality assurance validation and ensure that quality assurance audit functions are accountable at the highest level of the organization.

~~((8))~~ (7) \$1,453,000 of the motor vehicle account—state appropriation is provided solely to support increased departmental efforts to dispose of surplus property as directed in subsection (2) of this section. These additional funds are expected to result in up to \$5,000,000 per fiscal biennium in additional revenues through increasing the sale of surplus property. By December 1, 2014, the department shall report to the governor and the chairs and ranking members of the senate and house of representatives transportation committees on the number of surplus property parcels sold and the amount of revenue generated from those sales during 2014.

Sec. 914. 2014 c 222 s 214 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—ECONOMIC PARTNERSHIPS—PROGRAM K

Motor Vehicle Account—State Appropriation ~~(\$589,000)~~
. \$588,000

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

(1) The legislature finds that the efforts started in the 2011-2013 fiscal biennium regarding the transition to a road usage charge system represent an important first step in the policy and conceptual development of potential alternative systems to fund transportation projects, but that the governance for the development needs clarification. The legislature also finds that significant amounts of research and public education are occurring in similar efforts in several states and that these efforts can and should be leveraged to advance the evaluation in Washington. The legislature intends, therefore, that the transportation commission and its staff lead the policy development of the business case for a road usage charge system, with the goal of providing the business case to the governor and the legislative committees of the legislature in time for inclusion in the 2014 supplemental omnibus transportation appropriations act. The legislature intends for additional oversight in the business case development, with guidance from a steering committee as provided in chapter 86, Laws of 2012 for the transportation commission, augmented with participation by the joint transportation committee. The legislature further intends that, through the economic partnerships program, the department continue to address administrative, technical, and conceptual operational issues related to road usage charge systems, and that the department serve as a resource for information gleaned from other states on this topic for the transportation commission's efforts.

(2) The economic partnerships program must continue to explore retail partnerships at state-owned park-and-ride facilities, as authorized in RCW 47.04.295.

(3) The department, in collaboration with the transportation commission, shall work with the office of the state treasurer and the state's bond counsel to explore legal approaches for ensuring that any reduction, refunding, crediting, or repeal of the motor vehicle fuel tax, in whole or in part, can be accomplished without unlawfully impairing the legal rights of motor vehicle fuel tax bond holders. The results of this work must be shared with the transportation committees of the legislature and the office of financial management by September 1, 2014.

(4) \$21,000 of the motor vehicle account—state appropriation is provided solely as matching funds for the department to partner with other transportation agencies located in the western region of North America to develop strategies and methods for reporting, collecting, crediting, and remitting road usage charges resulting from inter-jurisdictional travel. At least one partnering jurisdiction must share a common border with Washington. The results of this work must be reported to the governor, the transportation commission, and the transportation committees of the legislature by September 1, 2014.

Sec. 915. 2014 c 222 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE—PROGRAM M

Highway Safety Account—State Appropriation	\$10,000,000
Motor Vehicle Account—State Appropriation	(\$391,358,000)
	<u>\$390,394,000</u>
Motor Vehicle Account—Federal Appropriation	\$7,000,000
TOTAL APPROPRIATION	(\$408,358,000)
	<u>\$407,394,000</u>

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

(1) \$10,910,000 of the motor vehicle account—state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(2) \$2,605,000 of the motor vehicle account—state appropriation is provided solely for utility fees assessed by local governments as authorized under RCW 90.03.525 for the mitigation of storm water runoff from state highways.

(3) The department shall submit a budget decision for the 2014 legislative session package that details all costs associated with utility fees assessed by local governments as authorized under RCW 90.03.525.

(4) \$50,000 of the motor vehicle account—state appropriation is provided solely for clearing and pruning dangerous trees along state route number 542 between mile markers 43 and 48 to prevent safety hazards and delays.

(5) \$2,277,000 of the motor vehicle account—state appropriation is provided solely to replace or rehabilitate critical equipment needed to perform snow and ice removal activities and roadway maintenance. These funds may not be used to purchase passenger cars as defined in RCW 46.04.382.

Sec. 916. 2014 c 222 s 216 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—OPERATING

Motor Vehicle Account—State Appropriation	(\$50,055,000)
	<u>\$49,879,000</u>
Motor Vehicle Account—Federal Appropriation	\$2,050,000
Motor Vehicle Account—Private/Local Appropriation	\$250,000
TOTAL APPROPRIATION	(\$52,355,000)
	<u>\$52,179,000</u>

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

(1) \$6,000,000 of the motor vehicle account—state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. By September 1st of each even-numbered year, the department shall provide a report to the legislature listing all low-cost enhancement projects prioritized on a statewide rather than regional basis completed in the prior year.

(2) \$9,000,000 of the motor vehicle account—state appropriation is provided solely for the department's incident response program.

(3) During the 2013-2015 fiscal biennium, the department shall continue a pilot program that expands private transportation providers' access to high occupancy vehicle lanes. Under the pilot program, when the department reserves a portion of a highway based on the number of passengers in a vehicle, the following vehicles must be authorized to use the reserved portion of the highway if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles. For purposes of this subsection, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees. Nothing in this subsection is intended to authorize the conversion of public infrastructure to private, for-profit purposes or to otherwise create an entitlement or other claim by private users to public infrastructure.

(4) The department shall work with the cities of Lynnwood and Edmonds to provide traffic light synchronization on state route number 524.

(5) The department, in consultation with the Washington state patrol, must continue a pilot program for the state patrol to issue infractions based on information from automated traffic safety cameras in roadway construction zones on state highways. For the purpose of this pilot program, during the 2013-2015 fiscal biennium, a roadway construction zone includes areas where public employees or private contractors may be present or where a driving condition exists that would make it unsafe to drive at higher speeds, such as, when the department is redirecting or realigning lanes on any public roadway pursuant to

ongoing construction. The department shall use the following guidelines to administer the program:

(a) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle;

(b) The department shall plainly mark the locations where the automated traffic safety cameras are used by placing signs on locations that clearly indicate to a driver that he or she is entering a roadway construction zone where traffic laws are enforced by an automated traffic safety camera;

(c) Notices of infractions must be mailed to the registered owner of a vehicle within fourteen days of the infraction occurring;

(d) The owner of the vehicle is not responsible for the violation if the owner of the vehicle, within fourteen days of receiving notification of the violation, mails to the patrol, a declaration under penalty of perjury, stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner, or any other extenuating circumstances;

(e) For purposes of the 2013-2015 fiscal biennium pilot program, infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras must be processed in the same manner as parking infractions for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3). However, the amount of the fine issued under this subsection (5) for an infraction generated through the use of an automated traffic safety camera is one hundred thirty-seven dollars. The court shall remit thirty-two dollars of the fine to the state treasurer for deposit into the state patrol highway account; and

(f) If a notice of infraction is sent to the registered owner and the registered owner is a rental car business, the infraction must be dismissed against the business if it mails to the patrol, within fourteen days of receiving the notice, a declaration under penalty of perjury of the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred. If the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred, the business must sign a declaration under penalty of perjury to this effect. The declaration must be mailed to the patrol within fourteen days of receiving the notice of traffic infraction. Timely mailing of this declaration to the issuing agency relieves a rental car business of any liability under this section for the notice of infraction. A declaration form suitable for this purpose must be included with each automated traffic safety camera infraction notice issued, along with instructions for its completion and use.

(6) \$102,000 of the motor vehicle account—state appropriation is provided solely to replace or rehabilitate critical equipment needed to perform traffic control. These funds may not be used to purchase passenger cars as defined in RCW 46.04.382.

Sec. 917. 2014 c 222 s 217 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—	
TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S	
Motor Vehicle Account—State Appropriation	(\$27,079,000)
.....	\$26,871,000

Motor Vehicle Account—Federal Appropriation	\$280,000
Multimodal Transportation Account—State Appropriation	\$1,131,000
TOTAL APPROPRIATION	(\$28,490,000) <u>\$28,282,000</u>

The appropriations in this section are subject to the following conditions and limitations: ~~(\$200,000)~~ \$80,000 of the motor vehicle account—state appropriation is provided solely for enhanced disadvantaged business enterprise outreach to increase the pool of disadvantaged businesses available for department contracts. The department must submit a status report on disadvantaged business enterprise outreach to the transportation committees of the legislature by November 15, 2014.

Sec. 918. 2014 c 222 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—
TRANSPORTATION PLANNING, DATA, AND RESEARCH—
PROGRAM T**

Motor Vehicle Account—State Appropriation	(\$19,818,000) <u>\$19,716,000</u>
Motor Vehicle Account—Federal Appropriation	\$26,085,000
Multimodal Transportation Account—State Appropriation	\$662,000
Multimodal Transportation Account—Federal Appropriation	\$2,809,000
Multimodal Transportation Account—Private/Local Appropriation	\$100,000
TOTAL APPROPRIATION	(\$49,474,000) <u>\$49,372,000</u>

The appropriations in this section are subject to the following conditions and limitations: Within available resources, the department must collaborate with the affected metropolitan planning organizations, regional transportation planning organizations, transit agencies, and private transportation providers to develop a plan to reduce vehicle demand, increase public transportation options, and reduce vehicle miles traveled on corridors affected by growth at Joint Base Lewis-McChord.

Sec. 919. 2014 c 222 s 219 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM
OTHER AGENCIES—PROGRAM U**

Motor Vehicle Account—State Appropriation	(\$74,198,000) <u>\$73,941,000</u>
Motor Vehicle Account—Federal Appropriation	\$400,000
Multimodal Transportation Account—State Appropriation	\$3,068,000
TOTAL APPROPRIATION	(\$77,666,000) <u>\$77,409,000</u>

The appropriations in this section are subject to the following conditions and limitations: The department of enterprise services must provide a detailed

accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.

*Sec. 920. 2014 c 222 s 220 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC TRANSPORTATION—PROGRAM V

State Vehicle Parking Account—State Appropriation	\$754,000
Regional Mobility Grant Program Account—State Appropriation	(\$51,111,000)
	<u>\$41,111,000</u>
Rural Mobility Grant Program Account—State Appropriation	\$17,000,000
Multimodal Transportation Account—State Appropriation	(\$39,325,000)
	<u>\$39,313,000</u>
Multimodal Transportation Account—Federal Appropriation	\$3,280,000
Motor Vehicle Account—Federal Appropriation	\$160,000
TOTAL APPROPRIATION	(\$111,630,000)
	<u>\$101,618,000</u>

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

(1) \$25,000,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation. Of this amount:

(a) \$5,500,000 of the multimodal transportation account—state appropriation is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers must be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$19,500,000 of the multimodal transportation account—state appropriation is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must, to the greatest extent practicable, have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies must be prorated based on the amount expended for demand response service and route deviated service in calendar year 2011 as reported in the "Summary of Public Transportation - 2011" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) \$17,000,000 of the rural mobility grant program account—state appropriation is provided solely for grants to aid small cities in rural areas as prescribed in RCW 47.66.100.

(3)(a) \$6,000,000 of the multimodal transportation account—state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools or replace vans; and (b) incentives for

employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; operating costs for public transit agencies are not eligible for funding under this grant program. Additional employees may not be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. The department shall encourage grant applicants and recipients to leverage funds other than state funds.

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

(c) \$520,000 of the amount provided in this subsection is provided solely for the purchase of additional vans for use by vanpools serving or traveling through the Joint Base Lewis-McChord I-5 corridor between mile post 116 and 127. The department's public transportation division is authorized to purchase vans in the 2013-2015 fiscal biennium, on behalf of public transit agencies, exclusively for the purpose of compliance with the terms of this subsection (3)(c).

~~(4) (~~\$11,111,000 of the regional mobility grant program account—state appropriation is reappropriated and provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2014-2 ALL PROJECTS—Public Transportation—Program (V) as developed March 10, 2014.~~~~

~~(5)(a) (\$40,000,000) (a) \$41,111,000 of the regional mobility grant program account—state appropriation is provided solely for the regional mobility grant projects identified in LEAP Transportation Document ((2014-2) 2015-2 ALL PROJECTS ((—Public Transportation—Program (V))) as developed ((March 10, 2014)) May 26, 2015, Program - Public Transportation Program (V). The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any remaining funds must be used only to fund projects identified in the LEAP transportation document referenced in this subsection. The department shall provide annual status reports on December 15, 2013, and December 15, 2014, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule. A grantee may not receive more than twenty-five percent of the amount appropriated in this subsection. The department shall not approve any increases or changes to the scope of a project for the purpose of a grantee expending remaining funds on an awarded grant.~~

~~(b) In order to be eligible to receive a grant under (a) of this subsection during the 2013-2015 fiscal biennium, a transit agency must establish a process for private transportation providers to apply for the use of park and ride facilities. For purposes of this subsection, (i) "private transportation provider" means: An auto transportation company regulated under chapter 81.68 RCW; a passenger charter carrier regulated under chapter 81.70 RCW,~~

except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; a private nonprofit transportation provider regulated under chapter 81.66 RCW; or a private employer transportation service provider; and (ii) "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees.

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

(7) \$6,424,000 of the total appropriation in this section is provided solely for CTR grants and activities. Of this amount:

(a) \$3,900,000 of the multimodal transportation account—state appropriation is provided solely for grants to local jurisdictions, selected by the CTR board, for the purpose of assisting employers meet CTR goals;

(b) \$1,770,000 of the multimodal transportation account—state appropriation is provided solely for state costs associated with CTR. The department shall develop more efficient methods of CTR assistance and survey procedures; and

(c) \$754,000 of the state vehicle parking account—state appropriation is provided solely for CTR-related expenditures, including all expenditures related to the guaranteed ride home program and the STAR pass program.

(8) An affected urban growth area that has not previously implemented a commute trip reduction program as of the effective date of this section is exempt from the requirements in RCW 70.94.527.

(9) \$200,000 of the multimodal transportation account—state appropriation is contingent on the timely development of an annual report summarizing the status of public transportation systems as identified under RCW 35.58.2796.

(10) \$160,000 of the motor vehicle account—federal appropriation is provided solely for King county metro to study demand potential for a state route number 18 and Interstate 90 park and ride location, to size the facilities appropriately, to perform site analysis, and to develop preliminary design concepts. When studying potential park and ride locations pursuant to this subsection, King county metro must take into consideration the effect of the traffic using the weigh station at the Interstate 90 and state route number 18 interchange at exit 25 and, to the maximum extent practicable, choose a park and ride location that minimizes traffic impacts for the Interstate 90 and state route number 18 interchange and the weigh station.

Sec. 920 was partially vetoed. See message at end of chapter.

Sec. 921. 2014 c 222 s 221 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X

Puget Sound Ferry Operations Account—State	
Appropriation	(((483,404,000)))
	<u>\$475,915,000</u>
Puget Sound Ferry Operations Account—Private/Local	
Appropriation	\$121,000
TOTAL APPROPRIATION	(((483,525,000)))
	<u>\$476,036,000</u>

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

(1) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2013-2015 supplemental and 2015-2017 omnibus transportation appropriations act requests, as determined jointly by the office of financial management, the Washington state ferries, and the transportation committees of the legislature. This level of detail must include the administrative functions in the operating as well as capital programs.

(2) Until a reservation system is operational on the San Juan islands inter-island route, the department shall provide the same priority loading benefits on the San Juan islands inter-island route to home health care workers as are currently provided to patients traveling for purposes of receiving medical treatment.

(3) For the 2013-2015 fiscal biennium, the department may enter into a distributor controlled fuel hedging program and other methods of hedging approved by the fuel hedging committee.

(4) (~~(\$113,157,000)~~) \$106,497,000 of the Puget Sound ferry operations account—state appropriation is provided solely for auto ferry vessel operating fuel in the 2013-2015 fiscal biennium, which reflect cost savings from a reduced biodiesel fuel requirement and, therefore, are contingent upon the enactment of section 701, chapter 306, Laws of 2013. The amount provided in this subsection represent the fuel budget for the purposes of calculating any ferry fare fuel surcharge. The department shall develop a fuel reduction plan to be submitted as part of its 2014 supplemental budget proposal. The plan must include fuel saving proposals, such as vessel modifications, vessel speed reductions, and changes to operating procedures, along with anticipated fuel saving estimates.

(5) \$100,000 of the Puget Sound ferry operations account—state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

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

(7) \$3,049,000 of the Puget Sound ferry operations account—state appropriation is provided solely for the operating program share of the \$7,259,000 in lease payments for the ferry division's headquarters building. Consistent with the 2012 facilities oversight plan, the department shall strive to consolidate office space in downtown Seattle by the end of 2015. The department shall consider renewing the lease for the ferry division's current headquarters building only if the lease rate is reduced at least (~~(fifty)~~) forty percent and analysis shows that this is the least cost and risk option for the department. Consolidation with other divisions or state agencies, or a reduction in leased space, must also be considered as part of any headquarters lease renewal analysis.

(8) \$5,000,000 of the Puget Sound ferry operations account—state appropriation is provided solely for the purchase of a 2013-2015 marine insurance policy. Within this amount, the department is expected to purchase a policy with the lowest deductible possible, while maintaining at least existing coverage levels for ferry vessels, and providing coverage for all terminals.

(9) Within existing resources, the department must evaluate the feasibility of using re-refined used motor oil processed in Washington state as a ferry fuel source. The evaluation must include, but is not limited to, research on existing entities currently using the process for re-refined fuel, any required combustible engine modifications, additional needed equipment on the vessels or fueling locations, cost analysis, compatibility with B-5 blended diesel, and meeting engine performance specifications. The department must establish an evaluation group that includes, but is not limited to, persons experienced in the re-refined motor oil industry. The department must deliver a report containing the results of the evaluation to the transportation committees of the legislature and the office of financial management by December 1, 2014.

(10) \$71,000 of the Puget Sound ferry operations account—state appropriation is provided solely for one traffic attendant for ferry terminal traffic control at the Fauntleroy ferry terminal.

Sec. 922. 2014 c 222 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—OPERATING

Multimodal Transportation Account—State

Appropriation	((\$46,026,000))
	<u>\$45,963,000</u>

<u>Multimodal Transportation Account—Private/Local</u>	
<u>Appropriation</u>	\$57,000

TOTAL APPROPRIATION	\$46,020,000
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The appropriations in this section are subject to the following conditions and limitations:

(1) \$40,289,000 of the multimodal transportation account—state appropriation is provided solely for operating and maintaining state-supported passenger rail service. In recognition of the increased costs the state is expected to absorb due to changes in federal law, the department is directed to analyze the Amtrak contract proposal and find cost saving alternatives. The department shall report to the transportation committees of the legislature before the 2014 regular legislative session on its revisions to the Amtrak contract, including a review of the appropriate costs within the contract for concession services, policing, host railroad incentives, and station services and staffing needs. Within thirty days of each annual cost/revenue reconciliation under the Amtrak service contract, the department shall report any changes that would affect the state subsidy amount appropriated in this subsection. Through a competitive process, the department may contract with a private entity for services related to operations and maintenance of the Amtrak Cascades route, including, but not limited to, concession services.

(2) Amtrak Cascades runs may not be eliminated.

(3) The department shall continue a pilot program by partnering with the travel industry on the Amtrak Cascades service between Vancouver, British Columbia, and Seattle to test opportunities for increasing ridership, maximizing farebox recovery, and stimulating private investment. The pilot program must run from December 31, 2013, to December 31, 2014, and evaluate seasonal differences in the program and the effect of advertising. The department may offer to Washington universities an opportunity for business students to work as

interns on the analysis of the pilot program process and results. The department shall report on the results of the pilot program to the office of financial management and the legislature by January 31, 2015.

(4) \$150,000 of the multimodal transportation account—state appropriation is provided solely for the department to develop an inventory of short line rail infrastructure that can be used to support a data-driven approach to identifying system needs. The department shall work with short line rail owners and operators within the state, provide status updates periodically to the joint transportation committee, submit a progress report of its findings to the transportation committees of the legislature and the office of financial management by December 15, 2014, submit a preliminary report of key findings and recommendations to the transportation committees of the legislature and the office of financial management by March 1, 2015, and submit a final report to the transportation committees of the legislature and the office of financial management by June 30, 2015.

Sec. 923. 2014 c 222 s 223 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—OPERATING

Motor Vehicle Account—State Appropriation	(((\$8,672,000))
	<u>\$8,647,000</u>
Motor Vehicle Account—Federal Appropriation	\$2,567,000
TOTAL APPROPRIATION	((((\$11,239,000))
	<u>\$11,214,000</u>

TRANSPORTATION AGENCIES—CAPITAL

Sec. 1001. 2014 c 222 s 301 (uncodified) is amended to read as follows:

FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Freight Mobility Investment Account—State Appropriation	((((\$11,930,000))
	<u>\$6,270,000</u>
Freight Mobility Multimodal Account—State Appropriation	((((\$9,826,000))
	<u>\$6,011,000</u>
((Freight Mobility Multimodal Account—Private/Local Appropriation	(\$1,320,000))
Highway Safety Account—State Appropriation	\$2,606,000
((Motor Vehicle Account—State Appropriation	(\$84,000))
Motor Vehicle Account—Federal Appropriation	((((\$5,750,000))
	<u>\$2,500,000</u>
TOTAL APPROPRIATION	((((\$31,516,000))
	<u>\$17,387,000</u>

Sec. 1002. 2014 c 222 s 303 (uncodified) is amended to read as follows:**FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account—State Appropriation	((((\$57,394,000))
	<u>\$49,095,000</u>
Highway Safety Account—State Appropriation	\$10,000,000

Motor Vehicle Account—State Appropriation	\$706,000
County Arterial Preservation Account—State Appropriation	\$32,000,000
TOTAL APPROPRIATION	<u>(\$100,100,000)</u>
	<u>\$91,801,000</u>

Sec. 1003. 2014 c 222 s 304 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Small City Pavement and Sidewalk Account—State Appropriation	\$5,250,000
Highway Safety Account—State Appropriation	\$10,000,000
Transportation Improvement Account—State Appropriation	<u>(\$231,851,000)</u>
	<u>\$230,851,000</u>
TOTAL APPROPRIATION	<u>(\$247,101,000)</u>
	<u>\$246,101,000</u>

The appropriations in this section are subject to the following conditions and limitations: The highway safety account—state appropriation is provided solely for:

- (1) The arterial preservation program to help low tax-based, medium-sized cities preserve arterial pavements;
- (2) The small city pavement program to help cities meet urgent preservation needs; and
- (3) The small city low-energy street light retrofit demonstration program.

Sec. 1004. 2014 c 222 s 305 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—FACILITIES—PROGRAM D—(DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)—CAPITAL

Transportation Partnership Account—State Appropriation	<u>(\$14,390,000)</u>
	<u>\$13,390,000</u>
Motor Vehicle Account—State Appropriation	\$9,469,000
TOTAL APPROPRIATION	<u>(\$23,859,000)</u>
	<u>\$22,859,000</u>

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

- (1) The legislature recognizes that the Marginal Way site (King county parcel numbers 3024049182 & 5367202525) is surplus state-owned real property under the jurisdiction of the department and that the public would benefit significantly if this site is used to provide important social services. Therefore, the legislature declares that committing the Marginal Way site to this use is consistent with the public interest.

Pursuant to RCW 47.12.063, the department shall work with the owner of King county parcel number 7643400010, which abuts both parcels of the Marginal Way site, and shall convey the Marginal Way site to that abutting property owner for the appraised fair market value of the parcels, the proceeds of which must be deposited in the motor vehicle fund. The conveyance is conditional upon the purchaser's agreement to commit the use of the Marginal

Way site to operations with the goal of ending hunger in western Washington. The department may not make this conveyance before September 1, 2013, and may not make this conveyance after September 1, 2014.

The Washington department of transportation is not responsible for any costs associated with the cleanup or transfer of the Marginal Way site.

(2) (~~(\$14,390,000)~~) \$13,390,000 of the transportation partnership account—state appropriation is provided solely for the construction of a new traffic management and emergency operations center on property owned by the department on Dayton Avenue in Shoreline (project 100010T). Consistent with the office of financial management's 2012 study, it is the intent of the legislature to appropriate no more than \$15,000,000 for the total construction costs. The department shall report to the transportation committees of the legislature and the office of financial management by June 30, 2014, on the progress of the construction of the traffic management and emergency operations center, including a schedule for terminating the current lease of the Goldsmith building in Seattle.

*Sec. 1005. 2014 c 222 s 306 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—IMPROVEMENTS—PROGRAM I

(Multimodal Transportation Account—State .....	.....
Appropriation	(\$1,000,000)
Transportation Partnership Account—State	
Appropriation	(\$1,313,555,000)
	<u>\$935,899,000</u>
<i>Motor Vehicle Account—State Appropriation</i>	(\$69,478,000)
	<u>\$58,888,000</u>
Motor Vehicle Account—Federal Appropriation	(\$516,181,000)
	<u>\$508,032,000</u>
Motor Vehicle Account—Private/Local Appropriation	(\$166,357,000)
	<u>\$157,553,000</u>
Transportation 2003 Account (Nickel Account)—State	
Appropriation	(\$325,778,000)
	<u>\$261,599,000</u>
State Route Number 520 Corridor Account—State	
Appropriation	\$880,111,000
State Route Number 520 Corridor Account—Federal	
Appropriation	\$300,000,000
Special Category C Account—State Appropriation	\$124,000
TOTAL APPROPRIATION	(\$3,572,584,000)
	<u>\$3,102,206,000</u>

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

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document (~~(2014-1)~~) 2015-1 as developed (~~(March 10, 2014)~~) May 26, 2015, Program - Highway Improvements Program (I). However, limited transfers of

specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section ((601 of this act)) 1201, chapter . . . (Engrossed Substitute House Bill No. 1299), Laws of 2015 1st sp. sess.

(2) *Except as provided otherwise in this section, the entire motor vehicle account—state appropriation and motor vehicle account—federal appropriation are provided solely for the projects and activities listed in LEAP Transportation Document ((2014-2)) 2015-2 ALL PROJECTS as developed ((March 10, 2014)) May 26, 2015, Program - Highway Improvements Program (I). The department shall apply any federal funds gained through efficiencies or the redistribution process in an amount up to \$27,200,000 for cost overruns related to the pontoon design errors on the SR 520 Bridge Replacement and HOV project (8BI1003) as described in subsection (12)(f) of this section. Any federal funds gained through efficiencies or the redistribution process that are in excess of \$27,200,000 must then be applied to the "Contingency (Unfunded) Highway Preservation Projects" as identified in LEAP Transportation Document 2014-2 ALL PROJECTS as developed March 10, 2014, Program - Highway Preservation Program (P). However, no additional federal funds may be allocated to the I-5/Columbia River Crossing project (400506A).*

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

(4) *The transportation 2003 account (nickel account)—state appropriation includes up to ((~~\$246,710,000~~)) \$189,996,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.*

(5) *The transportation partnership account—state appropriation includes up to ((~~\$811,595,000~~)) \$564,989,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.*

(6) *The motor vehicle account—state appropriation includes up to ((~~\$30,000,000~~)) \$14,997,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.*

(7)(a) ((~~\$6,174,000~~)) \$1,514,000 of the motor vehicle account—federal appropriation and ((~~\$269,000~~)) \$21,000 of the motor vehicle account—state appropriation are provided solely for the I-90 Comprehensive Tolling Study and Environmental Review project (100067T). The department shall prepare a detailed environmental impact statement that complies with the national environmental policy act regarding tolling Interstate 90 between Interstate 5 and Interstate 405 for the purposes of both managing traffic and providing funding for the construction of the unfunded state route number 520 from Interstate 5 to Medina project. As part of the preparation of the statement, the department must review any impacts to the network of highways and roads surrounding Lake Washington. In developing this statement, the department must provide significant outreach to potential affected communities. The department may consider traffic management options that extend as far east as Issaquah.

(b)(i) As part of the project in this subsection (7), the department shall perform a study of all funding alternatives to tolling Interstate 90 to provide funding for construction of the unfunded state route number 520 and explore and

evaluate options to mitigate the effect of tolling on affected residents and all other users of the network of highways and roads surrounding Lake Washington including, but not limited to:

(A) Allowing all Washington residents to traverse a portion of the tolled section of Interstate 90 without paying a toll. Residents may choose either (I) the portion of Interstate 90 between the easternmost landing west of Mercer Island and the westernmost landing on Mercer Island, or (II) the portion of Interstate 90 between the westernmost landing east of Mercer Island and the easternmost landing on Mercer Island;

(B) Assessing a toll only when a driver traverses, in either direction, the entire portion of Interstate 90 between the easternmost landing west of Mercer Island and the westernmost landing east of Mercer Island; and

(C) Allowing affected residents to choose one portion of the tolled section of Interstate 90 upon which they may travel without paying a toll. Residents may choose either (I) the portion of Interstate 90 between the easternmost landing west of Mercer Island and the westernmost landing on Mercer Island, or (II) the portion of Interstate 90 between the westernmost landing east of Mercer Island and the easternmost landing on Mercer Island.

(ii) The department may also consider any alternative mitigation options that conform to the purpose of this subsection (7).

(iii) For the purposes of this subsection (7), "affected resident" means anyone who must use a portion of Interstate 90 west of Interstate 405 upon which tolling is considered in order to access necessary medical services, such as a hospital.

(8) (~~(\$490,796,000)~~) \$203,317,000 of the transportation partnership account—state appropriation, (~~(\$156,979,000)~~) \$156,879,000 of the motor vehicle account—federal appropriation, (~~(\$132,191,000)~~) \$131,327,000 of the motor vehicle account—private/local appropriation, and (~~(\$123,305,000)~~) \$86,401,000 of the transportation 2003 account (nickel account)—state appropriation are provided solely for the SR 99/Alaskan Way Viaduct - Replacement project (809936Z). Amounts appropriated in this subsection may not be spent for the purpose of public transportation mitigation, except pursuant to an agreement or agreements between the department and King county as that agreement or agreements existed on January 1, 2013.

(9) The department shall reconvene an expert review panel of no more than three members as described under RCW 47.01.400 for the purpose of updating the work that was previously completed by the panel on the Alaskan Way viaduct replacement project and to ensure that an appropriate and viable financial plan is created and regularly reviewed. The expert review panel must be selected cooperatively by the chairs of the senate and house of representatives transportation committees, the secretary of transportation, and the governor. The expert review panel must report findings and recommendations to the transportation committees of the legislature, the governor's Alaskan Way viaduct project oversight committee, and the transportation commission annually until the project is operationally complete. This subsection takes effect if chapter ... (Substitute House Bill No. 1957), Laws of 2013 is not enacted by June 30, 2013.

(10) (~~(\$7,103,000)~~) \$6,955,000 of the transportation partnership account—state appropriation, (~~(\$22,774,000)~~) \$23,285,000 of the transportation 2003 account (nickel account)—state appropriation, (~~(\$1,000,000 of the multimodal~~

~~transportation account—state appropriation~~) \$3,776,000 of the motor vehicle account—state appropriation, \$70,000 of the motor vehicle account—private/local appropriation, and ~~((\$51,712,000))~~ \$45,688,000 of the motor vehicle account—federal appropriation are provided solely for the US 395/North Spokane Corridor projects (600010A & 600003A). Any future savings on the projects must stay on the US 395/Interstate 90 corridor and be made available to the current phase of the North Spokane corridor projects or any future phase of the projects.

(11) ~~((\$129,952,000))~~ \$115,807,000 of the transportation partnership account—state appropriation, \$145,000 of the motor vehicle account—private/local appropriation, and ~~((\$58,583,000))~~ \$48,227,000 of the transportation 2003 account (nickel account)—state appropriation are provided solely for the I-405/Kirkland Vicinity Stage 2 - Widening project (8BI1002). This project must be completed as soon as practicable as a design-build project. Any future savings on this project or other Interstate 405 corridor projects must stay on the Interstate 405 corridor and be made available to either the I-405/SR 167 Interchange - Direct Connector project (140504C) or the I-405 Renton to Bellevue project.

(12)(a) The SR 520 Bridge Replacement and HOV project (8BI1003) is supported over time from multiple sources, including a \$300,000,000 TIFIA loan, \$923,000,000 in Garvee bonds, toll revenues, state bonds, interest earnings, and other miscellaneous sources.

(b) The state route number 520 corridor account—state appropriation includes up to \$814,784,000 in proceeds from the sale of bonds authorized in RCW 47.10.879 and 47.10.886.

(c) The state route number 520 corridor account—federal appropriation includes up to \$300,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.879 and 47.10.886.

(d) \$165,175,000 of the transportation partnership account—state appropriation, \$300,000,000 of the state route number 520 corridor account—federal appropriation, and \$880,111,000 of the state route number 520 corridor account—state appropriation are provided solely for the SR 520 Bridge Replacement and HOV project (8BI1003). Of the amounts appropriated in this subsection (12)(d), \$84,001,000 of the state route number 520 corridor account—federal appropriation and \$354,411,000 of the state route number 520 corridor account—state appropriation must be put into unallotted status and are subject to review by the office of financial management. The director of the office of financial management shall consult with the joint transportation committee prior to making a decision to allot these funds.

(e) When developing the financial plan for the project, the department shall assume that all maintenance and operation costs for the new facility are to be covered by tolls collected on the toll facility and not by the motor vehicle account.

(f) The legislature finds that the most appropriate way to pay for the cost overruns related to change orders, additional sales tax, and future risks associated with pontoon design errors is for the state to issue triple pledge bonds in the 2015-2017 fiscal biennium resulting in \$110,961,000 in proceeds, and use efficiencies, including the use of least cost planning or practical design, and favorable bids in the highway construction program to generate an additional

\$61,066,000 towards paying for the estimated project overruns. Of this additional \$61,066,000, \$33,866,000 should come from the transportation partnership account—state appropriation and \$27,200,000 should come from federal funds. As the department identifies savings in federal funds during the 2013-2015 fiscal biennium, the department shall prioritize the use of these funds towards the anticipated \$27,200,000 in federal funds needed to address cost overruns before expending state funds during this fiscal biennium. The legislature assumes that issuing bonds to complete this project as listed in LEAP Transportation Document 2014-1 as developed March 10, 2014, does not require a comprehensive financial plan for a project that completes the state route number 520 corridor to Interstate 5.

(g) The department's 2014 supplemental budget allotment submittal must include a project-specific plan detailing how the department will achieve the mandatory budget savings in (f) of this subsection, including the use of least cost planning or practical design as a means to generate savings, as referenced in subsection (23) of this section. The use of least cost planning or practical design may result in a reduction of project cost, but not a reduction of functional scope. The director of financial management shall notify the transportation committees of the legislature in writing seven days prior to approving any allotment modifications under this subsection.

(13) Within the amounts provided in this section, the department must continue to work with the Seattle department of transportation in their joint planning, design, outreach, and operation of the remaining west side elements including, but not limited to, the Montlake lid, the bicycle/pedestrian path, the effective network of transit connections, and the Portage Bay bridge of the SR 520 Bridge Replacement and HOV project.

(14) (~~(\$1,062,000)~~) \$514,000 of the motor vehicle account—federal appropriation ~~(is)~~ and \$19,000 of the motor vehicle account—state appropriation are provided solely for the 31st Ave SW Overpass Widening and Improvement project (L1100048).

(15) (~~(\$25,243,000)~~) \$18,016,000 of the motor vehicle account—state appropriation is provided solely to advance the design, preliminary engineering, and rights-of-way acquisition for the priority projects identified in LEAP Transportation Document 2014-3 as developed March 10, 2014. Funds must be used to advance the emergent, initial development of these projects for the purpose of expediting delivery of the associated major investments when funding for such investments becomes available. Funding may be reallocated between projects to maximize the accomplishment of design and preliminary engineering work and rights-of-way acquisition, provided that all projects are addressed. It is the intent of the legislature that, while seeking to maximize the outcomes in this section, the department shall provide for continuity of both the state and consulting engineer workforce, while strategically utilizing private sector involvement to ensure consistency with the department's business plan for staffing in the highway construction program in the current fiscal biennium.

(16) If a planned roundabout in the vicinity of state route number 526 and 84th Street SW would divert commercial traffic onto neighborhood streets, the department may not proceed with improvements at state route number 526 and 84th Street SW until the traffic impacts in the vicinity of state route number 526 and 40th Avenue West are addressed.

(17) The legislature finds that there are sixteen companies involved in wood preserving in the state that employ four hundred workers and have an annual payroll of fifteen million dollars. Prior to the department's switch to steel guardrails, ninety percent of the twenty-five hundred mile guardrail system was constructed of preserved wood and one hundred ten thousand wood guardrail posts were produced annually for state use. Moreover, the policy of using steel posts requires the state to use imported steel. Given these findings, where practicable, and until June 30, 2015, the department shall include the design option to use wood guardrail posts, in addition to steel posts, in new guardrail installations. The selection of posts must be consistent with the agency design manual policy that existed before December 2009.

(18) The legislature finds that "right-sizing" is a lean, metric-based approach to determining project investments. This concept entails compromise between project cost and design, incorporating local community needs, desired outcomes, and available funding. Furthermore, the legislature finds that the concepts and principles the department has utilized in the safety analyst program have been effective tools to prioritize projects and reduce project costs. Therefore, the department shall establish a pilot project on the SR 3/Belfair Bypass - New Alignment (300344C) to begin implementing the concept of "right-sizing" in the highway construction program.

(19) For urban corridors that are all or partially within a metropolitan planning organization boundary, for which the department has not initiated environmental review, and that require an environmental impact statement, at least one alternative must be consistent with the goals set out in RCW 47.01.440.

(20) The department shall itemize all future requests for the construction of buildings on a project list and submit them through the transportation executive information system as part of the department's 2014 budget submittal. It is the intent of the legislature that new facility construction must be transparent and not appropriated within larger highway construction projects.

(21) \$19,513,000 of the motor vehicle account—state appropriation and \$9,450,000 of the motor vehicle account—federal appropriation are provided solely for improvement program support activities (095901X). \$18,000,000 of this amount must be held in unallotted status until the office of financial management certifies that the department's 2014 supplemental budget request conforms to the terms of subsection (20) of this section.

(22) Any new advisory group that the department convenes during the 2013-2015 fiscal biennium must be representative of the interests of the entire state of Washington.

(23) Practical design offers targeted benefits to a state transportation system within available fiscal resources. This delivers value not just for individual projects, but for the entire system. Applying practical design standards will also preserve and enhance safety and mobility. The department shall implement a practical design strategy for transportation design standards. By June 30, 2015, the department shall report to the governor and the house of representatives and senate transportation committees on where practical design has been applied or is intended to be applied in the department and the cost savings resulting from the use of practical design.

Section 1005 was partially vetoed. See message at end of chapter.

Sec. 1006. 2014 c 222 s 307 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—
PRESERVATION—PROGRAM P**

Transportation Partnership Account—State	
Appropriation	((\$34,966,000))
	<u>\$26,954,000</u>
Highway Safety Account—State Appropriation.	((\$13,500,000))
	<u>\$13,502,000</u>
Motor Vehicle Account—State Appropriation	((\$59,796,000))
	<u>\$51,379,000</u>
Motor Vehicle Account—Federal Appropriation	((\$595,604,000))
	<u>\$549,666,000</u>
Motor Vehicle Account—Private/Local Appropriation	((\$11,827,000))
	<u>\$11,871,000</u>
Transportation 2003 Account (Nickel Account)—State	
Appropriation	((\$2,650,000))
	<u>\$1,809,000</u>
Tacoma Narrows Toll Bridge Account—State	
Appropriation((\$120,000))	
	<u>\$1,177,000</u>
<u>High Occupancy Toll Lanes Operations Account—State</u>	
Appropriation	\$200,000
TOTAL APPROPRIATION	((\$718,463,000))
	<u>\$656,558,000</u>

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

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ((~~2014-1~~) 2015-1 as developed ((~~March 10, 2014~~) May 26, 2015, Program - Highway Preservation Program (P). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section ((~~601 of this act~~) 1201, chapter . . . (Engrossed Substitute House Bill No. 1299), Laws of 2015 1st sp. sess.

(2) Except as provided otherwise in this section, the entire motor vehicle account—state appropriation and motor vehicle account—federal appropriation are provided solely for the projects and activities listed in LEAP Transportation Document ((~~2014-2~~) 2015-2 ALL PROJECTS as developed ((~~March 10, 2014~~) May 26, 2015, Program - Highway Preservation Program (P). The department shall apply any federal funds gained through efficiencies or the redistribution process in an amount up to \$27,200,000 for cost overruns related to the pontoon design errors on the SR 520 Bridge Replacement and HOV project (8B11003) as described in section 306(12)(f) ((~~of this act~~), chapter 222, Laws of 2014. Any federal funds gained through efficiencies or the redistribution process that are in excess of \$27,200,000 must then be applied to the "Contingency (Unfunded) Highway Preservation Projects" as identified in LEAP Transportation Document 2014-2 ALL PROJECTS as developed March 10, 2014, Program - Highway

Preservation Program (P). However, no additional federal funds may be allocated to the I-5/Columbia River Crossing project (400506A).

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

(4) (~~(\$26,610,000)~~) \$25,480,000 of the motor vehicle account—federal appropriation (~~(, \$51,000 of the motor vehicle account—state appropriation,)~~) and (~~(\$769,000)~~) \$605,000 of the highway safety account—state appropriation are provided solely for the SR 167/Puyallup River Bridge Replacement project (316725A). This project must be completed as a design-build project. The department must work with local jurisdictions and the community during the environmental review process to develop appropriate esthetic design elements, at no additional cost to the department, and traffic management plans pertaining to this project. The department must report to the transportation committees of the legislature on estimated cost and/or time savings realized as a result of using the design-build process.

(5) The department shall examine the use of electric arc furnace slag for use as an aggregate for new roads and paving projects in high traffic areas and report back to the legislature on its current use in other areas of the country and any characteristics that can provide greater wear resistance and skid resistance in new pavement construction.

Sec. 1007. 2014 c 222 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—CAPITAL

Motor Vehicle Account—State Appropriation	((\$4,915,000))
	<u>\$4,648,000</u>
Motor Vehicle Account—Federal Appropriation	((\$9,152,000))
	<u>\$7,191,000</u>
Motor Vehicle Account—Private/Local Appropriation	\$200,000
TOTAL APPROPRIATION	((\$14,267,000))
	<u>\$12,039,000</u>

The appropriations in this section are subject to the following conditions and limitations: (~~(\$195,000)~~) \$100,000 of the motor vehicle account—state appropriation is provided solely for project 000005Q as state matching funds for federally selected competitive grants or congressional earmark projects. These moneys must be placed into reserve status until such time as federal funds are secured that require a state match.

Sec. 1008. 2014 c 222 s 309 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—WASHINGTON STATE FERRIES CONSTRUCTION—PROGRAM W

Puget Sound Capital Construction Account—State	
Appropriation	((\$63,825,000))
	<u>\$61,877,000</u>
Puget Sound Capital Construction Account—Federal	
Appropriation	((\$118,444,000))
	<u>\$89,152,000</u>

Puget Sound Capital Construction Account—Private/Local	
Appropriation	(\$1,312,000)
	<u>\$1,187,000</u>
Multimodal Transportation Account—State	
Appropriation	(\$2,588,000)
	<u>\$1,544,000</u>
Transportation 2003 Account (Nickel Account)—State	
Appropriation	(\$190,031,000)
	<u>\$189,255,000</u>
Transportation Partnership Account—State	
Appropriation	\$2,813,000
TOTAL APPROPRIATION	(\$379,013,000)
	<u>\$345,828,000</u>

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

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed in LEAP Transportation Document (~~(2014-2)~~) 2015-2 ALL PROJECTS as developed (~~(March 10, 2014)~~) May 26, 2015, Program - Washington State Ferries Capital Program (W).

(2) The Puget Sound capital construction account—state appropriation includes up to \$20,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(3) (~~(\$137,425,000)~~) \$136,957,000 of the transportation 2003 account (nickel account)—state appropriation, \$2,338,000 of the transportation partnership account—state appropriation, and (~~(\$300,000)~~) \$768,000 of the Puget Sound capital construction account—federal appropriation are provided solely for the acquisition of two 144-car vessels (~~(projects)~~) L2200038 and L2200039). The department shall use as much already procured equipment as practicable on the 144-car vessels.

(4) (~~(\$14,728,000)~~) \$8,773,000 of the Puget Sound capital construction account—federal appropriation, (~~(\$4,038,000)~~) \$1,600,000 of the Puget Sound capital construction account—state appropriation, and (~~(\$1,535,000)~~) \$490,000 of the multimodal transportation account—state appropriation are provided solely for the Mukilteo ferry terminal (~~(project)~~) 952515P). To the greatest extent practicable, the department shall seek additional federal funding for this project. Within the multimodal transportation account—state appropriation amount provided in this subsection, the department shall lease to the city in which the project is located a portion of the department's property associated with this project to provide safe, temporary public access from the easterly terminus of First Street to the vicinity of Front Street. The department shall provide the lease at no cost in recognition of the impacts of this project to the city and require appropriate liability and maintenance coverage in the terms of the lease. Public access must be installed and removed at no cost to the state prior to construction of the multimodal terminal project.

(5) (~~(\$4,935,000)~~) \$7,000,000 of the Puget Sound capital construction account—state appropriation is provided solely for emergency capital repair

costs (~~((project))~~ 999910K). Funds may only be spent after approval by the office of financial management.

(6) Consistent with RCW 47.60.662, which requires the Washington state ferry system to collaborate with passenger-only ferry and transit providers to provide service at existing terminals, the department shall ensure that multimodal access, including for passenger-only ferries and transit service providers, is not precluded by any future modifications at the terminal.

(7) (~~(\$4,026,000))~~ \$4,788,000 of the Puget Sound capital construction account—state appropriation is provided solely for the reservation and communications system projects (L200041 & L200042).

(8) \$4,210,000 of the Puget Sound capital construction account—state appropriation is provided solely for the capital program share of \$7,259,000 in lease payments for the ferry division's headquarters building. Consistent with the 2012 facilities oversight plan, the department shall strive to consolidate office space in downtown Seattle by the end of 2015. The department shall consider renewing the lease for the ferry division's current headquarters building only if the lease rate is reduced at least (~~(fifty))~~ forty percent and analysis shows that this is the least cost and risk option for the department. Consolidation with other divisions or state agencies, or a reduction in leased space, must also be considered as part of any headquarters lease renewal analysis.

(9) (~~(\$23,737,000 of the total appropriation is for preservation work on the Hyak super class vessel (project 944431D), including installation of a power management system and more efficient propulsion systems, that in combination are anticipated to save up to twenty percent in fuel and reduce maintenance costs. Upon completion of this project, the department shall provide a report to the transportation committees of the legislature on the fuel and maintenance savings achieved for this vessel and the potential to save additional funds through other vessel conversions.~~

~~(10))~~ The transportation 2003 account (nickel account)—state appropriation includes up to \$50,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.861.

~~((11))~~ (10) \$50,000,000 of the transportation 2003 account (nickel account)—state appropriation is provided solely for the acquisition of one 144-car vessel (~~((project))~~ L1000063). If chapter . . . (Engrossed Second Substitute House Bill No. 1129), Laws of 2014 (ferry vessel replacement) is not enacted by June 30, 2014, the amount provided in the subsection lapses.

~~((12))~~ (11) If the department pursues a conversion of the existing diesel powered Issaquah class fleet to a different fuel source or engine technology or the construction of a new vessel powered by a fuel source or engine technology that is not diesel powered, the department must use a design-build procurement process.

~~((13))~~ (12) \$350,000 of the Puget Sound capital construction account—state appropriation is provided solely for the issuance of a request for proposals to convert the Issaquah class vessels to use liquefied natural gas and to provide a one-time stipend to the entity awarded the conversion contract. Of the amounts provided in this subsection:

(a) \$100,000 of the Puget Sound capital construction account—state appropriation is for the department to issue a request for proposals for a design-build contract consistent with RCW 47.20.780 to convert six Issaquah class

vessels to be powered by liquefied natural gas. Consistent with RCW 47.56.030(2)(c), the legislature finds that the performance needs of the department in converting to liquefied natural gas are for engines with the lowest life-cycle costs, and the department must weigh this criteria as a priority when evaluating the proposals. To encourage cost saving ideas, the department shall limit prescribing design elements in the proposal to those approved or required by the United States coast guard in the liquefied natural gas waterways suitability assessment or those otherwise essential to provide clear direction to bidders. The request for proposals must include a process for evaluating proposals that may include alternative financing arrangements that are in compliance with state private financing law. When evaluating the financial merits of any liquefied natural gas conversion request for proposals, the department shall give consideration to the inability of the state to fund a liquefied natural gas conversion using currently available public resources. The department shall issue the request for proposals within forty-five days of rejecting the liquefied natural gas request for proposals issued under section 308(11), chapter 86, Laws of 2012 or receiving final findings from the United States coast guard on the liquefied natural gas waterways suitability assessment, whichever is later.

(b) \$250,000 of the Puget Sound capital construction account—state appropriation is for the entity awarded the contract pursuant to this subsection.

Sec. 1009. 2014 c 222 s 310 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—CAPITAL

Essential Rail Assistance Account—State

Appropriation . . . . .	..((\$1,020,000))
	<u>\$899,000</u>

Transportation Infrastructure Account—State

Appropriation . . . . .	..((\$9,190,000))
	<u>\$7,369,000</u>

Multimodal Transportation Account—State

Appropriation . . . . .	..((\$44,085,000))
	<u>\$40,395,000</u>

Multimodal Transportation Account—Federal

Appropriation . . . . .	..((\$430,193,000))
	<u>\$388,418,000</u>

Multimodal Transportation Account—Private/Local

Appropriation	\$409,000
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TOTAL APPROPRIATION((\$484,897,000))
	<u>\$437,490,000</u>

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

(1)(a) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document ((~~2014-2~~) 2015-2 ALL PROJECTS as developed ((~~March 10, 2014~~) May 26, 2015, Program - Rail Program (Y).

(b) Within the amounts provided in this section, \$7,669,000 of the transportation infrastructure account—state appropriation is for low-interest loans through the freight rail investment bank program identified in the LEAP transportation document referenced in (a) of this subsection. The department shall issue freight rail investment bank program loans with a repayment period of no more than ten years, and only so much interest as is necessary to recoup the department's costs to administer the loans.

(c) Within the amounts provided in this section, \$2,440,000 of the multimodal transportation account—state appropriation, \$1,250,000 of the transportation infrastructure account—state appropriation, and \$311,000 of the essential rail assistance account—state appropriation are for statewide emergent freight rail assistance projects identified in the LEAP transportation document referenced in (a) of this subsection.

(2) Unsuccessful 2012 freight rail assistance program grant applicants may be awarded freight rail investment bank program loans, if eligible. The department shall issue a call for projects for the freight rail investment bank loan program and the freight rail assistance grant program, and shall evaluate the applications in a manner consistent with past practices as specified in section 309, chapter 367, Laws of 2011. By November 1, 2014, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

(3) (~~(\$424,400,000)~~) \$382,625,000 of the multimodal transportation account—federal appropriation and (~~(\$10,658,000)~~) \$10,084,000 of the multimodal transportation account—state appropriation are provided solely for expenditures related to passenger high-speed rail grants. Except for the Mount Vernon project (P01101A), the multimodal transportation account—state appropriation funds reflect one and one-half percent of the total project funds, and are provided solely for expenditures that are not eligible for federal reimbursement. (~~(Of the amounts provided in this subsection, \$31,500,000 of the multimodal transportation account—federal appropriation is provided solely for the purchase of two new train sets for the state supported intercity passenger rail service. The department must apply for any federal waivers required to purchase the new train sets, as allowable under existing competitive bidding practices, and seek federal funds in addition to those available from the high speed rail grants.)~~)

(4) As allowable under federal rail authority rules and existing competitive bidding practices, when purchasing new train sets, the department shall give preference to bidders that propose train sets with characteristics and maintenance requirements most similar to those currently owned by the department.

(5) The department shall provide quarterly reports to the office of financial management and the transportation committees of the legislature regarding applications that the department submits for federal funds and the status of such applications.

(6)(a) \$709,000 of the essential rail assistance account—state appropriation, \$241,000 of the transportation infrastructure account—state appropriation, and \$1,893,000 of the multimodal transportation account—state appropriation are provided solely for the purpose of rehabilitation and maintenance of the Palouse river and Coulee City railroad line (project F01111B). The department shall

complete an evaluation and assessment of future maintenance needs on the line to ensure appropriate levels of state investment.

(b) Expenditures from the essential rail assistance account—state appropriation in this section may not exceed the combined total of:

(i) Revenues deposited into the essential rail assistance account from leases and sale of property pursuant to RCW 47.76.290; and

(ii) Revenues transferred from the miscellaneous program account to the essential rail assistance account, pursuant to RCW 47.76.360, for the purpose of sustaining the grain train program by maintaining the Palouse river and Coulee City railroad line.

((7))

Sec. 1010. 2014 c 222 s 311 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—CAPITAL

((Highway Infrastructure Account—State Appropriation	.....	\$207,000)
Highway Infrastructure Account—Federal Appropriation	.....	(\$1,602,000)
		<u>\$1,400,000</u>
Transportation Partnership Account—State Appropriation	.....	(\$9,236,000)
		<u>\$7,912,000</u>
Highway Safety Account—State Appropriation	.....	(\$8,915,000)
		<u>\$5,700,000</u>
Motor Vehicle Account—State Appropriation	.....	\$2,201,000
Motor Vehicle Account—Federal Appropriation	.....	(\$34,581,000)
		<u>\$23,141,000</u>
Multimodal Transportation Account—State Appropriation	.....	(\$18,740,000)
		<u>\$11,419,000</u>
TOTAL APPROPRIATION	.....	(\$75,482,000)
		<u>\$51,773,000</u>

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

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document ((2014-2)) 2015-2 ALL PROJECTS as developed ((March 10, 2014)) May 26, 2015, Program - Local Programs Program (Z).

(2) With each department budget submittal, the department shall provide an update on the status of the repayment of the twenty million dollars of unobligated federal funds authority advanced by the department in September 2010 to the city of Tacoma for the Murray Morgan/11th Street bridge project. The department may negotiate with the city of Tacoma an agreement for repayment of the funds over a period of up to twenty-five years at terms agreed upon by the department and the city. The funds previously advanced by the department to the city are not to be considered a general obligation of the city but instead an obligation payable from identified revenues set aside for the repayment of the funds.

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

(a) (~~(\$16,543,000)~~) \$9,600,000 of the multimodal transportation account—state appropriation, (~~(\$8,724,000)~~) \$7,400,000 of the transportation partnership account—state appropriation, and (~~(\$62,000)~~) \$60,000 of the motor vehicle account—federal appropriation are provided solely for pedestrian and bicycle safety program projects.

(b) (~~(\$11,700,000)~~) \$6,200,000 of the motor vehicle account—federal appropriation and (~~(\$6,750,000)~~) \$3,900,000 of the highway safety account—state appropriation are provided solely for newly selected safe routes to school projects, and (~~(\$6,503,000)~~) \$5,500,000 of the motor vehicle account—federal appropriation and (~~(\$2,165,000)~~) \$1,800,000 of the highway safety account—state appropriation are reappropriated for safe routes to school projects selected in the previous biennia. The amount provided for new projects is consistent with federal funding levels from the 2011-2013 omnibus transportation appropriations act and the intent of the fee increases in chapter 74, Laws of 2012 and chapter 80, Laws of 2012.

(4) The department may enter into contracts and make expenditures for projects on behalf of and selected by the freight mobility strategic investment board from the amounts provided in section 301 (~~(of this act)~~), chapter 306, Laws of 2013 and section 301, chapter 222, Laws of 2014.

(5) The department shall submit a report to the transportation committees of the legislature by December 1, 2013, and December 1, 2014, on the status of projects funded as part of the pedestrian safety/safe routes to school grant program (OLP600P). The report must include, but is not limited to, a list of projects selected and a brief description of each project's status.

(6) \$50,000 of the motor vehicle account—state appropriation is provided solely for the installation of a guard rail on Deer Harbor Road in San Juan county (L2220054).

TRANSFERS AND DISTRIBUTIONS

Sec. 1101. 2014 c 222 s 401 (uncodified) is amended to read as follows:

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

Transportation Partnership Account—State	
Appropriation	\$3,099,000
Motor Vehicle Account—State Appropriation	((\$187,000))
	<u>\$229,000</u>
State Route Number 520 Corridor Account—State	
Appropriation	((\$3,866,000))
	<u>\$866,000</u>
Highway Bond Retirement Account—State	
Appropriation	((\$1,086,801,000))

	<u>\$1,068,801,000</u>
Ferry Bond Retirement Account—State Appropriation	((\$31,824,000))
	<u>\$30,824,000</u>
Transportation Improvement Board Bond Retirement Account—State Appropriation	\$16,268,000
Nondebt-Limit Reimbursable Bond Retirement Account— State Appropriation	\$25,825,000
Toll Facility Bond Retirement Account—State Appropriation	\$52,050,000
Transportation 2003 Account (Nickel Account)—State Appropriation	\$682,000
TOTAL APPROPRIATION	((\$1,220,602,000))
	<u>\$1,198,644,000</u>

Sec. 1102. 2014 c 222 s 402 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

Transportation Partnership Account—State Appropriation	\$588,000
Motor Vehicle Account—State Appropriation	((\$32,000))
	<u>\$43,000</u>
State Route Number 520 Corridor Account—State Appropriation	\$531,000
Transportation 2003 Account (Nickel Account)—State Appropriation	\$123,000
TOTAL APPROPRIATION	((\$1,274,000))
	<u>\$1,285,000</u>

Sec. 1103. 2014 c 222 s 404 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account—State Appropriation: For motor vehicle fuel tax distributions to cities and counties	((\$478,598,000))
	<u>\$480,931,994</u>

Sec. 1104. 2014 c 222 s 405 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—TRANSFERS

Motor Vehicle Account—State Appropriation: For motor vehicle fuel tax refunds and statutory transfers	((\$1,242,728,000))
	<u>\$1,248,403,000</u>

Sec. 1105. 2014 c 222 s 406 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—TRANSFERS

Motor Vehicle Account—State Appropriation: For motor vehicle fuel tax refunds and transfers	((\$138,494,000))
	<u>\$137,953,014</u>

Sec. 1106. 2014 c 222 s 407 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—ADMINISTRATIVE TRANSFERS

- (1) Recreational Vehicle Account—State
 Appropriation: For transfer to the Motor Vehicle
 Account—State \$1,300,000
- (2) Multimodal Transportation Account—State
 Appropriation: For transfer to the Puget Sound
 Ferry Operations Account—State \$13,000,000
- (3) Rural Mobility Grant Program Account—State
 Appropriation: For transfer to the Multimodal
 Transportation Account—State \$3,000,000
- ~~(4) ((Motor Vehicle Account—State~~
~~Appropriation: For transfer to the Special Category C~~
~~Account—State \$1,500,000~~
- ~~(5) Capital Vessel Replacement Account—State~~
~~Appropriation: For transfer to the Transportation~~
~~2003 Account (Nickel Account) State \$7,571,000~~
- ~~(6))~~ Multimodal Transportation Account—State
 Appropriation: For transfer to the Public
 Transportation Grant Program Account—State \$26,000,000
- ~~((7))~~ (5) Motor Vehicle Account—State Appropriation:
 For transfer to the Puget Sound Ferry Operations
 Account—State \$28,000,000
- ~~((8))~~ (6) Motor Vehicle Account—State Appropriation:
 For transfer to the Puget Sound Capital Construction
 Account—State \$28,000,000
- ~~((9))~~ (7) State Route Number 520 Civil Penalties
 Account—State Appropriation: For transfer to the
 State Route Number 520 Corridor Account—State \$886,000
- ~~((10))~~ (8) Multimodal Transportation Account—State
 Appropriation: For transfer to the Highway Safety
 Account—State \$14,000,000
- ~~((11))~~ (9) Motor Vehicle Account—State Appropriation:
 For transfer to the State Patrol Highway
 Account—State \$27,000,000
- ~~((12))~~ (10) Highway Safety Account—State
 Appropriation: For transfer to the Puget Sound Ferry
 Operations Account—State \$42,000,000
- ~~((13))~~ (11) Advanced Environmental Mitigation Revolving
 Account—State Appropriation: For transfer to the
 Motor Vehicle Account—State \$2,000,000
- ~~((14))~~ (12) Advanced Right-of-Way Revolving Fund—State
 Appropriation: For transfer to the Motor Vehicle
 Account—State \$6,000,000
- ~~((15))~~ (13) Tacoma Narrows Toll Bridge Account—State
 Appropriation: For transfer to the Motor Vehicle
 Account—State \$950,000
- ~~((16))~~ (14) License Plate Technology Account—State
 Appropriation: For transfer to the Highway Safety

Account—State	\$3,000,000
(((17))) (15) Motor Vehicle Account—State Appropriation:	
For transfer to the Transportation Equipment	
Fund—State	\$3,915,000
(((18)(a) Capital Vessel Replacement Account—State	
Appropriation: For transfer to Transportation 2003	
Account (Nickel Account) State	\$11,128,000
(b) If chapter . . . (Engrossed Second Substitute House Bill No. 1129), Laws of	
2014 (ferry vessel replacement) is not enacted by June 30, 2014, the amount	
transferred in (a) of this subsection lapses.	
(+19))) (16) Motor Vehicle Account—State	
Appropriation: For transfer to the Interstate 405	
Express Toll Lanes Operations Account—State	\$2,019,000

IMPLEMENTING PROVISIONS

Sec. 1201. 2014 c 222 s 601 (uncodified) is amended to read as follows:

FUND TRANSFERS

(1) The transportation 2003 projects or improvements and the 2005 transportation partnership projects or improvements are listed in the LEAP list titled ((2014-1)) 2015-1 as developed ((March 10, 2014)) May 26, 2015, which consists of a list of specific projects by fund source and amount over a ten-year period. Current fiscal biennium funding for each project is a line-item appropriation, while the outer year funding allocations represent a ten-year plan. The department is expected to use the flexibility provided in this section to assist in the delivery and completion of all transportation partnership account and transportation 2003 account (nickel account) projects on the LEAP transportation documents referenced in this act. However, this section does not apply to the I-5/Columbia River Crossing project (400506A). For the 2011-2013 and 2013-2015 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects funded with transportation 2003 account (nickel account) appropriations, or transportation partnership account appropriations, in order to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

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

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

(c) Each transfer between projects may only occur if the director of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature. Until the legislature reconvenes to consider the 2014 supplemental omnibus transportation appropriations act, any unexpended 2011-2013 appropriation balance as approved by the office of financial management, in consultation with the legislative staff of the house of representatives and senate transportation committees, may be considered when transferring funds between projects;

(d) Transfers from a project may be made if the funds appropriated to the project are in excess of the amount needed to complete the project;

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

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

(g) Transfers between projects may be made, without the approval of the director of the office of financial management, by the department of transportation until the transfer amount by project exceeds two hundred fifty thousand dollars, or ten percent of the total project, whichever is less. These transfers must be reported quarterly to the director of financial management and the chairs of the house of representatives and senate transportation committees.

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

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

(4) The office of financial management shall document approved transfers and schedule changes in the transportation executive information system, compare changes to the legislative baseline funding and schedules identified by project identification number identified in the LEAP transportation documents referenced in this act, and transmit revised project lists to chairs of the transportation committees of the legislature on a quarterly basis.

NEW SECTION. Sec. 1202. A new section is added to 2013 c 306 (uncodified) to read as follows:

The appropriations to the department of transportation in chapter 222, Laws of 2014 and this act must be expended for the programs and in the amounts specified in this act. However, after May 1, 2015, unless specifically prohibited, the department may transfer state appropriations for the 2013-2015 fiscal biennium among operating programs after approval by the director of the office of financial management. However, the department shall not transfer state moneys that are provided solely for a specific purpose. The department shall not transfer funds, and the director of the office of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds and not federal funds. The director of the office of financial management shall notify the appropriate transportation committees of the legislature no fewer than ten business days before approving any allotment modifications or transfers under this section. The written notification must include a narrative explanation and justification of the changes, along with expenditures and allotments by program and appropriation, both before and after any allotment modifications or transfers.

MISCELLANEOUS

NEW SECTION. Sec. 1301. 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. 1302. 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 May 27, 2015.

Passed by the Senate May 28, 2015.

Approved by the Governor June 11, 2015, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State June 12, 2015.

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

"I am returning herewith, without my approval as to Sections 102, page 2, lines 29-36, and page 3, lines 1-8; 103(1); 213(3); 920(4); 1005, page 113, lines 26-27 and 1005(2); 1005(4); 1005(5); and 1005(6), Second Engrossed Substitute House Bill No. 1299 entitled:

"AN ACT Relating to transportation funding and appropriations."

Section 102, page 2, lines 29-36, and page 3, lines 1-8, Utilities and Transportation Commission, State Agency Workgroup

This proviso directs the Utilities and Transportation Commission (UTC) to coordinate a state agency workgroup to identify issues related to consolidating rail employee safety and regulatory functions within the UTC. Funding for this activity would come from the Grade Crossing Protective Account, which is used to install and maintain equipment to make grade crossings safer. Because this is not the appropriate fund source for coordinating a workgroup on the topic identified in the proviso, I have directed the UTC to conduct this activity with other existing resources. For this reason, I have vetoed Section 102, page 2, lines 29-36, and page 3, lines 1-8.

Section 103(1), page 3, Office of Financial Management, Study of Fund Exchange

This proviso directs the Office of Financial Management to perform a study on the feasibility of establishing a fund exchange where federal funds are exchanged for state funds to reduce the administrative burden on local governments which use federal funds. The funding is likely insufficient to provide a thorough report on the issues. In addition, the Joint Transportation Committee is a more appropriate entity to perform this analysis, not the Office of Financial Management. Therefore, I have vetoed Section 103(1).

Section 213(3), pages 18-19, Department of Transportation, Beaver Dams

This proviso creates a complicated process for managing beaver dams on private property that pose a threat to Washington state highways, individual personal property, and public safety. The proposed process would require the Washington State Department of Transportation to notify private property owners of impending threats from beaver dam failure, to produce wildlife management plans, and to provide potential remedies that could create liability for the state. In addition, no funding is provided for this effort. For these reasons, I have vetoed Section 213(3).

Section 920(4), pages 105-106, Department of Transportation, Public Transportation

This proviso prevents the Washington State Department of Transportation from continuing work on regional mobility grant projects previously authorized by the Legislature. The department needs authority to work on these projects to support local efforts to improve transit mobility and reduce congestion on our roadways. The majority of the projects are not yet complete, and expenditures have already been made. Therefore, I have vetoed Section 920(4).

Section 1005, page 113, lines 26-27, and Section 1005(2), page 114, Department of Transportation, Highway Improvements Program

Due to changes in the timing of expenditures for highway improvement projects and insufficient flexibility in the capital program budgets, this reduced appropriation would result in an estimated shortfall of \$3.5 million in expenditure authority in the Highway Improvements program. The Washington State Department of Transportation must have ongoing expenditure authority to keep projects within the total spending plan. Therefore, I have vetoed Section 1005, page 113, lines 26-27, and Section 1005(2).

Section 1005(4), 1005(5) and 1005(6), page 115, Department of Transportation, Proceeds from Bond Sales

Section 605 provides the flexibility needed to retroactively assign bond proceeds received in the 2015-17 biennium to associated costs that occurred in the 2013-15 biennium. The reduced appropriations in Section 1005(4), Section 1005(5), and Section 1005(6) negate the flexibility provided in Section 605. For this reason, I have vetoed Section 1005(4), Section 1005(5), and Section 1005(6).

For these reasons I have vetoed Sections 102, page 2, lines 29-36, and page 3, lines 1-8; 103(1); 213 (3); 920(4); 1005, page 113, lines 26-27 and 1005(2); 1005(4); 1005(5); and 1005(6) of Second Engrossed Substitute House Bill No. 1299.

With the exception of Sections 102, page 2, lines 29-36, and page 3, lines 1-8; 103(1); 213(3); 920(4); 1005, page 113, lines 26-27 and 1005(2); 1005(4); 1005(5); and 1005(6), Second Engrossed Substitute House Bill No. 1299 is approved."

WASHINGTON LAWS

2015 SECOND SPECIAL SESSION

CHAPTER 1

[Substitute House Bill 1157]

QUICK TITLE SERVICE FEES

AN ACT Relating to the apportionment of quick title service fees collected by appointed subagents; amending RCW 46.68.025 and 88.02.640; and providing an effective date.

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

Sec. 1. RCW 46.68.025 and 2011 c 326 s 3 are each amended to read as follows:

(1) The quick title service fee imposed under RCW 46.17.160 must be distributed as follows:

(a) If the fee is paid to the director, the fee must be deposited to the motor vehicle fund established under RCW 46.68.070.

(b) If the fee is paid to the participating county auditor or other agent (~~or subagent~~) appointed by the director, twenty-five dollars must be deposited to the motor vehicle fund established under RCW 46.68.070. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(c) If the fee is paid to a subagent appointed by the director, twenty-five dollars must be deposited to the motor vehicle fund established under RCW 46.68.070. The remaining twenty-five dollars must be distributed as follows: Twelve dollars and fifty cents must be retained by the county treasurer in the same manner as other fees collected by the county auditor and twelve dollars and fifty cents must be retained by the subagent.

(2) For the purposes of this section, "quick title" has the same meaning as in RCW 46.12.555.

Sec. 2. RCW 88.02.640 and 2013 c 291 s 1 are each amended to read as follows:

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge the following vessel fees and surcharge:

FEE	AMOUNT	AUTHORITY	DISTRIBUTION
(a) Dealer temporary permit	\$5.00	RCW 88.02.800(2)	General fund
(b) Derelict vessel and invasive species removal	Subsection (3) of this section	Subsection (3) of this section	Subsection (3) of this section
(c) Derelict vessel removal surcharge	\$1.00	Subsection (4) of this section	Subsection (4) of this section

(d) Duplicate certificate of title	\$1.25	RCW 88.02.530(1)(c)	General fund
(e) Duplicate registration	\$1.25	RCW 88.02.590(1)(c)	General fund
(f) Filing	RCW 46.17.005	RCW 88.02.560(2)	RCW 46.68.400
(g) License plate technology	RCW 46.17.015	RCW 88.02.560(2)	RCW 46.68.370
(h) License service	RCW 46.17.025	RCW 88.02.560(2)	RCW 46.68.220
(i) Nonresident vessel permit	\$25.00	RCW 88.02.620(3)	Subsection (5) of this section
(j) Quick title service	\$50.00	RCW 88.02.540(3)	Subsection (7) of this section
(k) Registration	\$10.50	RCW 88.02.560(2)	RCW 88.02.650
(l) Replacement decal	\$1.25	RCW 88.02.595(1)(c)	General fund
(m) Title application	\$5.00	RCW 88.02.515	General fund
(n) Transfer	\$1.00	RCW 88.02.560(7)	General fund
(o) Vessel visitor permit	\$30.00	RCW 88.02.610(3)	Subsection (6) of this section

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3) The derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(a) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879;

(b) One dollar must be deposited into the aquatic algae control account created in RCW 43.21A.667;

(c) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400; and

(d) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(4) In addition to other fees required in this section, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge is to address the significant backlog of derelict vessels accumulated in Washington waters that pose a threat to the health and safety of the people and to the environment and must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5) The twenty-five dollar nonresident vessel permit fee must be paid by the vessel owner to the department for the cost of providing the identification

document by the department. Any moneys remaining from the fee after the payment of costs must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650.

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

(7)(a) The fifty dollar quick title service fee must be distributed as follows:

(i) If the fee is paid to the director, the fee must be deposited to the general fund.

(ii) If the fee is paid to the participating county auditor or other agent (~~or subagent~~) appointed by the director, twenty-five dollars must be deposited to the general fund. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(iii) If the fee is paid to a subagent appointed by the director, twenty-five dollars must be deposited to the general fund. The remaining twenty-five dollars must be distributed as follows: Twelve dollars and fifty cents must be retained by the county treasurer in the same manner as other fees collected by the county auditor and twelve dollars and fifty cents must be retained by the subagent.

(b) For the purposes of this subsection, "quick title" has the same meaning as in RCW 88.02.540.

NEW SECTION. Sec. 3. This act takes effect January 1, 2016.

Passed by the House June 11, 2015.

Passed by the Senate June 27, 2015.

Approved by the Governor June 30, 2015.

Filed in Office of Secretary of State June 30, 2015.

CHAPTER 2

[Substitute House Bill 1274]

NURSING HOME RATES--VALUE-BASED SYSTEM

AN ACT Relating to implementing a value-based system for nursing home rates; amending RCW 74.46.431, 74.46.501, and 74.42.360; adding new sections to chapter 74.46 RCW; creating a new section; repealing RCW 74.46.431, 74.46.435, 74.46.506, 74.46.508, 74.46.511, 74.46.515, and 74.46.521; providing effective dates; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 74.46.431 and 2013 2nd sp.s. c 3 s 1 are each amended to read as follows:

(1) Nursing facility medicaid payment rate allocations shall be facility-specific and shall have six components: Direct care, therapy care, support services, operations, property, and financing allowance. 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 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. Component rate allocations in operations, property, and financing allowance for essential community providers shall be based upon a minimum facility occupancy of eighty-seven 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-two 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-five percent of licensed beds, regardless of how many beds are set up or in use. For all facilities, 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. Effective July 1, 2009, the direct care component rate allocation shall be rebased, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2015))~~ 2017. Beginning July 1, ~~((2015))~~ 2017, the direct care component rate allocation shall be rebased biennially during every odd-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year ~~((2013))~~ 2015 is used for July 1, ~~((2015))~~ 2017, through June 30, ~~((2017))~~ 2019, and so forth.

(b) 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. Effective July 1, 2009, the therapy care component rate allocation shall be cost rebased, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2015))~~ 2017. Beginning July 1, ~~((2015))~~ 2017, the therapy care component rate allocation shall be rebased biennially during every odd-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year ~~((2013))~~ 2015 is used for July 1, ~~((2015))~~ 2017, through June 30, ~~((2017))~~ 2019, 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. Effective July 1, 2009, the support services component rate allocation shall be cost rebased, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2015))~~ 2017. Beginning July 1, ~~((2015))~~ 2017, the support services component rate allocation shall be rebased biennially during every odd-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year ~~((2013))~~ 2015 is used for July 1, ~~((2015))~~ 2017, through June 30, ~~((2017))~~ 2019, 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. Effective July 1, 2009, the operations component rate allocation shall be cost rebased, so that adjusted cost

report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2015))~~ 2017. Beginning July 1, ~~((2015))~~ 2017, the operations care component rate allocation shall be rebased biennially during every odd-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year ~~((2013))~~ 2015 is used for July 1, ~~((2015))~~ 2017, through June 30, ~~((2017))~~ 2019, 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.

(8) Total payment rates under the nursing facility medicaid payment system shall not exceed facility rates charged to the general public for comparable services.

(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: 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 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.

(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.

(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. 2. RCW 74.46.501 and 2013 2nd sp.s. c 3 s 2 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) 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 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) 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. To allow for the transition to minimum data set 3.0 and implementation of resource utilization group IV for July 1, ~~((2013))~~ 2015, through June 30, ~~((2015))~~ 2017, the department shall calculate rates using the medicaid average case mix scores effective for January 1, ~~((2013))~~ 2015, rates adjusted under RCW 74.46.485(1)(a), and the scores shall be increased each six months during the transition period by one-half of one percent. The July 1, ~~((2015))~~ 2017, direct care cost per case mix unit shall be calculated by utilizing ~~((2013))~~ 2015 direct care costs, patient days, and ~~((2013))~~ 2015 facility average case mix indexes based on the minimum data set 3.0 resource utilization group IV grouper 57. Otherwise, a facility's medicaid average case mix index shall be used to update a nursing facility's direct care component rate 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 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 semiannually shall be from the calendar six-month period commencing nine months prior to the effective date of the semiannual rate. For example, July 1, 2010, through December 31, 2010, direct care component rates shall utilize case mix averages from the October 1, 2009, through March 31, 2010, calendar quarters, and so forth.

NEW SECTION. Sec. 3. A new section is added to chapter 74.46 RCW to read as follows:

(1) For fiscal year 2016 and subject to appropriation, the department shall do a comparative analysis of the facility-based payment rates calculated on July 1, 2015, using the payment methodology defined in this chapter, to the facility-based rates in effect June 30, 2010. If the facility-based payment rate calculated on July 1, 2015, is smaller than the facility-based payment rate on June 30, 2010, the difference must be provided to the individual nursing facilities as an add-on per medicaid resident day.

(2) During the comparative analysis performed in subsection (1) of this section, for fiscal year 2016, if it is found that the direct care rate for any facility calculated under this chapter is greater than the direct care rate in effect on June 30, 2010, then the facility must receive a ten percent direct care rate add-on to compensate that facility for taking on more acute clients than it has in the past.

(3) The rate add-ons provided in subsection (2) of this section are subject to the reconciliation and settlement process provided in RCW 74.46.022(6).

NEW SECTION. Sec. 4. A new section is added to chapter 74.46 RCW to read as follows:

(1) The legislature adopts a new system for establishing nursing home payment rates beginning July 1, 2016. Any payments to nursing homes for services provided after June 30, 2016, must be based on the new system. The new system must be designed in such a manner as to decrease administrative complexity associated with the payment methodology, reward nursing homes providing care for high acuity residents, incentivize quality care for residents of nursing homes, and establish minimum staffing standards for direct care.

(2) The new system must be based primarily on industry-wide costs, and have three main components: Direct care, indirect care, and capital.

(3) The direct care component must include the direct care and therapy care components of the previous system, along with food, laundry, and dietary services. Direct care must be paid at a fixed rate, based on one hundred percent of facility-wide case mix neutral median costs. Direct care must be performance-adjusted for acuity every six months, using case mix principles. Direct care must be regionally adjusted for nonmetropolitan and metropolitan statistical areas. There is no minimum occupancy for direct care.

(4) The indirect care component must include the elements of administrative expenses, maintenance costs, and housekeeping services from the previous system. A minimum occupancy assumption of ninety percent must be applied to indirect care. Indirect care must be paid at a fixed rate, based on ninety percent of facility-wide median costs. Indirect care must be regionally adjusted for nonmetropolitan and metropolitan statistical areas.

(5) The capital component must use a fair market rental system to set a price per bed. The capital component must be adjusted for the age of the facility, and must use a minimum occupancy assumption of ninety percent.

(6) A quality incentive must be offered as a rate enhancement beginning July 1, 2016. An enhancement no larger than five percent of the statewide average daily rate must be paid to facilities that meet or exceed the standard established for the quality incentive. All providers must have the opportunity to earn the full quality incentive. The department must recommend four to six measures to become the standard for the quality incentive, and must describe a system for rewarding incremental improvement related to these four to six measures, within the report to the legislature described in section 6 of this act. Infection rates, pressure ulcers, staffing turnover, fall prevention, utilization of antipsychotic medication, and hospital readmission rates are examples of measures that may be established for the quality incentive.

(7) Reimbursement of the safety net assessment imposed by chapter 74.48 RCW and paid in relation to medicaid residents must be continued.

(8) The direct care and indirect care components must be rebased in even-numbered years, beginning with rates paid on July 1, 2016. Rates paid on July 1, 2016, must be based on the 2014 calendar year cost report. On a percentage basis, after rebasing, the department must confirm that the statewide average daily rate has increased at least as much as the average rate of inflation, as determined by the skilled nursing facility market basket index published by the centers for medicare and medicaid services, or a comparable index. If after rebasing, the percentage increase to the statewide average daily rate is less than the average rate of inflation for the same time period, the department is authorized to increase rates by the difference between the percentage increase after rebasing and the average rate of inflation.

(9) The direct care component provided in subsection (3) of this section is subject to the reconciliation and settlement process provided in RCW 74.46.022(6). Beginning July 1, 2016, pursuant to rules established by the department, funds that are received through the reconciliation and settlement process provided in RCW 74.46.022(6) must be used for technical assistance, specialized training, or an increase to the quality enhancement established in subsection (6) of this section. The legislature intends to review the utility of maintaining the reconciliation and settlement process under a price-based payment methodology, and may discontinue the reconciliation and settlement process after the 2017-2019 fiscal biennium.

(10) Compared to the rate in effect June 30, 2016, including all cost components and rate add-ons, no facility may receive a rate reduction of more than one percent on July 1, 2016, more than two percent on July 1, 2017, or more than five percent on July 1, 2018. To ensure that the appropriation for nursing homes remains cost neutral, the department is authorized to cap the rate increase for facilities in fiscal years 2017, 2018, and 2019.

NEW SECTION, Sec. 5. A new section is added to chapter 74.46 RCW to read as follows:

The department shall adopt rules as are necessary and reasonable to effectuate and maintain the new system for establishing nursing home payment rates described in section 4 of this act and the minimum staffing standards described in RCW 74.42.360. The rules must be consistent with the principles

described in section 4 of this act and RCW 74.42.360. In adopting such rules, the department shall solicit the opinions of nursing facility providers, nursing facility provider associations, nursing facility employees, and nursing facility consumer groups.

NEW SECTION. Sec. 6. (1) The department of social and health services shall facilitate a work group process to propose modifications to the price-based nursing facility payment methodology outlined in section 4 of this act and the minimum staffing standards outlined in RCW 74.42.360. The department shall keep a public record of comments submitted by stakeholders throughout the work group process. The work group shall consist of nursing facility provider associations, a representative from a not-for-profit hospital system that operates three or more nursing facilities and is not a member of either statewide nursing facility provider association, nursing facility employees, consumer groups, worker representatives, and the office of financial management. The department shall make its final recommendations to the appropriate legislative committees by January 2, 2016, and shall include a dissent report if agreement is not achieved among stakeholders and the department. The department shall include at least one meeting dedicated to review and analysis of other states with price-based methodologies and must include information on how well each state is achieving quality care outcomes and any specific quality metrics targeted for enhanced payments in comparison to the price-based rates paid to that state's nursing facilities.

(2) This section expires August 1, 2016.

Sec. 7. RCW 74.42.360 and 1979 ex.s. c 211 s 36 are each amended to read as follows:

(1) The facility shall have staff on duty twenty-four hours daily sufficient in number and qualifications to carry out the provisions of RCW 74.42.010 through 74.42.570 and the policies, responsibilities, and programs of the facility.

(2) The department shall institute minimum staffing standards for nursing homes. Beginning July 1, 2016, facilities must provide a minimum of 3.4 hours per resident day of direct care. Direct care includes registered nurses, licensed practical nurses, and certified nursing assistants. The minimum staffing standard includes the time when such staff are providing hands-on care related to activities of daily living and nursing-related tasks, as well as care planning. The legislature intends to increase the minimum staffing standard to 4.1 hours per resident day of direct care, but the effective date of a standard higher than 3.4 hours per resident day of direct care will be identified if and only if funding is provided explicitly for an increase of the minimum staffing standard for direct care.

(a) The department shall establish in rule a system of compliance of minimum direct care staffing standards by January 1, 2016. Oversight must be done at least quarterly using nursing home facility census and payroll data.

(b) The department shall establish in rule by January 1, 2016, a system of financial penalties for facilities out of compliance with minimum staffing standards. Beginning July 1, 2016, pursuant to rules established by the department, funds that are received from financial penalties must be used for technical assistance, specialized training, or an increase to the quality enhancement established in section 4 of this act.

(3) Large nonessential community providers must have a registered nurse on duty directly supervising resident care twenty-four hours per day, seven days per week.

(4) Essential community providers and small nonessential community providers must have a registered nurse on duty directly supervising resident care a minimum of sixteen hours per day, seven days per week, and a registered nurse or a licensed practical nurse on duty directly supervising resident care the remaining eight hours per day, seven days per week.

NEW SECTION. Sec. 8. A new section is added to chapter 74.46 RCW to read as follows:

A separate nursing facility quality enhancement account is created in the custody of the state treasurer. Beginning July 1, 2015, all receipts from the reconciliation and settlement process provided in RCW 74.46.022(6), as described within section 4 of this act, must be deposited into the account. Beginning July 1, 2016, all receipts from the system of financial penalties for facilities out of compliance with minimum staffing standards, as described within RCW 74.42.360, must be deposited into the account. Only the secretary, or the secretary's designee, may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. The department shall use the special account only for technical assistance for nursing facilities, specialized training for nursing facilities, or an increase to the quality enhancement established in section 4 of this act.

NEW SECTION. Sec. 9. The following acts or parts of acts, as now existing or hereafter amended are each repealed, effective June 30, 2016:

1RCW 74.46.431 (Nursing facility medicaid payment rate allocations—Components—Minimum wage—Rules) and 2015 1st sp.s. c . . . s 1 (section 1 of this act), 2013 2nd sp.s. c 3 s 1, 2011 1st sp.s. c 7 s 1, 2010 1st sp.s. c 34 s 3, 2009 c 570 s 1, 2008 c 263 s 2, 2007 c 508 s 2, 2006 c 258 s 2, 2005 c 518 s 944, 2004 c 276 s 913, 2001 1st sp.s. c 8 s 5, 1999 c 353 s 4, & 1998 c 322 s 19;

2RCW 74.46.435 (Property component rate allocation) and 2011 1st sp.s. c 7 s 2, 2010 1st sp.s. c 34 s 5, 2001 1st sp.s. c 8 s 7, 1999 c 353 s 10, & 1998 c 322 s 29;

3RCW 74.46.506 (Direct care component rate allocations—Determination—Quarterly updates—Fines) and 2011 1st sp.s. c 7 s 7, 2010 1st sp.s. c 34 s 12, 2007 c 508 s 3, 2006 c 258 s 6, & 2001 1st sp.s. c 8 s 10;

4RCW 74.46.508 (Direct care component rate allocation—Increases—Rules) and 2010 1st sp.s. c 34 s 13, 2003 1st sp.s. c 6 s 1, & 1999 c 181 s 2;

5RCW 74.46.511 (Therapy care component rate allocation—Determination) and 2010 1st sp.s. c 34 s 14, 2008 c 263 s 3, 2007 c 508 s 4, & 2001 1st sp.s. c 8 s 11;

6RCW 74.46.515 (Support services component rate allocation—Determination—Emergency situations) and 2011 1st sp.s. c 7 s 8, 2010 1st sp.s. c 34 s 15, 2008 c 263 s 4, 2001 1st sp.s. c 8 s 12, 1999 c 353 s 7, & 1998 c 322 s 27; and

7RCW 74.46.521 (Operations component rate allocation—Determination) and 2011 1st sp.s. c 7 s 9, 2010 1st sp.s. c 34 s 16, 2007 c 508 s 5, 2006 c 258 s 7, 2001 1st sp.s. c 8 s 13, 1999 c 353 s 8, & 1998 c 322 s 28.

NEW SECTION. **Sec. 10.** 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, 2015.

Passed by the House June 24, 2015.

Passed by the Senate June 26, 2015.

Approved by the Governor June 30, 2015.

Filed in Office of Secretary of State June 30, 2015.

CHAPTER 3

[Second Engrossed Second Substitute House Bill 1276]

IMPAIRED DRIVING

AN ACT Relating to impaired driving; amending RCW 10.21.055, 46.20.385, 46.20.740, 46.20.308, 46.20.750, 46.25.120, 46.61.5055, 46.01.260, 43.43.395, 46.52.130, 9.94A.589, 46.61.503, 46.20.755, 36.28A.320, 36.28A.330, 36.28A.370, 36.28A.390, 10.21.015, 46.61.506, 46.61.508, 46.61.504, and 18.360.030; adding a new section to chapter 46.61 RCW; adding a new section to chapter 18.130 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** The legislature finds that impaired driving continues to be a significant cause of motor vehicle crashes and that additional measures need to be taken to identify people who are driving under the influence, provide appropriate sanctions, and ensure compliance with court-ordered restrictions. The legislature intends to increase the availability of forensic phlebotomists so that offenders can be appropriately and efficiently identified. The legislature further intends to require consecutive sentencing in certain cases to increase punishment and supervision of offenders. The legislature intends to clarify ignition interlock processes and requirements to ensure that those offenders ordered to have ignition interlock devices do not drive vehicles without the required devices.

Conditions of release—Requirements—Ignition interlock device—24/7 sobriety program monitoring

Sec. 2. RCW 10.21.055 and 2013 2nd sp.s. c 35 s 1 are each amended to read as follows:

(1)(a) When any person charged with (~~or arrested for~~) a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior offense as defined in RCW 46.61.5055 and the current offense involves alcohol, is released from custody (~~before~~) at arraignment or trial on bail or personal recognizance, the court authorizing the release shall require, as a condition of release(-) that person (~~to~~ ~~(a)~~) comply with one of the following four requirements:

(i) Have a functioning ignition interlock device installed on all motor vehicles operated by the person, with proof of installation filed with the court by the person or the certified interlock provider within five business days of the date of release from custody or as soon thereafter as determined by the court based on availability within the jurisdiction; or (~~(b)~~)

(ii) Comply with 24/7 sobriety program monitoring, as defined in RCW 36.28A.330; or (~~both~~)

(iii) Have an ignition interlock device on all motor vehicles operated by the person pursuant to (a)(i) of this subsection and submit to 24/7 sobriety program monitoring pursuant to (a)(ii) of this subsection, if available, or alcohol monitoring, at the expense of the person, as provided in RCW 46.61.5055(5) (b) and (c); or

(iv) Have an ignition interlock device on all motor vehicles operated by the person and that such person agrees not to operate any motor vehicle without an ignition interlock device as required by the court. Under this subsection (1)(a)(iv), the person must file a sworn statement with the court upon release at arraignment that states the person will not operate any motor vehicle without an ignition interlock device while the ignition interlock restriction is imposed by the court. Such person must also submit to 24/7 sobriety program monitoring pursuant to (a)(ii) of this subsection, if available, or alcohol monitoring, at the expense of the person, as provided in RCW 46.61.5055(5) (b) and (c).

(b) The court shall immediately notify the department of licensing when an ignition interlock restriction is imposed: (i) As a condition of release pursuant to (a) of this subsection; or (ii) in instances where a person is charged with, or convicted of, a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, and the offense involves alcohol. If the court imposes an ignition interlock restriction, the department of licensing shall attach or imprint a notation on the driving record of any person restricted under this section stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device.

(2)(a) Upon acquittal or dismissal of all pending or current charges relating to a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, or equivalent local ordinance, the court shall authorize removal of the ignition interlock device and lift any requirement to comply with electronic alcohol/drug monitoring imposed under subsection (1) of this section. Nothing in this section limits the authority of the court or department under RCW 46.20.720.

(b) If the court authorizes removal of an ignition interlock device imposed under (a) of this subsection the court shall immediately notify the department of licensing regarding the lifting of the ignition interlock restriction and the department of licensing shall release any attachment, imprint, or notation on such person's driving record relating to the ignition interlock requirement imposed under this section.

(3) When an ignition interlock restriction imposed as a condition of release is canceled, the court shall provide a defendant with a written order confirming release of the restriction. The written order shall serve as proof of release of the restriction until which time the department of licensing updates the driving record.

Ignition interlock driver's license—Application—Eligibility—Cancellation—Costs—Rules

Sec. 3. RCW 46.20.385 and 2013 2nd sp.s. c 35 s 20 are each amended to read as follows:

(1)(a) (~~Beginning January 1, 2009,~~) Any person licensed under this chapter or who has a valid driver's license from another state, who is convicted of: (i) A violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance, or (ii) a violation of RCW 46.61.520(1)(a) or an equivalent local or out-of-state statute or ordinance, or (iii) a conviction for a

violation of RCW 46.61.520(1) (b) or (c) if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW 46.61.522(1)(b) or an equivalent local or out-of-state statute or ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522(1)(b) committed while under the influence of intoxicating liquor or any drug, or (vi) who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, or who is otherwise permitted under subsection (8) of this section, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. ~~((A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.))~~

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. Subject to the provisions of RCW 46.20.720(3)(b)(ii), the installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 ~~((and)), 46.61.5055, 10.05.140, 46.61.500(3), and 46.61.5249(4).~~ Beginning with incidents occurring on or after September 1, 2011, when calculating the period of time for the restriction under RCW 46.20.720 (2) or (3), the department must also give the person a day-for-day credit for the time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates. For the purposes of this subsection

(1)(c)(iii), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3).

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if the applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. If at any time before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation as provided under RCW 46.20.245. A person whose ignition interlock driver's license has been canceled under this section may reapply for a new ignition interlock driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty dollar fee to the department.

(b) The department shall deposit the proceeds of the twenty dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate.

(8)(a) Any person licensed under this chapter who is convicted of a violation of RCW 46.61.500 when the charge was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, may submit

to the department an application for an ignition interlock driver's license under this section.

(b) A person who does not have any driver's license under this chapter, but who would otherwise be eligible under this section to apply for an ignition interlock license, may submit to the department an application for an ignition interlock license. The department may require the person to take any driver's licensing examination under this chapter and may require the person to also apply and qualify for a temporary restricted driver's license under RCW 46.20.391.

Notation on driving record—Verification of interlock—Penalty

Sec. 4. RCW 46.20.740 and 2010 c 269 s 8 are each amended to read as follows:

(1) The department shall attach or imprint a notation on the driving record of any person restricted under RCW 46.20.720, 46.61.5055, or 10.05.140 stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device. The department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an ignition interlock required under this section is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(2) It is a gross misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not so equipped, unless the notation resulted from a restriction imposed as a condition of release and the restriction has been released by the court prior to driving.

(3) Any sentence imposed for a violation of subsection (2) of this section shall be served consecutively with any sentence imposed under RCW 46.20.750, 46.61.502, 46.61.504, or 46.61.5055.

Implied consent—Test refusal—Procedures

Sec. 5. RCW 46.20.308 and 2013 2nd sp.s. c 35 s 36 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath for the purpose of determining the alcohol concentration (~~and THC concentration, or presence of any drug~~) in his or her breath if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503. ~~((Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood.))~~

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have

been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol (~~(or THC)~~) in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. Prior to administering a breath test pursuant to this section, the officer shall inform the person of his or her right under this section to refuse the breath test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if:

(i) The driver is age twenty-one or over and the test indicates either that the alcohol concentration of the driver's breath is 0.08 or more (~~(or that the THC concentration of the driver's blood is 5.00 or more)~~); or

(ii) The driver is under age twenty-one and the test indicates either that the alcohol concentration of the driver's breath is 0.02 or more (~~(or that the THC concentration of the driver's blood is above 0.00)~~); or

(iii) The driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

(d) If the driver's license, permit, or privilege to drive is suspended, revoked, or denied the driver may be eligible to immediately apply for an ignition interlock driver's license.

~~(3) (Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of felony driving under the influence of intoxicating liquor or drugs under RCW 46.61.502(6), felony physical control of a motor vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6), vehicular homicide as provided in RCW 46.61.520, or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested pursuant to a search warrant, a valid waiver of the warrant requirement, or when exigent circumstances exist.~~

~~(4)) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested (~~(refuses)~~) exercises the right, granted herein, by refusing upon the request of a law enforcement officer to submit to a test or tests of his or her breath, no test shall be given except as otherwise authorized by (~~(a search warrant)) law~~.~~

(4) Nothing in subsection (1), (2), or (3) of this section precludes a law enforcement officer from obtaining a person's blood to test for alcohol, marijuana, or any drug, pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other

authority of law. Any blood drawn for the purpose of determining the person's alcohol, marijuana levels, or any drug, is drawn pursuant to this section when the officer has reasonable grounds to believe that the person is in physical control or driving a vehicle under the influence or in violation of RCW 46.61.503.

(5) If, after arrest and after ~~((the))~~ any other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more, or the THC concentration of the person's blood is 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood is 0.02 or more, or the THC concentration of the person's blood is above 0.00, if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by subsection (6) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (7) of this section ~~((and that the person waives the right to a hearing if he or she receives an ignition interlock driver's license))~~;

(c) Serve notice in writing that the license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (7) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(d) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by RCW 9A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol or THC concentration in violation of RCW 46.61.503;

(ii) That after receipt of ~~((the))~~ any applicable warnings required by subsection (2) of this section the person refused to submit to a test of his or her breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(6) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (5)(d) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, or denial to be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (7) of this section, whichever occurs first.

(7) A person receiving notification under subsection (5)(b) of this section may, within twenty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of three hundred seventy-five dollars as part of the request. If the request is mailed, it must be postmarked within twenty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required three hundred seventy-five dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required three hundred seventy-five dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license (~~marked~~) under subsection (5) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered (~~without express consent~~) pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person was age twenty-one or over at the time of the arrest, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was

above 0.00, if the person was under the age of twenty-one at the time of the arrest. Where a person is found to be in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was under the age of twenty-one at the time of the arrest and was in physical control of a motor vehicle while having alcohol in his or her system in a concentration of 0.02 or THC concentration above 0.00, the person may petition the hearing officer to apply the affirmative defense found in RCW 46.61.504(3) and 46.61.503(2). The driver has the burden to prove the affirmative defense by a preponderance of the evidence. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(8) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b)

that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

(9)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (6) of this section, other than as a result of a breath test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (6) of this section, or notifies the department of licensing of the intent to seek such a deferred prosecution, then the license suspension or revocation shall be stayed pending entry of the deferred prosecution. The stay shall not be longer than one hundred fifty days after the date charges are filed, or two years after the date of the arrest, whichever time period is shorter. If the court stays the suspension, revocation, or denial, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license under subsection (5) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary (~~marked~~) license or extension of a temporary license issued under this subsection.

(b) A suspension, revocation, or denial imposed under this section, other than as a result of a breath test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or denial do not apply to the suspension, revocation, denial, or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

(10) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

Circumventing ignition interlock—Penalty

Sec. 6. RCW 46.20.750 and 2005 c 200 s 2 are each amended to read as follows:

(1) A person who is restricted to the use of a vehicle equipped with an ignition interlock device (~~((and who tampers with the device or directs, authorizes, or requests another to tamper with the device, in order to circumvent the device by modifying, detaching, disconnecting, or otherwise disabling it,))~~) is guilty of a gross misdemeanor if the restricted driver:

(a) Tamper with the device by modifying, detaching, disconnecting, or otherwise disabling it to allow the restricted driver to operate the vehicle:

(b) Uses or requests another person to use a filter or other device to circumvent the ignition interlock or to start or operate the vehicle to allow the restricted driver to operate the vehicle;

(c) Has, directs, authorizes, or requests another person to tamper with the device by modifying, detaching, disconnecting, or otherwise disabling it to allow the restricted driver to operate the vehicle; or

(d) Has, allows, directs, authorizes, or requests another person to blow or otherwise exhale into the device in order to circumvent the device to allow the restricted driver to operate the vehicle.

(2) A person who knowingly assists another person who is restricted to the use of a vehicle equipped with an ignition interlock device to circumvent the device or to start and operate that vehicle (~~((in violation of a court order))~~) is guilty of a gross misdemeanor. The provisions of this subsection do not apply if the starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle and the person subject to the court order does not operate the vehicle.

(3) Any sentence imposed for a violation of subsection (1) of this section shall be served consecutively with any sentence imposed under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055, 46.61.520(1)(a), or 46.61.522(1)(b).

Commercial vehicles—Test for alcohol or drugs—Disqualification for refusal of test or positive test—Procedures

Sec. 7. RCW 46.25.120 and 2013 2nd sp.s. c 35 s 12 are each amended to read as follows:

(1) A person who drives a commercial motor vehicle within this state is deemed to have given consent, subject to RCW 46.61.506, to take a test or tests of that person's (~~((blood or))~~) breath for the purpose of determining that person's alcohol concentration (~~((or the presence of other drugs))~~).

(2) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has (~~((probable cause))~~) reasonable grounds to believe that driver was driving a commercial motor vehicle while having alcohol in his or her system or while under the influence of any drug.

(3) The law enforcement officer requesting the test under subsection (1) of this section shall warn the person requested to submit to the test that a refusal to submit will result in that person being disqualified from operating a commercial motor vehicle under RCW 46.25.090.

(4) A law enforcement officer who at the time of stopping or detaining a commercial motor vehicle driver has reasonable grounds to believe that driver was driving a commercial motor vehicle while having alcohol, marijuana, or any

drug in his or her system or while under the influence of alcohol, marijuana, or any drug may obtain a blood test pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law.

~~(5)~~ If the person refuses testing, or ~~((submits to))~~ a test is administered that discloses an alcohol concentration of 0.04 or more or any measurable amount of THC concentration, the law enforcement officer shall submit a sworn report to the department certifying that the test was requested pursuant to subsection (1) of this section or a blood test was administered pursuant to subsection (4) of this section and that the person refused to submit to testing, or ~~((submitted to))~~ a test was administered that disclosed an alcohol concentration of 0.04 or more or any measurable amount of THC concentration.

~~((5))~~ ~~(6)~~ Upon receipt of the sworn report of a law enforcement officer under subsection ~~((4))~~ (5) of this section, the department shall disqualify the driver from driving a commercial motor vehicle under RCW 46.25.090, subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle within this state while having alcohol in the person's system or while under the influence of any drug, whether the person refused to submit to the test or tests upon request of the officer after having been informed that the refusal would result in the disqualification of the person from driving a commercial motor vehicle, if applicable, and, if the test was administered, whether the results indicated an alcohol concentration of 0.04 percent or more or any measurable amount of THC concentration. The department shall order that the disqualification of the person either be rescinded or sustained. Any decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during the pendency of the hearing and appeal. If the disqualification of the person is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the county of arrest to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

~~((6))~~ (7) If a motor carrier or employer who is required to have a testing program under 49 C.F.R. 382 knows that a commercial driver in his or her employ has refused to submit to testing under this section and has not been disqualified from driving a commercial motor vehicle, the employer may notify law enforcement or his or her medical review officer or breath alcohol technician that the driver has refused to submit to the required testing.

~~((7))~~ (8) The hearing provisions of this section do not apply to those persons disqualified from driving a commercial motor vehicle under RCW 46.25.090(7).

Open container law for marijuana

NEW SECTION. Sec. 8. A new section is added to chapter 46.61 RCW to read as follows:

(1)(a) It is a traffic infraction:

(i) For the registered owner of a motor vehicle, or the driver if the registered owner is not then present, or passengers in the vehicle, to keep marijuana in a motor vehicle when the vehicle is upon a highway, unless it is (A) in the trunk of the vehicle, (B) in some other area of the vehicle not normally occupied or directly accessible by the driver or passengers if the vehicle does not have a trunk, or (C) in a package, container, or receptacle that has not been opened or the seal broken or contents partially removed. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers;

(ii) To consume marijuana in any manner including, but not limited to, smoking or ingesting in a motor vehicle when the vehicle is upon the public highway; or

(iii) To place marijuana in a container specifically labeled by the manufacturer of the container as containing a nonmarijuana substance and to then violate (a)(i) of this subsection.

(b) There is a rebuttable presumption that it is a traffic infraction if the original container of marijuana is incorrectly labeled and there is a subsequent violation of (a)(i) of this subsection.

(2) As used in this section, "marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

Alcohol and drug violators—Penalty schedule

Sec. 9. RCW 46.61.5055 and 2015 c 265 s 33 are each amended to read as follows:

(1) **No prior offenses in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than three hundred sixty-four days. Twenty-four consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the

penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device or other separate alcohol monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than three hundred sixty-four days. Forty-eight consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer or other separate alcohol monitoring device, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(2) **One prior offense in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than three hundred sixty-four days and sixty days of electronic home monitoring. In lieu of the mandatory minimum term of sixty days electronic home monitoring, the court may order at least an additional four days in jail or, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and the court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device,

and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(i) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than three hundred sixty-four days and ninety days of electronic home monitoring. In lieu of the mandatory minimum term of ninety days electronic home monitoring, the court may order at least an additional six days in jail or, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and the court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(3) **Two or three prior offenses in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred twenty days of electronic home monitoring. In

lieu of the mandatory minimum term of one hundred twenty days of electronic home monitoring, the court may order at least an additional eight days in jail. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred fifty days of electronic home monitoring, the court may order at least an additional ten days in jail. The offender shall pay for the cost of the electronic monitoring. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(4) **Four or more prior offenses in ten years.** A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if:

- (a) The person has four or more prior offenses within ten years; or
- (b) The person has ever previously been convicted of:

(i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

(5) Monitoring.

(a) **Ignition interlock device.** The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) **Monitoring devices.** If the court orders that a person refrain from consuming any alcohol, the court may order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring, unless the court specifies that the cost of monitoring will be paid with funds that are available from an alternative source identified by the court. The county or municipality where the penalty is being imposed shall determine the cost.

(c) **Ignition interlock device substituted for 24/7 sobriety program monitoring.** In any county or city where a 24/7 sobriety program is available and verified by the Washington association of sheriffs and police chiefs, the court shall:

(i) Order the person to install and use a functioning ignition interlock or other device in lieu of such period of 24/7 sobriety program monitoring;

(ii) Order the person to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section; or

(iii) Order the person to install and use a functioning ignition interlock or other device in addition to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section.

(6) **Penalty for having a minor passenger in vehicle.** If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) Order the use of an ignition interlock or other device for an additional six months;

(b) In any case in which the person has no prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional twenty-four hours of imprisonment and a fine of not less than one thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

(c) In any case in which the person has one prior offense within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional five days of imprisonment and a fine of not less than two thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

(d) In any case in which the person has two or three prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional ten days of imprisonment and a fine of not less than three thousand dollars and not more than ten thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(7) **Other items courts must consider while setting penalties.** In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property;

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers;

(c) Whether the driver was driving in the opposite direction of the normal flow of traffic on a multiple lane highway, as defined by RCW 46.04.350, with a posted speed limit of forty-five miles per hour or greater; and

(d) Whether a child passenger under the age of sixteen was an occupant in the driver's vehicle.

(8) **Treatment and information school.** An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) **Driver's license privileges of the defendant.** The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) **Penalty for alcohol concentration less than 0.15.** If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) **Penalty for alcohol concentration at least 0.15.** If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) **Penalty for refusing to take test.** If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

Upon its own motion or upon motion by a person, a court may find, on the record, that notice to the department under RCW 46.20.270 has been delayed for three years or more as a result of a clerical or court error. If so, the court may order that the person's license, permit, or nonresident privilege shall not be revoked, suspended, or denied for that offense. The court shall send notice of the finding and order to the department and to the person. Upon receipt of the notice from the court, the department shall not revoke, suspend, or deny the license, permit, or nonresident privilege of the person for that offense.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) **Probation of driving privilege.** After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11) **Conditions of probation.** (a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes up to three hundred sixty-four days in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive (~~(and)~~); (ii) not driving a motor vehicle within this state without proof of liability insurance or other financial responsibility for the future pursuant to RCW 46.30.020; (~~((+))~~) (iii) not driving or being in physical control of a motor vehicle within this state while having an alcohol concentration of 0.08 or more or a THC concentration of 5.00 nanograms per milliliter of whole blood or higher, within two hours after driving; (~~(and ((+)))~~) (iv) not refusing to submit to a test of his or her breath or blood to determine alcohol or drug concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drug; and (v) not driving a motor vehicle in this state without a functioning ignition interlock device as required by the department under RCW 46.20.720(3). The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), (~~((+))~~) (iii), (iv), or (v) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to

drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) **Waiver of electronic home monitoring.** A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system. However, if a court determines that an alcohol monitoring device utilizing wireless reporting technology is reasonably available, the court may require the person to obtain such a device during the period of required electronic home monitoring;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, use of an ignition interlock device, the 24/7 sobriety program monitoring, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-four days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-four days.

(13) **Extraordinary medical placement.** An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(~~(3)~~) (1)(c).

(14) **Definitions.** For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.25.110 or an equivalent local ordinance;

(iv) A conviction for a violation of RCW 79A.60.040(2) or an equivalent local ordinance;

(v) A conviction for a violation of RCW 79A.60.040(1) or an equivalent local ordinance committed in a reckless manner if the conviction is the result of a charge that was originally filed as a violation of RCW 79A.60.040(2) or an equivalent local ordinance;

(vi) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance committed while under the influence of intoxicating liquor or any drug;

~~((vii))~~ (vii) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance committed in a careless or reckless manner if the conviction is the result of a charge that was originally filed as a violation of RCW 47.68.220 or an equivalent local ordinance while under the influence of intoxicating liquor or any drug;

(viii) A conviction for a violation of RCW 46.09.470(2) or an equivalent local ordinance;

~~((viii))~~ (ix) A conviction for a violation of RCW 46.10.490(2) or an equivalent local ordinance;

~~((viii))~~ (x) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.520 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

~~((ix))~~ (xi) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.522 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

~~((ix))~~ (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

~~((ix))~~ (xiii) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), ~~((viii))~~ (x), ~~((ix))~~ (xi), or ~~((ix))~~ (xii) of this subsection if committed in this state;

~~((ix))~~ (xiv) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance;

~~((ix))~~ (xv) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

~~((ix))~~ (xvi) A deferred prosecution granted in another state for a violation of driving or having physical control of a vehicle while under the influence of intoxicating liquor or any drug if the out-of-state deferred prosecution is equivalent to the deferred prosecution under chapter 10.05 RCW, including a requirement that the defendant participate in a chemical dependency treatment program; or

~~((ix))~~ (xvii) A deferred sentence imposed in a prosecution for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local ordinance, if the charge under which the deferred sentence was imposed was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or a violation of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be

treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Treatment" means alcohol or drug treatment approved by the department of social and health services;

(c) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(d) "Within ten years" means that the arrest for a prior offense occurred within ten years before or after the arrest for the current offense.

(15) All fines imposed by this section apply to adult offenders only.

Sec. 10. RCW 46.01.260 and 2010 c 161 s 208 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the director may destroy applications for vehicle registrations, copies of vehicle registrations issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, and records or supporting papers on file in the department that have been microfilmed or photographed or are more than five years old. The director may destroy applications for vehicle registrations that are renewal applications when the computer record of the applications has been updated.

(2)(a) The director shall not destroy records of convictions or adjudications of RCW 46.61.502, ~~46.61.503~~, 46.61.504, 46.61.520, and 46.61.522, or records of deferred prosecutions granted under RCW 10.05.120 and shall maintain such records permanently on file.

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

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

Ignition interlock devices—Standards—Compliance

Sec. 11. RCW 43.43.395 and 2013 2nd sp.s. c 35 s 9 are each amended to read as follows:

(1) The state patrol shall by rule provide standards for the certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, as defined under RCW 46.04.215, and equipment as outlined under this section, and may inspect the records and equipment of manufacturers and vendors during regular business hours for compliance with statutes and rules and may suspend or revoke certification for any noncompliance.

(2)(a) When a certified service provider or individual installer of ignition interlock devices is found to be out of compliance, the installation privileges of that certified service provider or individual installer may be suspended or revoked until the certified service provider or individual installer comes into compliance. During any suspension or revocation period, the certified service provider or individual installer is responsible for notifying affected customers of any changes in their service agreement.

(b) A certified service provider or individual installer whose certification is suspended or revoked for noncompliance has a right to an administrative hearing

under chapter 34.05 RCW to contest the suspension or revocation, or both. For the administrative hearing, the procedure and rules of evidence are as specified in chapter 34.05 RCW, except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the receipt of the notice of suspension or revocation.

(3)(a) An ignition interlock device must employ:

(i) Fuel cell technology. For the purposes of this subsection, "fuel cell technology" consists of the following electrochemical method: An electrolyte designed to oxidize the alcohol and release electrons to be collected by an active electrode; a current flow is generated within the electrode proportional to the amount of alcohol oxidized on the fuel cell surface; and the electrical current is measured and reported as breath alcohol concentration. Fuel cell technology is highly specific for alcohols((-

~~(b) When reasonably available in the area, as determined by the state patrol, an ignition interlock device must employ);~~

(ii) Technology capable of taking a photo identification of the user giving the breath sample and recording on the photo the time the breath sample was given; and

(iii) Technology capable of providing the global positioning coordinates at the time of each test sequence. Such coordinates must be displayed within the data log that is downloaded by the manufacturer and must be made available to the state patrol to be used for circumvention and tampering investigations.

~~((e))~~ (b) To be certified, an ignition interlock device must:

(i) Meet or exceed the minimum test standards according to rules adopted by the state patrol. Only a notarized statement from a laboratory that is accredited and certified ((by)) under the current edition of ISO (the international organization of standardization) 17025 standard for testing and calibration laboratories and is capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards. The notarized statement must include the name and signature of the person in charge of the tests under the certification statement. The state patrol must adopt by rule the required language of the certification statement that must, at a minimum, outline that the testing meets or exceeds all specifications listed in the federal register adopted in rule by the state patrol; and

(ii) Be maintained in accordance with the rules and standards adopted by the state patrol.

Abstract of driving record—Access—Fee—Violations

Sec. 12. RCW 46.52.130 and 2015 c 265 s 4 are each amended to read as follows:

Upon a proper request, the department may furnish an abstract of a person's driving record as permitted under this section.

(1) **Contents of abstract of driving record.** An abstract of a person's driving record, whenever possible, must include:

(a) An enumeration of motor vehicle accidents in which the person was driving, including:

(i) The total number of vehicles involved;

(ii) Whether the vehicles were legally parked or moving;

(iii) Whether the vehicles were occupied at the time of the accident; and

- (iv) Whether the accident resulted in a fatality;
- (b) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;
- (c) The status of the person's driving privilege in this state; and
- (d) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(2) **Release of abstract of driving record.** An abstract of a person's driving record may be furnished to the following persons or entities:

(a) **Named individuals.** (i) An abstract of the full driving record maintained by the department may be furnished to the individual named in the abstract.

(ii) Nothing in this section prevents a court from providing a copy of the driver's abstract to the individual named in the abstract or that named individual's attorney, provided that the named individual has a pending or open infraction or criminal case in that court. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for the production and copying of the abstract for the individual.

(b) **Employers or prospective employers.** (i)(A) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual for purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer.

(B) Release of an abstract of the driving record of an employee or prospective employee requires a statement signed by: (I) The employee or prospective employee that authorizes the release of the record; and (II) the employer attesting that the information is necessary for employment purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement. The statement must also note that any information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee may not be used by the employer or prospective employer, or an agent authorized to obtain this information on their behalf, unless required by federal regulation or law. The employer or prospective employer must afford the employee or prospective employee an opportunity to demonstrate that an adjudication contained in the abstract is subject to a court order sealing the juvenile record.

(C) Upon request of the person named in the abstract provided under this subsection, and upon that same person furnishing copies of court records ruling that the person was not at fault in a motor vehicle accident, the department must indicate on any abstract provided under this subsection that the person was not at fault in the motor vehicle accident.

(D) No employer or prospective employer, nor any agent of an employer or prospective employer, may use information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee for any purpose unless required by federal

regulation or law. The employee or prospective employee must furnish a copy of the court order sealing the juvenile record to the employer or prospective employer, or the agent of the employer or prospective employer, as may be required to ensure the application of this subsection.

(ii) In addition to the methods described in (b)(i) of this subsection, the director may enter into a contractual agreement with an employer or its agent for the purpose of reviewing the driving records of existing employees for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(c) **Volunteer organizations.** (i) An abstract of the full driving record maintained by the department may be furnished to a volunteer organization or an agent for a volunteer organization for which the named individual has submitted an application for a position that would require driving by the individual at the direction of the volunteer organization.

(ii) Release of an abstract of the driving record of a prospective volunteer requires a statement signed by: (A) The prospective volunteer that authorizes the release of the record; and (B) the volunteer organization attesting that the information is necessary for purposes related to driving by the individual at the direction of the volunteer organization. If the volunteer organization authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(d) **Transit authorities.** An abstract of the full driving record maintained by the department may be furnished to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(e) **Insurance carriers.** (i) An abstract of the driving record maintained by the department covering the period of not more than the last three years may be furnished to an insurance company or its agent:

(A) That has motor vehicle or life insurance in effect covering the named individual;

(B) To which the named individual has applied; or

(C) That has insurance in effect covering the employer or a prospective employer of the named individual.

(ii) The abstract provided to the insurance company must:

(A) Not contain any information related to actions committed by law enforcement officers or firefighters, as both terms are defined in RCW 41.26.030, or by Washington state patrol officers, while driving official vehicles in the performance of their occupational duty. This does not apply to any situation where the vehicle was used in the commission of a misdemeanor or felony;

(B) Include convictions under RCW 46.61.5249 and 46.61.525, except that the abstract must report the convictions only as negligent driving without reference to whether they are for first or second degree negligent driving; and

(C) Exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract must show the deferred prosecution as well as the removal.

(iii) Any policy of insurance may not be canceled, nonrenewed, denied, or have the rate increased on the basis of information regarding an accident included in the abstract of a driving record, unless the policyholder was determined to be at fault.

(iv) Any insurance company or its agent, for underwriting purposes relating to the operation of commercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment. Any insurance company or its agent, for underwriting purposes relating to the operation of noncommercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(v) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(f) **Alcohol/drug assessment or treatment agencies.** An abstract of the driving record maintained by the department covering the period of not more than the last five years may be furnished to an alcohol/drug assessment or treatment agency approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment, for purposes of assisting employees in making a determination as to what level of treatment, if any, is appropriate, except that the abstract must:

(i) Also include records of alcohol-related offenses, as defined in RCW 46.01.260(2), covering a period of not more than the last ten years; and

(ii) Indicate whether an alcohol-related offense was originally charged as a violation of either RCW 46.61.502 or 46.61.504.

(g) **Attorneys—City attorneys (~~and~~), county prosecuting attorneys, and named individual's attorney of record.** An abstract of the full driving record maintained by the department, including whether a recorded violation is an alcohol-related offense, as defined in RCW 46.01.260(2), that was originally charged as a violation of either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys (~~or~~), county prosecuting attorneys, or the named individual's attorney of record. City attorneys (~~and~~), county prosecuting attorneys, or the named individual's attorney of record may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(h) **State colleges, universities, or agencies, or units of local government.** An abstract of the full driving record maintained by the department may be furnished to (i) state colleges, universities, or agencies for employment and risk management purposes or (ii) units of local government authorized to self-insure under RCW 48.62.031 for employment and risk management purposes.

(i) **Superintendent of public instruction.** An abstract of the full driving record maintained by the department may be furnished to the superintendent of public instruction for review of public school bus driver records. The

superintendent or superintendent's designee may discuss information on the driving record with an authorized representative of the employing school district for employment and risk management purposes.

(3) **Release to third parties prohibited.** Any person or entity receiving an abstract of a person's driving record under subsection (2)(b) through (i) of this section shall use the abstract exclusively for his, her, or its own purposes or as otherwise expressly permitted under this section, and shall not divulge any information contained in the abstract to a third party.

(4) **Fee.** The director shall collect a thirteen dollar fee for each abstract of a person's driving record furnished by the department. Fifty percent of the fee must be deposited in the highway safety fund, and fifty percent of the fee must be deposited according to RCW 46.68.038.

(5) **Violation.** (a) Any negligent violation of this section is a gross misdemeanor.

(b) Any intentional violation of this section is a class C felony.

(6) Effective July 1, 2019, the contents of a driving abstract pursuant to this section shall not include any information related to sealed juvenile records unless that information is required by federal law or regulation.

Sec. 13. RCW 9.94A.589 and 2002 c 175 s 7 are each amended to read as follows:

(1)(a) Except as provided in (b) (~~(e)~~), (c), or (d) of this subsection, whenever a person is to be sentenced for two or more current offenses, the sentence range for each current offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score: PROVIDED, That if the court enters a finding that some or all of the current offenses encompass the same criminal conduct then those current offenses shall be counted as one crime. Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions of RCW 9.94A.535. "Same criminal conduct," as used in this subsection, means two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. This definition applies in cases involving vehicular assault or vehicular homicide even if the victims occupied the same vehicle.

(b) Whenever a person is convicted of two or more serious violent offenses arising from separate and distinct criminal conduct, the standard sentence range for the offense with the highest seriousness level under RCW 9.94A.515 shall be determined using the offender's prior convictions and other current convictions that are not serious violent offenses in the offender score and the standard sentence range for other serious violent offenses shall be determined by using an offender score of zero. The standard sentence range for any offenses that are not serious violent offenses shall be determined according to (a) of this subsection. All sentences imposed under (~~(b)-(e)~~) this subsection (1)(b) shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.

(c) If an offender is convicted under RCW 9.41.040 for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, the standard sentence range for each of these current offenses shall be determined by using all other current and prior convictions, except other current convictions for the felony crimes listed in

this subsection (1)(c), as if they were prior convictions. The offender shall serve consecutive sentences for each conviction of the felony crimes listed in this subsection (1)(c), and for each firearm unlawfully possessed.

(d) All sentences imposed under RCW 46.61.502(6), 46.61.504(6), or 46.61.5055(4) shall be served consecutively to any sentences imposed under RCW 46.20.740 and 46.20.750.

(2)(a) Except as provided in (b) of this subsection, whenever a person while under sentence for conviction of a felony commits another felony and is sentenced to another term of confinement, the latter term shall not begin until expiration of all prior terms.

(b) Whenever a second or later felony conviction results in community supervision with conditions not currently in effect, under the prior sentence or sentences of community supervision the court may require that the conditions of community supervision contained in the second or later sentence begin during the immediate term of community supervision and continue throughout the duration of the consecutive term of community supervision.

(3) Subject to subsections (1) and (2) of this section, whenever a person is sentenced for a felony that was committed while the person was not under sentence for conviction of a felony, the sentence shall run concurrently with any felony sentence which has been imposed by any court in this or another state or by a federal court subsequent to the commission of the crime being sentenced unless the court pronouncing the current sentence expressly orders that they be served consecutively.

(4) Whenever any person granted probation under RCW 9.95.210 or 9.92.060, or both, has the probationary sentence revoked and a prison sentence imposed, that sentence shall run consecutively to any sentence imposed pursuant to this chapter, unless the court pronouncing the subsequent sentence expressly orders that they be served concurrently.

(5) In the case of consecutive sentences, all periods of total confinement shall be served before any partial confinement, community restitution, community supervision, or any other requirement or conditions of any of the sentences. Except for exceptional sentences as authorized under RCW 9.94A.535, if two or more sentences that run consecutively include periods of community supervision, the aggregate of the community supervision period shall not exceed twenty-four months.

Sec. 14. RCW 46.61.503 and 2013 c 3 s 34 are each amended to read as follows:

(1) Notwithstanding any other provision of this title, a person is guilty of driving or being in physical control of a motor vehicle after consuming alcohol or marijuana if the person operates or is in physical control of a motor vehicle within this state and the person:

(a) Is under the age of twenty-one; and

(b) Has, within two hours after operating or being in physical control of the motor vehicle, either:

(i) An alcohol concentration of at least 0.02 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(ii) A THC concentration above 0.00 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's blood made under RCW 46.61.506.

(2) It is an affirmative defense to a violation of subsection (1) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol or marijuana after the time of driving or being in physical control and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol or THC concentration to be in violation of subsection (1) of this section within two hours after driving or being in physical control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the earlier of: (a) Seven days prior to trial; or (b) the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(3) No person may be convicted under this section for being in physical control of a motor vehicle and it is an affirmative defense to any action pursuant to RCW 46.20.308 to suspend, revoke, or deny the privilege to drive, if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving or being in physical control may be used as evidence that within two hours of the alleged driving or being in physical control, a person had an alcohol or THC concentration in violation of subsection (1) of this section.

~~((4))~~ (5) A violation of this section is a misdemeanor.

Sec. 15. RCW 46.20.755 and 2010 c 269 s 5 are each amended to read as follows:

If a person is required, as part of the person's judgment and sentence or as a condition of release, to install an ignition interlock device on all motor vehicles operated by the person and the person is under the jurisdiction of the municipality or county probation or supervision department, the probation or supervision department must verify the installation of the ignition interlock device or devices. The municipality or county probation or supervision department satisfies the requirement to verify the installation or installations if the municipality or county probation or supervision department receives written verification by one or more companies doing business in the state that it has installed the required device on a vehicle owned or operated by the person. The municipality or county shall have no further obligation to supervise the use of the ignition interlock device or devices by the person and shall not be civilly liable for any injuries or damages caused by the person for failing to use an ignition interlock device or for driving under the influence of intoxicating liquor or any drug or being in actual physical control of a motor vehicle under the influence of intoxicating liquor or any drug.

Sec. 16. RCW 36.28A.320 and 2014 c 221 s 913 are each amended to read as follows:

There is hereby established in the state treasury the 24/7 sobriety account. The account shall be maintained and administered by the criminal justice training commission to reimburse the state for costs associated with establishing and operating the 24/7 sobriety program and the Washington association of sheriffs and police chiefs for ongoing 24/7 sobriety program administration

costs. ~~((The))~~ An appropriation is not required for expenditures and the account is not subject to allotment procedures under chapter 43.88 RCW. Funds in the account may not lapse and must carry forward from biennium to biennium. Interest earned by the account must be retained in the account. The criminal justice training commission may accept for deposit in the account money from donations, gifts, grants, participation fees, and user fees or payments. ~~((Expenditures from the account shall be budgeted through the normal budget process.))~~

Sec. 17. RCW 36.28A.330 and 2013 2nd sp.s. c 35 s 26 are each amended to read as follows:

The definitions in this section apply throughout RCW 36.28A.300 through 36.28A.390 unless the context clearly requires otherwise.

(1) "24/7 ~~((electronic alcohol/drug monitoring))~~ sobriety program" means ~~((the monitoring by the use of any electronic instrument that is capable of determining and monitoring the presence of alcohol or drugs in a person's body and includes any associated equipment a participant needs in order for the device to properly perform. Monitoring may also include mandatory urine analysis tests as ordered by the court))~~ a program in which a participant submits to testing of the participant's blood, breath, urine, or other bodily substance to determine the presence of alcohol or any drug as defined in RCW 46.61.540. Testing must take place at a location or locations designated by the participating agency, or, with the concurrence of the Washington association of sheriffs and police chiefs, by an alternate method.

(2) "Participant" means a person who has ~~((one or more prior convictions for))~~ been charged with or convicted of a violation of RCW 46.61.502 ~~((or)),~~ 46.61.504, or those crimes listed in RCW 46.61.5055(14), in which the use of alcohol or drugs as defined in RCW 46.61.540 was a contributing factor in the commission of the crime and who has been ordered by a court to participate in the 24/7 sobriety program.

(3) "Participating agency" means ~~((a sheriff's office or a designated entity named by a sheriff that has agreed to participate in the 24/7 sobriety program by enrolling participants, administering one or more of the tests, and submitting reports to the Washington association of sheriffs and police chiefs))~~ any entity located in the state of Washington that has a written agreement with the Washington association of sheriffs and police chiefs to participate in the 24/7 sobriety program, and includes, but is not limited to, a sheriff, a police chief, any other local, regional, or state corrections or probation entity, and any other entity designated by a sheriff, police chief, or any other local, regional, or state corrections or probation entity to perform testing in the 24/7 sobriety program.

(4) "Participation agreement" means a written document executed by a participant agreeing to participate in the 24/7 sobriety program in a form approved by the Washington association of sheriffs and police chiefs that contains the following information:

- (a) The type, frequency, and time period of testing;
- (b) The location of testing;
- (c) The fees and payment procedures required for testing; and
- (d) The responsibilities and obligations of the participant under the 24/7 sobriety program.

~~((5)) "24/7 sobriety program" means a twenty-four hour and seven-day-a-week sobriety program in which a participant submits to the testing of the participant's blood, breath, urine, or other bodily substances in order to determine the presence of alcohol, marijuana, or any controlled substance in the participant's body.))~~

Sec. 18. RCW 36.28A.370 and 2013 2nd sp.s. c 35 s 30 are each amended to read as follows:

(1) ~~((Funds in the 24/7 sobriety account shall be distributed as follows:~~

~~(a)) Any daily user fee, installation fee, deactivation fee, enrollment fee, or monitoring fee ((collected under the 24/7 sobriety program shall)) must be collected by the ((sheriff or chief, or an entity designated by the sheriff or chief, and deposited with the county or city treasurer of the proper county or city, the proceeds of which shall be applied)) participating agency and used ~~((only))~~ to defray the ~~((recurring))~~ participating agency's costs of the 24/7 sobriety program ~~((including maintaining equipment, funding support services, and ensuring compliance; and)).~~~~

~~((b)) (2) Any participation fee must be collected ((in the administration of testing under)) by the participating agency and deposited in the state 24/7 sobriety ((program)) account to cover 24/7 sobriety program administration costs incurred by the Washington association of sheriffs and police chiefs ~~((shall be collected by the sheriff or chief, or an entity designated by the sheriff or chief, and deposited in the 24/7 sobriety account)).~~~~

~~((c)) (3) All applicable fees shall be paid by the participant contemporaneously or in advance of the time when the fee becomes due; however, cities and counties may subsidize or pay any applicable fees.~~

~~(4) A city or county may accept donations, gifts, grants, and other assistance to defray the participating agency's costs of the 24/7 sobriety program.~~

Sec. 19. RCW 36.28A.390 and 2013 2nd sp.s. c 35 s 32 are each amended to read as follows:

~~(1) A general authority Washington peace officer, as defined in RCW 10.93.020, who has probable cause to believe that a participant has violated the terms of participation in the 24/7 sobriety program may immediately take the participant into custody and cause him or her to be held until an appearance before a judge on the next judicial day.~~

~~(2) A participant who violates the terms of participation in the 24/7 sobriety program or does not pay the required fees or associated costs pretrial or posttrial shall, at a minimum:~~

~~(a) Receive a written warning notice for a first violation;~~

~~(b) Serve ~~((a term))~~ the lesser of two days imprisonment or if posttrial, the entire remaining sentence imposed by the court for a second violation;~~

~~(c) Serve ~~((a term of up to))~~ the lesser of five days imprisonment or if posttrial, the entire remaining sentence imposed by the court for a third violation;~~

~~(d) Serve ~~((a term of up to))~~ the lesser of ten days imprisonment or if posttrial, the entire remaining sentence imposed by the court for a fourth violation; and~~

(e) For a fifth or subsequent violation pretrial, the participant shall abide by the order of the court. For posttrial participants, the participant shall serve the entire remaining sentence imposed by the court.

~~((2) A sheriff or chief, or the designee of a sheriff or chief, who has probable cause to believe that a participant has violated the terms of participation in the 24/7 sobriety program or has not paid the required fees or associated costs shall immediately take the participant into custody and cause him or her to be held until an appearance before a judge on the next judicial day.))~~ (3) The court may remove a participant from the 24/7 sobriety program at any time for noncompliance with the terms of participation.

Sec. 20. RCW 10.21.015 and 2014 c 24 s 1 are each amended to read as follows:

(1) Under this chapter, "pretrial release program" is any program, either run directly by a county or city, or by a private or public entity through contract with a county or city, into whose custody an offender is released prior to trial and which agrees to supervise the offender. As used in this section, "supervision" includes, but is not limited to, work release, day monitoring, ~~((e))~~ electronic monitoring, or participation in a 24/7 sobriety program.

(2) A pretrial release program may not agree to supervise, or accept into its custody, an offender who is currently awaiting trial for a violent offense or sex offense, as defined in RCW 9.94A.030, who has been convicted of one or more violent offenses or sex offenses in the ten years before the date of the current offense, unless the offender's release before trial was secured with a payment of bail.

NEW SECTION. Sec. 21. A new section is added to chapter 18.130 RCW to read as follows:

It is not professional misconduct for a physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider, to collect a blood sample without a person's consent when the physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider withdrawing blood was directed by a law enforcement officer to do so for the

purpose of a blood test under the provisions of a search warrant or exigent circumstances: PROVIDED, That nothing in this section shall relieve a physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider withdrawing blood from professional discipline arising from the use of improper procedures or from failing to exercise the required standard of care.

Sec. 22. RCW 46.61.506 and 2013 c 3 s 37 are each amended to read as follows:

(1) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the person's alcohol concentration is less than 0.08 or the person's THC concentration is less than 5.00, it is evidence that may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor or any drug.

(2)(a) The breath analysis of the person's alcohol concentration shall be based upon grams of alcohol per two hundred ten liters of breath.

(b) The blood analysis of the person's THC concentration shall be based upon nanograms per milliliter of whole blood.

(c) The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor or any drug.

(3) Analysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. The state toxicologist is directed to approve satisfactory techniques or methods, to supervise the examination of individuals to ascertain their qualifications and competence to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

(4)(a) A breath test performed by any instrument approved by the state toxicologist shall be admissible at trial or in an administrative proceeding if the prosecution or department produces prima facie evidence of the following:

(i) The person who performed the test was authorized to perform such test by the state toxicologist;

(ii) The person being tested did not vomit or have anything to eat, drink, or smoke for at least fifteen minutes prior to administration of the test;

(iii) The person being tested did not have any foreign substances, not to include dental work, fixed or removable, in his or her mouth at the beginning of the fifteen-minute observation period;

(iv) Prior to the start of the test, the temperature of any liquid simulator solution utilized as an external standard, as measured by a thermometer approved of by the state toxicologist was thirty-four degrees centigrade plus or minus 0.3 degrees centigrade;

(v) The internal standard test resulted in the message "verified";

(vi) The two breath samples agree to within plus or minus ten percent of their mean to be determined by the method approved by the state toxicologist;

(vii) The result of the test of the liquid simulator solution external standard or dry gas external standard result did lie between .072 to .088 inclusive; and

(viii) All blank tests gave results of .000.

(b) For purposes of this section, "prima facie evidence" is evidence of sufficient circumstances that would support a logical and reasonable inference of the facts sought to be proved. In assessing whether there is sufficient evidence of the foundational facts, the court or administrative tribunal is to assume the truth of the prosecution's or department's evidence and all reasonable inferences from it in a light most favorable to the prosecution or department.

(c) Nothing in this section shall be deemed to prevent the subject of the test from challenging the reliability or accuracy of the test, the reliability or functioning of the instrument, or any maintenance procedures. Such challenges, however, shall not preclude the admissibility of the test once the prosecution or department has made a prima facie showing of the requirements contained in (a) of this subsection. Instead, such challenges may be considered by the trier of fact in determining what weight to give to the test result.

(5) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its alcoholic or drug content may be performed only by a physician (~~(, a registered nurse, a licensed practical nurse, a nursing assistant as defined in chapter 18.88A RCW, a physician assistant as defined in chapter 18.71A RCW, a first responder as defined in chapter 18.73 RCW, an emergency medical technician as defined in chapter 18.73 RCW, a health care assistant as defined in chapter 18.135 RCW, or any technician trained in withdrawing blood)) licensed under chapter 18.71 RCW; an osteopathic physician licensed under chapter 18.57 RCW; a registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; a physician assistant licensed under chapter 18.71A RCW; an osteopathic physician assistant licensed under chapter 18.57A RCW; an advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, a health care assistant certified under chapter 18.135 RCW; or a medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW. This limitation shall not apply to the taking of breath specimens.~~

(6) The person tested may have a (~~(physician)~~) licensed or certified health care provider listed in subsection (5) of this section, or a qualified technician, chemist, (~~(registered nurse)~~) or other qualified person of his or her own choosing administer one or more tests in addition to any administered at the direction of a law enforcement officer. The test will be admissible if the person establishes the general acceptability of the testing technique or method. The

failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(7) Upon the request of the person who shall submit to a test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or her or his or her attorney.

Sec. 23. RCW 46.61.508 and 1977 ex.s. c 143 s 1 are each amended to read as follows:

No ~~physician~~~~(, registered nurse, qualified technician)~~ licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such ~~((physician, registered nurse, or qualified technician))~~ licensed or certified health care provider, shall incur any civil or criminal liability as a result of the act of withdrawing blood from any person when directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant, a waiver of the search warrant requirement, exigent circumstances, any other authority of law, or RCW 46.20.308, as now or hereafter amended: PROVIDED, That nothing in this section shall relieve ~~((any physician, registered nurse, qualified technician))~~ such licensed or certified health care provider, or hospital or duly licensed clinical laboratory from civil liability arising from the use of improper procedures or failing to exercise the required standard of care.

Sec. 24. RCW 46.61.504 and 2013 c 3 s 35 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after being in actual physical control of a vehicle, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section and it is an affirmative defense to any action pursuant to RCW 46.20.308 to suspend, revoke, or deny the privilege to drive if, prior to being

pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3)(a) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after being in control of the vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in control of the vehicle, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.502(6).

**Sec. 25. RCW 18.360.030 and 2012 c 153 s 4 are each amended to read as follows:*

(1) The secretary shall adopt rules specifying the minimum qualifications for a medical assistant-certified, medical assistant-hemodialysis technician, and medical assistant-phlebotomist. The qualifications for a medical assistant-hemodialysis technician must be equivalent to the qualifications for hemodialysis technicians regulated pursuant to chapter 18.135 RCW as of January 1, 2012.

(2) The secretary shall adopt rules that establish the minimum requirements necessary for a health care practitioner, clinic, or group practice to endorse a medical assistant as qualified to perform the duties authorized by this chapter and be able to file an attestation of that endorsement with the department.

(3) The medical quality assurance commission, the board of osteopathic medicine and surgery, the podiatric medical board, the nursing care quality assurance commission, the board of naturopathy, and the optometry board shall each review and identify other specialty assistive personnel not included in this chapter and the tasks they perform. The department of health shall compile the information from each disciplining authority listed in this subsection and submit the compiled information to the legislature no later than December 15, 2012.

(4)(a) The secretary shall adopt rules specifying requirements for delegation, training, and supervision for a medical assistant-phlebotomist who is also a local, state, federal, or tribal law enforcement employee or correctional employee, and whose practice is limited to collecting venipuncture blood samples for forensic testing under the provisions of RCW 46.20.308 or pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law. The rules shall provide standards for the minimum number of venipuncture collections necessary to maintain endorsement for collecting blood samples for forensic testing. The rules shall provide standards for location, conditions, and supervision of venipuncture collections.

(b) Until July 1, 2020, pursuant to (a) of this subsection, the rules shall include, but are not limited to:

(i) Requiring each medical assistant-phlebotomist to perform fifty venipuncture collections during the first year of certification;

(ii) Requiring mandatory annual ongoing training in order for such person to maintain certification as a medical assistant-phlebotomist; and

(iii) Requiring that any venipuncture blood samples collected for forensic testing take place at a site that provides for antiseptic techniques and that all such sites are inspected annually by the department.

Sec. 25 was vetoed. See message at end of chapter.

Passed by the House June 11, 2015.

Passed by the Senate June 25, 2015.

Approved by the Governor June 30, 2015, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State June 30, 2015.

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

"I am returning herewith, without my approval as to Section 25, Second Engrossed Second Substitute House Bill No. 1276 entitled:

"AN ACT Relating to impaired driving."

The Department of Health has a Medical Assistant-phlebotomist credential that is currently available to law enforcement and corrections personnel. Creating a new sub-category is therefore unnecessary. MA-phlebotomist training programs specific to law enforcement forensic needs can be developed without a change in current law or rules and MA-phlebotomist training is typically on-the-job, and can be completed in a few days.

Section 25 also creates substantial new responsibilities and costs as it requires the Department to inspect every police station, jail, corrections facility, or other location where a law enforcement MA-phlebotomist may take blood samples. The section also sets new ongoing training and minimum procedure standards for law enforcement MA-phlebotomists that no other medical assistants have, and that must be regulated by the Department. For these reasons, I am vetoing this section.

For these reasons I have vetoed Section 25 of Second Engrossed Second Substitute House Bill No. 1276.

With the exception of Section 25, Second Engrossed Second Substitute House Bill No. 1276 is approved."

CHAPTER 4

[Second Engrossed Second Substitute House Bill 2136]

MARIJUANA--REFORMS--TAXATION

AN ACT Relating to comprehensive marijuana market reforms to ensure a well-regulated and taxed marijuana market in Washington state; amending RCW 69.50.334, 69.50.357, 69.50.369, 69.50.535, 69.50.540, 69.50.331, 69.50.445, 69.50.4013, 18.170.020, 69.50.4014, 66.08.050, 69.50.101, 69.51A.--, 69.50.530, 69.50.204, 69.50.430, 69.50.--, 28B.20.502, 43.350.030, 42.56.--, and 69.50.342; adding new sections to chapter 69.50 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 42.56 RCW; creating new sections; repealing RCW 69.50.425; providing effective dates; and declaring an emergency.

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

PART I

Intent and Tax Preference Performance Statement

NEW SECTION. Sec. 101. (1)(a) The legislature finds the implementation of Initiative Measure No. 502 has established a clearly disadvantaged regulated legal market with respect to prices and the ability to compete with the unregulated medical dispensary market and the illicit market. The legislature further finds that it is crucial that the state continues to ensure a safe, highly regulated system in Washington that protects valuable state revenues while continuing efforts towards disbanding the unregulated marijuana markets. The legislature further finds that ongoing evaluation on the impact of meaningful marijuana tax reform for the purpose of stabilizing revenues is crucial to the overall effort of protecting the citizens and resources of this state. The legislature

further finds that a partnership with local jurisdictions in this effort is imperative to the success of the legislature's policy objective. The legislature further finds that sharing revenues to promote a successful partnership in achieving the legislature's intent should be transparent and hold local jurisdictions accountable for their use of state shared revenues. Therefore, the legislature intends to reform the current tax structure for the regulated legal marijuana system to create price parity with the large medical and illicit markets with the specific objective of increasing the market share of the legal and highly regulated marijuana market. The legislature further intends to share marijuana tax revenues with local jurisdictions for public safety purposes and to facilitate the ongoing process of ensuring a safe regulated marijuana market in all communities across the state.

(b) The legislature further finds marijuana use for qualifying patients is a valid and necessary option health care professionals may recommend for their patients. The legislature further finds that while recognizing the difference between recreational and medical use of marijuana, it is also imperative to distinguish that the authorization for medical use of marijuana is different from a valid prescription provided by a doctor to a patient. The legislature further finds the authorization for medical use of marijuana is unlike over-the-counter medications that require no oversight by a health care professional. The legislature further finds that due to the unique characterization of authorizations for the medical use of marijuana, the policy of providing a tax preference benefit for patients using an authorization should in no way be construed as precedent for changes in the treatment of prescription medications or over-the-counter medications. Therefore, the legislature intends to provide qualifying patients and their designated providers a retail sales and use tax exemption on marijuana purchased or obtained for medical use when authorized by a health care professional.

(2)(a) This subsection is the tax preference performance statement for the retail sales and use tax exemption for marijuana purchased or obtained by qualifying patients or their designated providers provided in sections 207(1) and 208(1) of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes the tax preference as one intended to accomplish the general purposes indicated in RCW 82.32.808(2)(e).

(c) It is the legislature's specific public policy objective to provide qualifying patients and their designated providers a retail sales and use tax exemption on marijuana purchased or obtained for medical use when authorized by a health care professional.

(d) To measure the effectiveness of the exemption provided in this act in achieving the specific public policy objective described in (c) of this subsection, the department of revenue must provide the necessary data and assistance to the state liquor and cannabis board for the report required in RCW 69.50.535.

PART II

Marijuana Excise Tax, Exemptions, and Distribution of Revenues

Sec. 201. RCW 69.50.334 and 2013 c 3 s 7 are each amended to read as follows:

(1) The action, order, or decision of the state liquor ~~((control))~~ and cannabis board as to any denial of an application for the reissuance of a license to produce, process, or sell marijuana, or as to any revocation, suspension, or modification of any license to produce, process, or sell marijuana, ~~((shall))~~ or as to the administrative review of a notice of unpaid trust fund taxes under section 202 of this act, must be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

~~((4))~~ (2) An opportunity for a hearing may be provided to an applicant for the reissuance of a license prior to the disposition of the application, and if no opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

~~((2))~~ (3) An opportunity for a hearing must be provided to a licensee prior to a revocation or modification of any license and, except as provided in subsection ~~((4))~~ (6) of this section, prior to the suspension of any license.

~~((3))~~ (4) An opportunity for a hearing must be provided to any person issued a notice of unpaid trust fund taxes under section 202 of this act.

(5) No hearing ~~((shall))~~ may be required under this section until demanded by the applicant ~~((or))~~, licensee, or person issued a notice of unpaid trust fund taxes under section 202 of this act.

~~((4))~~ (6) The state liquor ~~((control))~~ and cannabis board may summarily suspend a license for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order. Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year from the first day of the initial summary suspension in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty-day period due to actions by the licensee. The state liquor ~~((control))~~ and cannabis board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the state liquor ~~((control))~~ and cannabis board.

NEW SECTION. Sec. 202. A new section is added to chapter 69.50 RCW under the subchapter heading "article V" to read as follows:

(1) Whenever the board determines that a limited liability business entity has collected trust fund taxes and has failed to remit those taxes to the board and that business entity has been terminated, dissolved, or abandoned, or is insolvent, the board may pursue collection of the entity's unpaid trust fund taxes, including penalties 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 board may presume that an entity is insolvent if the entity refuses to disclose to the board the nature of its assets and liabilities.

(2)(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 trust fund 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 failed to pay or to cause to be paid to the board the trust fund taxes due from the limited liability business entity.

(3)(a) Except as provided in this subsection (3)(a), a responsible individual who is the current or a former chief executive or chief financial officer is liable under this section only for trust fund 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 trust fund taxes to the board during any period of time that the person was not the chief executive or chief financial officer, that individual is also liable for trust fund 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 board but was not the chief executive or chief financial officer.

(b) All other responsible individuals are liable under this section only for trust fund tax liability that became due during the period he or she had the responsibility or duty to remit payment of the limited liability business entity's taxes to the board.

(4) Persons described in subsection (3)(b) of this section are exempt from liability under this section in situations where nonpayment of the limited liability business entity's trust fund taxes was due to reasons beyond their control as determined by the board by rule.

(5) Any person having been issued a notice of unpaid trust fund taxes under this section is entitled to an administrative hearing under RCW 69.50.334 and any such rules the board may adopt.

(6) This section does not relieve the limited liability business entity of its trust fund tax liability or otherwise impair other tax collection remedies afforded by law.

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

(a) "Board" means the state liquor and cannabis board.

(b) "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.

(c) "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.

(d) "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.

(e) "Manager" has the same meaning as in RCW 25.15.005.

(f) "Member" has the same meaning as in RCW 25.15.005, except that the term only includes members of member-managed limited liability companies.

(g) "Officer" means any officer or assistant officer of a corporation, including the president, vice president, secretary, and treasurer.

(h)(i) "Responsible individual" includes any current or former officer, manager, member, partner, or trustee of a limited liability business entity with unpaid trust fund tax liability.

(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 trust fund tax liability.

(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 (7)(h)(iii), "taxpayer" means a limited liability business entity with unpaid trust fund taxes.

(i) "Trust fund taxes" means taxes collected from buyers and deemed held in trust under RCW 69.50.535.

(j) "Willfully failed to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

Sec. 203. RCW 69.50.357 and 2015 c 70 s 12 are each amended to read as follows:

(1) Retail outlets (~~shall sell no~~) may not sell products or services other than marijuana concentrates, useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of marijuana concentrates, useable marijuana, or marijuana-infused products.

(2) Licensed marijuana retailers (~~shall~~) may not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet. However, qualifying patients between eighteen and twenty-one years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of eighteen with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement, but may not purchase products for their personal medical use.

(3)(a) Licensed marijuana retailers must ensure that all employees are trained on the rules adopted to implement this chapter, identification of persons under the age of twenty-one, and other requirements adopted by the state liquor and cannabis board to ensure that persons under the age of twenty-one are not permitted to enter or remain on the premises of a retail outlet.

(b) Licensed marijuana retailers with a medical marijuana endorsement must ensure that all employees are trained on the subjects required by (a) of this subsection as well as identification of authorizations and recognition cards. Employees must also be trained to permit qualifying patients who hold recognition cards and are between the ages of eighteen and twenty-one to enter the premises and purchase marijuana for their personal medical use and to permit qualifying patients who are under the age of eighteen with a recognition card to enter the premises if accompanied by their designated providers.

(4) Licensed marijuana retailers (~~(shall)~~) may not display any signage (~~(in a window, on a door, or on the outside of the premises of a retail outlet that is visible to the general public from a public right of way, other than a single sign no larger than one thousand six hundred square inches identifying the retail outlet by the licensee's business or trade name. Retail outlets that hold medical marijuana endorsements may include this information on signage.~~

(5) Licensed marijuana retailers shall not display marijuana concentrates, useable marijuana, or marijuana-infused products in a manner that is visible to the general public from a public right of way.

~~(6))~~ outside of the licensed premises, other than two signs identifying the retail outlet by the licensee's business or trade name. Each sign must be no larger than one thousand six hundred square inches, be permanently affixed to a building or other structure, and be posted not less than one thousand feet from any elementary school, secondary school, or playground.

(5) No licensed marijuana retailer or employee of a retail outlet (~~(shall)~~) may open or consume, or allow to be opened or consumed, any marijuana concentrates, useable marijuana, or marijuana-infused product on the outlet premises.

~~((7))~~ (6) The state liquor and cannabis board (~~(shall)~~) must fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana (~~(fund)~~) account created under RCW 69.50.530.

Sec. 204. RCW 69.50.369 and 2013 c 3 s 18 are each amended to read as follows:

(1) No licensed marijuana producer, processor, researcher, or retailer (~~(shall)~~) may place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, marijuana concentrates, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter; or

(c) On or in a publicly owned or operated property.

(2) Merchandising within a retail outlet is not advertising for the purposes of this section.

(3) This section does not apply to a noncommercial message.

(4) The state liquor (~~(control)~~) and cannabis board (~~(shall)~~) must fine a licensee one thousand dollars for each violation of subsection (1) of this section. Fines collected under this subsection must be deposited into the dedicated marijuana (~~(fund)~~) account created under RCW 69.50.530.

Sec. 205. RCW 69.50.535 and 2014 c 192 s 7 are each amended to read as follows:

~~(1) (There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale sale in this state of marijuana by a licensed marijuana producer to a licensed marijuana processor or another licensed marijuana producer. This tax is the obligation of the licensed marijuana producer.~~

~~(2) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale sale in this state of marijuana concentrates, useable marijuana, and marijuana-infused products by a licensed marijuana processor to a licensed marijuana retailer. This tax is the obligation of the licensed marijuana processor.~~

~~(3)) (a) There is levied and collected a marijuana excise tax equal to ((twenty-five)) thirty-seven percent of the selling price on each retail sale in this state of marijuana concentrates, useable marijuana, and marijuana-infused products. This tax is ((the obligation of the licensed marijuana retailer, is)) separate and in addition to general state and local sales and use taxes that apply to retail sales of tangible personal property, and is not part of the total retail price to which general state and local sales and use taxes apply. The tax must be separately itemized from the state and local retail sales tax on the sales receipt provided to the buyer.~~

~~(b) The tax levied in this section must be reflected in the price list or quoted shelf price in the licensed marijuana retail store and in any advertising that includes prices for all useable marijuana, marijuana concentrates, or marijuana-infused products.~~

~~((4)) (2) All revenues collected from the marijuana excise ((taxes)) tax imposed under ((subsections (1) through (3) of)) this section ((shall)) must be deposited each day in ((a depository approved by the state treasurer and transferred to the state treasurer to be credited to)) the dedicated marijuana ((fund)) account.~~

~~((5)) (3) The ((state liquor control board shall)) tax imposed in this section must be paid by the buyer to the seller. Each seller must collect from the buyer the full amount of the tax payable on each taxable sale. The tax collected as required by this section is deemed to be held in trust by the seller until paid to the board. If any seller fails to collect the tax imposed in this section or, having collected the tax, fails to pay it as prescribed by the board, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is, nevertheless, personally liable to the state for the amount of the tax.~~

~~(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.~~

~~(a) "Board" means the state liquor and cannabis board.~~

~~(b) "Retail sale" has the same meaning as in RCW 82.08.010.~~

~~(c) "Selling price" has the same meaning as in RCW 82.08.010, except that when product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value, "selling price" means the true value of the product sold.~~

~~(d) "Product" means marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products.~~

~~(e) "True value" means market value based on sales at comparable locations in this state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. However, in the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributable to the product.~~

(5)(a) The board must regularly review the tax level((s)) established under this section and make recommendations, in consultation with the department of revenue, to the legislature as appropriate regarding adjustments that would further the goal of discouraging use while undercutting illegal market prices.

(b) The state liquor and cannabis board must report, in compliance with RCW 43.01.036, to the appropriate committees of the legislature every two years. The report at a minimum must include the following:

(i) The specific recommendations required under (a) of this subsection;

(ii) A comparison of gross sales and tax collections prior to and after any marijuana tax change;

(iii) The increase or decrease in the volume of legal marijuana sold prior to and after any marijuana tax change;

(iv) Increases or decreases in the number of licensed marijuana producers, processors, and retailers;

(v) The number of illegal and noncompliant marijuana outlets the board requires to be closed;

(vi) Gross marijuana sales and tax collections in Oregon; and

(vii) The total amount of reported sales and use taxes exempted for qualifying patients. The department of revenue must provide the data of exempt amounts to the board.

(c) The board is not required to report to the legislature as required in (b) of this subsection after January 1, 2025.

(6) The legislature does not intend and does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal antitrust laws including, but not limited to, agreements among retailers as to the selling price of any goods sold.

Sec. 206. RCW 69.50.540 and 2013 c 3 s 28 are each amended to read as follows:

~~((All marijuana excise taxes collected from sales of marijuana, useable marijuana, and marijuana-infused products under RCW 69.50.535, and the license fees, penalties, and forfeitures derived under chapter 3, Laws of 2013 from marijuana producer, marijuana processor, and marijuana retailer licenses shall every three months be disbursed by the state liquor control board as follows:~~

(4)) The legislature must annually appropriate moneys in the dedicated marijuana account created in RCW 69.50.530 as follows:

(1) For the purposes listed in this subsection (1), the legislature must appropriate to the respective agencies amounts sufficient to make the following expenditures on a quarterly basis:

(a) Beginning July 1, 2015, one hundred twenty-five thousand dollars to the department of social and health services to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and state liquor ((control)) and cannabis board. The survey ((shall)) must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial

behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

~~((2))~~ (b) Beginning July 1, 2015, fifty thousand dollars to the department of social and health services for the purpose of contracting with the Washington state institute for public policy to conduct the cost-benefit evaluation and produce the reports described in RCW 69.50.550. This appropriation ~~((shall))~~ ends after production of the final report required by RCW 69.50.550;

~~((3))~~ (c) Beginning July 1, 2015, five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use;

~~((4))~~ (d) An amount not ~~((exceeding))~~ less than one million two hundred fifty thousand dollars to the state liquor ~~((control board as is necessary for administration of chapter 3, Laws of 2013;~~

~~(5) Of the funds remaining after the disbursements identified in subsections (1) through (4) of this section)) and cannabis board for administration of this chapter as appropriated in the omnibus appropriations act;~~

(e) Twenty-three thousand seven hundred fifty dollars to the department of enterprise services provided solely for the state building code council established under RCW 19.27.070, to develop and adopt fire and building code provisions related to marijuana processing and extraction facilities. The distribution under this subsection (1)(e) is for fiscal year 2016 only;

(2) From the amounts in the dedicated marijuana account after appropriation of the amounts identified in subsection (1) of this section, the legislature must appropriate for the purposes listed in this subsection (2) as follows:

(a) ~~((Fifteen percent))~~ (i) Up to fifteen percent to the department of social and health services division of behavioral health and recovery for ~~((implementation and maintenance))~~ the development, implementation, maintenance, and evaluation of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance-use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation, mental health services for children and youth, and services for pregnant and parenting women; PROVIDED, That:

~~((ii))~~ (A) Of the funds ~~((disbursed))~~ appropriated under (a)(i) of this subsection for new programs and new services, at least eighty-five percent must be directed to evidence-based ~~((and cost beneficial))~~ or research-based programs and practices that produce objectively measurable results and, by September 1, 2020, are cost-beneficial; and

~~((iii))~~ (B) Up to fifteen percent of the funds ~~((disbursed))~~ appropriated under (a)(i) of this subsection for new programs and new services may be directed to ~~((research-based and))~~ proven and tested practices, emerging best practices, or promising practices.

(ii) In deciding which programs and practices to fund, the secretary of the department of social and health services (~~shall~~) must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute.

(iii) For the fiscal year beginning July 1, 2016, and each subsequent fiscal year, the legislature must appropriate a minimum of twenty-five million five hundred thirty-six thousand dollars under this subsection (2)(a);

(b) (~~Ten percent~~) (i) Up to ten percent to the department of health for the following, subject to (b)(ii) of this subsection (2):

(A) Creation, implementation, operation, and management of a marijuana education and public health program that contains the following:

((~~+~~)) (I) A marijuana use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or research-based public health approaches to minimizing the harms associated with marijuana use, and does not solely advocate an abstinence-only approach;

((~~+~~)) (II) A grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of marijuana use by youth; and

((~~+~~)) (III) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by marijuana use; and

(B) The Washington poison control center.

(i) For the fiscal year beginning July 1, 2016, and each subsequent fiscal year, the legislature must appropriate a minimum of nine million seven hundred fifty thousand dollars under this subsection (2)(b):

(c)(i) Up to six-tenths of one percent to the University of Washington and four-tenths of one percent to Washington State University for research on the short and long-term effects of marijuana use, to include but not be limited to formal and informal methods for estimating and measuring intoxication and impairment, and for the dissemination of such research.

(ii) For the fiscal year beginning July 1, 2016, and each subsequent fiscal year, the legislature must appropriate a minimum of one million twenty-one thousand dollars to the University of Washington and a minimum of six hundred eighty-one thousand dollars to Washington State University under this subsection (2)(c);

(d) Fifty percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;

(e) Five percent to the Washington state health care authority to be expended exclusively through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

(f)(i) Up to three-tenths of one percent to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW.

(ii) For the fiscal year beginning July 1, 2016, and each subsequent fiscal year, the legislature must appropriate a minimum of five hundred eleven

thousand dollars to the office of the superintendent of public instruction under this subsection (2)(f); and

(g) ((The remainder to the general fund-)) At the end of each fiscal year, the treasurer must transfer any amounts in the dedicated marijuana account that are not appropriated pursuant to subsection (1) of this section and this subsection (2) into the general fund, except as provided in (g)(i) of this subsection (2).

(i) Beginning in fiscal year 2018, if marijuana excise tax collections deposited into the general fund in the prior fiscal year exceed twenty-five million dollars, then each fiscal year the legislature must appropriate an amount equal to thirty percent of all marijuana excise taxes deposited into the general fund the prior fiscal year to the treasurer for distribution to counties, cities, and towns as follows:

(A) Thirty percent must be distributed to counties, cities, and towns where licensed marijuana retailers are physically located. Each jurisdiction must receive a share of the revenue distribution under this subsection (2)(g)(i)(A) based on the proportional share of the total revenues generated in the individual jurisdiction from the taxes collected under RCW 69.50.535, from licensed marijuana retailers physically located in each jurisdiction. For purposes of this subsection (2)(g)(i)(A), one hundred percent of the proportional amount attributed to a retailer physically located in a city or town must be distributed to the city or town.

(B) Seventy percent must be distributed to counties, cities, and towns ratably on a per capita basis. Counties must receive sixty percent of the distribution, which must be disbursed based on each county's total proportional population. Funds may only be distributed to jurisdictions that do not prohibit the siting of any state licensed marijuana producer, processor, or retailer.

(ii) Distribution amounts allocated to each county, city, and town must be distributed in four installments by the last day of each fiscal quarter.

(iii) By September 15th of each year, the state liquor and cannabis board must provide the state treasurer the annual distribution amount, if any, for each county and city as determined in (g)(i) of this subsection (2).

(iv) The total share of marijuana excise tax revenues distributed to counties and cities in (g)(i) of this subsection (2) may not exceed fifteen million dollars in fiscal years 2018 and 2019 and twenty million dollars per fiscal year thereafter.

For the purposes of this section, "marijuana products" means "useable marijuana," "marijuana concentrates," and "marijuana-infused products" as those terms are defined in RCW 69.50.101.

NEW SECTION. Sec. 207. A new section is added to chapter 82.08 RCW to read as follows:

(1) Beginning July 1, 2016, the tax levied by RCW 82.08.020 does not apply to:

(a) Sales of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to be beneficial for medical use, by marijuana retailers with medical marijuana endorsements to qualifying patients or designated providers who have been issued recognition cards;

(b) Sales of products containing THC with a THC concentration of 0.3 percent or less to qualifying patients or designated providers who have been

issued recognition cards by marijuana retailers with medical marijuana endorsements;

(c) Sales of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to have a low THC, high CBD ratio, and to be beneficial for medical use, by marijuana retailers with medical marijuana endorsements, to any person;

(d) Sales of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by health care professionals under RCW 69.51A.--- (section 35, chapter 70, Laws of 2015);

(e)(i) Marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less produced by a cooperative and provided to its members; and

(ii) Any nonmonetary resources and labor contributed by an individual member of the cooperative in which the individual is a member. However, nothing in this subsection (1)(e) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW 82.08.020 on any purchase of property or services contributed to the cooperative.

(2) From the effective date of this section until July 1, 2016, the tax levied by RCW 82.08.020 does not apply to sales of marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by collective gardens under RCW 69.51A.085 to qualifying patients or designated providers, if such sales are in compliance with chapter 69.51A RCW.

(3) Each seller making exempt sales under subsection (1) or (2) of this section must maintain information establishing eligibility for the exemption in the form and manner required by the department.

(4) The department must provide a separate tax reporting line for exemption amounts claimed under this section.

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

(a) "Cooperative" means a cooperative authorized by and operating in compliance with RCW 69.51A.--- (section 26, chapter 70, Laws of 2015).

(b) "Marijuana retailer with a medical marijuana endorsement" means a marijuana retailer permitted under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to sell marijuana for medical use to qualifying patients and designated providers.

(c) "Products containing THC with a THC concentration of 0.3 percent or less" means all products containing THC with a THC concentration not exceeding 0.3 percent and that, when used as intended, are inhalable, ingestible, or absorbable.

(d) "THC concentration," "marijuana," "marijuana concentrates," "useable marijuana," "marijuana retailer," and "marijuana-infused products" have the same meanings as provided in RCW 69.50.101 and the terms "qualifying patients," "designated providers," and "recognition card" have the same meaning as provided in RCW 69.51A.010.

NEW SECTION. Sec. 208. A new section is added to chapter 82.12 RCW to read as follows:

(1) From the effective date of this section until July 1, 2016, the provisions of this chapter do not apply to the use of marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by a collective garden under RCW 69.51A.085, and the qualifying patients or designated providers participating in the collective garden, if such use is in compliance with chapter 69.51A RCW.

(2) Beginning July 1, 2016, the provisions of this chapter do not apply to:

(a) The use of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to be beneficial for medical use, by qualifying patients or designated providers who have been issued recognition cards and have obtained such products from a marijuana retailer with a medical marijuana endorsement.

(b) The use of products containing THC with a THC concentration of 0.3 percent or less by qualifying patients or designated providers who have been issued recognition cards and have obtained such products from a marijuana retailer with a medical marijuana endorsement.

(c)(i) Marijuana retailers with a medical marijuana endorsement with respect to:

(A) Marijuana concentrates, useable marijuana, or marijuana-infused products; or

(B) Products containing THC with a THC concentration of 0.3 percent or less;

(ii) The exemption in this subsection (2)(c) applies only if such products are provided at no charge to a qualifying patient or designated provider who has been issued a recognition card. Each such retailer providing such products at no charge must maintain information establishing eligibility for this exemption in the form and manner required by the department.

(d) The use of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to have a low THC, high CBD ratio, and to be beneficial for medical use, purchased from marijuana retailers with a medical marijuana endorsement.

(e) Health care professionals with respect to the use of products containing THC with a THC concentration of 0.3 percent or less provided at no charge by the health care professionals under RCW 69.51A.--- (section 35, chapter 70, Laws of 2015). Each health care professional providing such products at no charge must maintain information establishing eligibility for this exemption in the form and manner required by the department.

(f) The use of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by qualifying patients when purchased from or provided at no charge by a health care professional under RCW 69.51A.--- (section 35, chapter 70, Laws of 2015).

(g) The use of:

(i) Marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by a cooperative and its members, when produced by the cooperative; and

(ii) Any nonmonetary resources and labor by a cooperative when contributed by its members. However, nothing in this subsection (2)(g) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW 82.12.020 on the use of any property or services purchased by the member and contributed to the cooperative.

(3) The definitions in section 207 of this act apply to this section.

NEW SECTION. Sec. 209. The provisions of RCW 82.32.805 and 82.32.808(8) do not apply to the exemptions in sections 207 and 208 of this act.

NEW SECTION. Sec. 210. A new section is added to chapter 69.50 RCW to read as follows:

(1)(a) Except as provided in (b) of this subsection, a retail sale of a bundled transaction that includes marijuana product is subject to the tax imposed under RCW 69.50.535 on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under RCW 69.50.535, the portion of the price attributable to the nontaxable products are subject to the tax imposed by RCW 69.50.535 unless the seller can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes.

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

(a) "Bundled transaction" means:

(i) The retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one product is a marijuana product subject to the tax under RCW 69.50.535; and

(ii) A marijuana product provided free of charge with the required purchase of another product. A marijuana product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the marijuana product provided free of charge.

(b) "Distinct and identifiable products" does not include packaging such as containers, boxes, sacks, bags, and bottles, or materials such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof. Examples of packaging that are incidental or immaterial include grocery sacks, shoeboxes, and dry cleaning garment bags.

(c) "Marijuana product" means "useable marijuana," "marijuana concentrates," and "marijuana-infused products" as defined in RCW 69.50.101.

(d) "Selling price" has the same meaning as in RCW 82.08.010, except that when product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value, "selling price" means the true value of the product sold.

(e) "True value" means market value based on sales at comparable locations in this state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. However, in the absence of such sales of the same or similar product, "true value" means the value of the product sold as determined by all of the seller's direct and indirect costs attributable to the product.

NEW SECTION. Sec. 211. A new section is added to chapter 69.50 RCW to read as follows:

(1) Marijuana producers, processors, and retailers are prohibited from making sales of any marijuana or marijuana product, if the sale of the marijuana or marijuana product is conditioned upon the buyer's purchase of any service or nonmarijuana product. This subsection applies whether the buyer purchases such service or nonmarijuana product at the time of sale of the marijuana or marijuana product, or in a separate transaction.

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

(a) "Marijuana product" means "useable marijuana," "marijuana concentrates," and "marijuana-infused products," as those terms are defined in RCW 69.50.101.

(b) "Nonmarijuana product" includes paraphernalia, promotional items, lighters, bags, boxes, containers, and such other items as may be identified by the state liquor and cannabis board.

(c) "Selling price" has the same meaning as in RCW 69.50.535.

(d) "Service" includes memberships and any other services identified by the state liquor and cannabis board.

PART III

Marijuana Business: Buffers and Licensee Residency

Sec. 301. RCW 69.50.331 and 2015 c 70 s 6 are each amended to read as follows:

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under section 502 of this act, or sell marijuana, or for the renewal of a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under section 502 of this act, or sell marijuana, the state liquor and cannabis board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

(a) The state liquor and cannabis board must develop a competitive, merit-based application process that includes, at a minimum, the opportunity for an applicant to demonstrate experience and qualifications in the marijuana industry. The state liquor and cannabis board (~~shall~~) must give preference between competing applications in the licensing process to applicants that have the following experience and qualifications, in the following order of priority:

(i) First priority is given to applicants who:

(A) Applied to the state liquor and cannabis board for a marijuana retailer license prior to July 1, 2014;

(B) Operated or were employed by a collective garden before January 1, 2013;

(C) Have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and

(D) Have had a history of paying all applicable state taxes and fees;

(ii) Second priority (~~shall~~) must be given to applicants who:

(A) Operated or were employed by a collective garden before January 1, 2013;

(B) Have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and

(C) Have had a history of paying all applicable state taxes and fees; and

(iii) Third priority (~~(shall)~~) must be given to all other applicants who do not have the experience and qualifications identified in (a)(i) and (ii) of this subsection.

(b) The state liquor and cannabis board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the state liquor and cannabis board may consider any prior criminal conduct of the applicant including an administrative violation history record with the state liquor and cannabis board and a criminal history record information check. The state liquor and cannabis board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor and cannabis board (~~(shall)~~) must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW (~~(shall)~~) do not apply to these cases. Subject to the provisions of this section, the state liquor and cannabis board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (~~((9))~~) (10) of this section. Authority to approve an uncontested or unopposed license may be granted by the state liquor and cannabis board to any staff member the board designates in writing. Conditions for granting this authority (~~(shall)~~) must be adopted by rule.

(c) No license of any kind may be issued to:

(i) A person under the age of twenty-one years;

(ii) A person doing business as a sole proprietor who has not lawfully resided in the state for at least (~~(three)~~) six months prior to applying to receive a license;

(iii) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(iv) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The state liquor and cannabis board may, in its discretion, subject to the provisions of RCW 69.50.334, suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, researching, or selling marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products thereunder (~~(shall)~~) must be suspended or terminated, as the case may be.

(b) The state liquor and cannabis board (~~(shall)~~) must immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license (~~(shall be)~~) is automatic upon the state liquor and cannabis board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The state liquor and cannabis board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under rules and regulations the state liquor and cannabis board may adopt.

(d) Witnesses (~~(shall)~~) must be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the state liquor and cannabis board or a subpoena issued by the state liquor and cannabis board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, (~~(shall)~~) compels obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee (~~(shall)~~) must forthwith deliver up the license to the state liquor and cannabis board. Where the license has been suspended only, the state liquor and cannabis board (~~(shall)~~) must return the license to the licensee at the expiration or termination of the period of suspension. The state liquor and cannabis board (~~(shall)~~) must notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this chapter (~~(3, Laws of 2013 shall be)~~) is subject to all conditions and restrictions imposed by this chapter (~~(3, Laws of 2013)~~) or by rules adopted by the state liquor and cannabis board to implement and enforce this chapter (~~(3, Laws of 2013)~~). All conditions and restrictions imposed by the state liquor and cannabis board in the issuance of an individual license (~~(shall)~~) must be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee (~~(shall)~~) must post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee (~~(shall)~~) may employ any person under the age of twenty-one years.

(7)(a) Before the state liquor and cannabis board issues a new or renewed license to an applicant it (~~shall~~) must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns.

(b) The incorporated city or town through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, (~~shall have~~) has the right to file with the state liquor and cannabis board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The state liquor and cannabis board may extend the time period for submitting written objections.

(c) The written objections (~~shall~~) must include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the state liquor and cannabis board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the state liquor and cannabis board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, state liquor and cannabis board representatives (~~shall~~) must present and defend the state liquor and cannabis board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the state liquor and cannabis board (~~shall~~) must send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8)(a) Except as provided in (b) through (d) of this subsection, the state liquor and cannabis board (~~shall~~) may not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(b) A city, county, or town may permit the licensing of premises within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection, except elementary schools, secondary schools, and playgrounds, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.--- (section 1, chapter 71, Laws of 2015) within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil

regulatory enforcement, criminal law enforcement, public safety, or public health.

(d) The state liquor and cannabis board may license premises located in compliance with the distance requirements set in an ordinance adopted under (b) or (c) of this subsection. Before issuing or renewing a research license for premises within one thousand feet but not less than one hundred feet of an elementary school, secondary school, or playground in compliance with an ordinance passed pursuant to (c) of this subsection, the board must ensure that the facility:

(i) Meets a security standard exceeding that which applies to marijuana producer, processor, or retailer licensees;

(ii) Is inaccessible to the public and no part of the operation of the facility is in view of the general public; and

(iii) Bears no advertising or signage indicating that it is a marijuana research facility.

(9) Subject to section 1601 of this act, a city, town, or county may adopt an ordinance prohibiting a marijuana producer or marijuana processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.

(10) In determining whether to grant or deny a license or renewal of any license, the state liquor and cannabis board (~~shall~~) **must** give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

PART IV

Consumption of Marijuana in a Public Place

Sec. 401. RCW 69.50.445 and 2013 c 3 s 21 are each amended to read as follows:

(1) It is unlawful to open a package containing marijuana, useable marijuana, (~~or a~~) marijuana-infused products, or marijuana concentrates, or consume marijuana, useable marijuana, (~~or a~~) marijuana-infused products, or marijuana concentrates, in view of the general public or in a public place.

(2) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

(3) A person who violates this section is guilty of a class 3 civil infraction under chapter 7.80 RCW.

PART V

Transportation of Marijuana Products

NEW SECTION. Sec. 501. A new section is added to chapter 69.50 RCW to read as follows:

(1) A licensed marijuana producer, marijuana processor, marijuana researcher, or marijuana retailer, or their employees, in accordance with the requirements of this chapter and the administrative rules adopted thereunder, may use the services of a common carrier subject to regulation under chapters 81.28 and 81.29 RCW and licensed in compliance with the regulations established under section 502 of this act, to physically transport or deliver marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products between licensed marijuana businesses located within the state.

(2) An employee of a common carrier engaged in marijuana-related transportation or delivery services authorized under subsection (1) of this section is prohibited from carrying or using a firearm during the course of providing such services, unless:

(a) Pursuant to section 502 of this act, the state liquor and cannabis board explicitly authorizes the carrying or use of firearms by such employee while engaged in the transportation or delivery services;

(b) The employee has an armed private security guard license issued pursuant to RCW 18.170.040; and

(c) The employee is in full compliance with the regulations established by the state liquor and cannabis board under section 502 of this act.

(3) A common carrier licensed under section 502 of this act may, for the purpose of transporting and delivering marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products, utilize Washington state ferry routes for such transportation and delivery.

(4) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under section 502(3) of this act, by a licensed employee of a common carrier when performing the duties authorized under, and in accordance with, this section and section 502 of this act, is not a violation of this section, this chapter, or any other provision of Washington state law.

NEW SECTION. Sec. 502. A new section is added to chapter 69.50 RCW to read as follows:

(1) The state liquor and cannabis board must adopt rules providing for an annual licensing procedure of a common carrier who seeks to transport or deliver marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products within the state.

(2) The rules for licensing must:

(a) Establish criteria for considering the approval or denial of a common carrier's original application or renewal application;

(b) Provide minimum qualifications for any employee authorized to drive or operate the transportation or delivery vehicle, including a minimum age of at least twenty-one years;

(c) Address the safety of the employees transporting or delivering the products, including issues relating to the carrying of firearms by such employees;

(d) Address the security of the products being transported, including a system of electronically tracking all products at both the point of pickup and the point of delivery; and

(e) Set reasonable fees for the application and licensing process.

(3) The state liquor and cannabis board may adopt rules establishing the maximum amounts of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products that may be physically transported or delivered at one time by a common carrier as provided under section 501 of this act.

Sec. 503. RCW 69.50.4013 and 2015 c 70 s 14 are each amended to read as follows:

(1) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3)(a) The possession, by a person twenty-one years of age or older, of useable marijuana, marijuana concentrates, or marijuana-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

(b) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under section 502(3) of this act, by a licensed employee of a common carrier when performing the duties authorized in accordance with sections 501 and 502 of this act, is not a violation of this section, this chapter, or any other provision of Washington state law.

(4) No person under twenty-one years of age may possess, manufacture, sell, or distribute marijuana, marijuana-infused products, or marijuana concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

(5) The possession by a qualifying patient or designated provider of marijuana concentrates, useable marijuana, marijuana-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

Sec. 504. RCW 18.170.020 and 2007 c 154 s 2 are each amended to read as follows:

The requirements of this chapter do not apply to:

(1) A person who is employed exclusively or regularly by one employer and performs the functions of a private security guard solely in connection with the affairs of that employer, if the employer is not a private security company, However, in accordance with section 501 of this act, an employee engaged in marijuana-related transportation or delivery services on behalf of a common

carrier must be licensed as an armed private security guard under this chapter in order to be authorized to carry or use a firearm while providing such services;

(2) A sworn peace officer while engaged in the performance of the officer's official duties;

(3) A sworn peace officer while employed by any person to engage in off-duty employment as a private security guard, but only if the employment is approved by the chief law enforcement officer of the jurisdiction where the employment takes place and the sworn peace officer does not employ, contract with, or broker for profit other persons to assist him or her in performing the duties related to his or her private employer; or

(4)(a) A person performing crowd management or guest services including, but not limited to, a person described as a ticket taker, usher, door attendant, parking attendant, crowd monitor, or event staff who:

((+)) (i) Does not carry a firearm or other dangerous weapon including, but not limited to, a stun gun, taser, pepper mace, or nightstick;

((+)) (ii) Does not wear a uniform or clothing readily identifiable by a member of the public as that worn by a private security officer or law enforcement officer; and

((+)) (iii) Does not have as his or her primary responsibility the detainment of persons or placement of persons under arrest.

(b) The exemption provided in this subsection applies only when a crowd has assembled for the purpose of attending or taking part in an organized event, including preevent assembly, event operation hours, and postevent departure activities.

Sec. 505. RCW 69.50.4014 and 2003 c 53 s 335 are each amended to read as follows:

Except as provided in RCW 69.50.401(2)(c) or as otherwise authorized by this chapter, any person found guilty of possession of forty grams or less of (~~marihuana~~) marijuana is guilty of a misdemeanor.

PART VI

Funding for Marijuana Health Awareness Program

Sec. 601. RCW 66.08.050 and 2014 c 63 s 3 are each amended to read as follows:

The board, subject to the provisions of this title and the rules, must:

(1) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;

(2) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;

(3) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;

(4) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;

(5) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;

(6) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks

associated with alcohol and marijuana consumption by youth and the abuse of alcohol and marijuana by adults in Washington state. The board's alcohol awareness program must cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program;

(7) Monitor and regulate the practices of licensees as necessary in order to prevent the theft and illegal trafficking of liquor pursuant to RCW 66.28.350;

(8) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and has full power to do each and every act necessary to the conduct of its regulatory functions, including all supplies procurement, preparation and approval of forms, and every other undertaking necessary to perform its regulatory functions whatsoever, subject only to audit by the state auditor. However, the board has no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not a clear and present danger of disorderly conduct being provoked by such language or to restrict advertising of lawful prices.

PART VII

Cannabis Health and Beauty Aid Exemption

NEW SECTION. Sec. 701. A new section is added to chapter 69.50 RCW to read as follows:

(1) Cannabis health and beauty aids are not subject to the regulations and penalties of this chapter that apply to marijuana, marijuana concentrates, or marijuana-infused products.

(2) For purposes of this section, "cannabis health and beauty aid" means a product containing parts of the cannabis plant and which:

(a) Is intended for use only as a topical application to provide therapeutic benefit or to enhance appearance;

(b) Contains a THC concentration of not more than 0.3 percent;

(c) Does not cross the blood-brain barrier; and

(d) Is not intended for ingestion by humans or animals.

PART VIII

Signage and Public Notice Requirements

NEW SECTION. Sec. 801. A new section is added to chapter 69.50 RCW to read as follows:

(1) Applicants for a marijuana producer's, marijuana processor's, marijuana researcher's or marijuana retailer's license under this chapter must display a sign provided by the state liquor and cannabis board on the outside of the premises to be licensed notifying the public that the premises are subject to an application for such license. The sign must:

(a) Contain text with content sufficient to notify the public of the nature of the pending license application, the date of the application, the name of the applicant, and contact information for the state liquor and cannabis board;

(b) Be conspicuously displayed on, or immediately adjacent to, the premises subject to the application and in the location that is most likely to be seen by the public;

(c) Be of a size sufficient to ensure that it will be readily seen by the public; and

(d) Be posted within seven business days of the submission of the application to the state liquor and cannabis board.

(2) The state liquor and cannabis board must adopt such rules as are necessary for the implementation of this section, including rules pertaining to the size of the sign and the text thereon, the textual content of the sign, the fee for providing the sign, and any other requirements necessary to ensure that the sign provides adequate notice to the public.

(3)(a) A city, town, or county may adopt an ordinance requiring individual notice by an applicant for a marijuana producer's, marijuana processor's, marijuana researcher's, or marijuana retailer's license under this chapter, sixty days prior to issuance of the license, to any elementary or secondary school, playground, recreation center or facility, child care center, church, public park, public transit center, library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older, that is within one thousand feet of the perimeter of the grounds of the establishment seeking licensure. The notice must provide the contact information for the liquor and cannabis board where any of the owners or operators of these entities may submit comments or concerns about the proposed business location.

(b) For the purposes of this subsection, "church" means a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith.

PART IX

Marijuana-Infused Products and Concentrates

Sec. 901. RCW 69.50.101 and 2015 c 70 s 4 are each amended to read as follows:

~~((Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter.))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction of and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "Commission" means the pharmacy quality assurance commission.

(d) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules.

(e)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(f) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(g) "Department" means the department of health.

(h) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(i) "Dispenser" means a practitioner who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(m) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(n) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(o) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(p) "Isomer" means an optical isomer, but in subsection ~~((z))~~ (bb)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(q) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(r) "Lot number" ~~((shall))~~ must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(s) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(t) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(u) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ~~((sixty))~~ ten percent.

(v) "Marijuana processor" means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable

marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(w) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(x) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(y) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (t) of this section, and have a THC concentration no greater than ~~((0.3))~~ ten percent ~~((and no greater than sixty percent))~~. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

~~((y))~~ (z) "Marijuana researcher" means a person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

(aa) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

~~((z))~~ (bb) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

~~((aa))~~ (cc) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-

methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

~~((bb))~~ (dd) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

~~((ee))~~ (ee) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

~~((dd))~~ (ff) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

~~((ee))~~ (gg) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical quality assurance commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

~~((ff))~~ (hh) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

~~((gg))~~ (ii) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

~~((hh))~~ (jj) "Retail outlet" means a location licensed by the state liquor and cannabis board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

~~((ii))~~ (kk) "Secretary" means the secretary of health or the secretary's designee.

~~((jj))~~ (ll) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

~~((kk))~~ (mm) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

~~((hh))~~ (nn) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

~~((mm))~~ (oo) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

~~((nn))~~ (pp) "Designated provider" has the meaning provided in RCW 69.51A.010.

~~((oo))~~ (qq) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

~~((pp))~~ (rr) "CBD concentration" has the meaning provided in RCW 69.51A.010.

~~((qq))~~ (ss) "Plant" has the meaning provided in RCW 69.51A.010.

~~((rr))~~ (tt) "Recognition card" has the meaning provided in RCW 69.51A.010.

PART X

Medical Use of Marijuana

Sec. 1001. RCW 69.51A.--- and 2015 c 70 s 26 are each amended to read as follows:

(1) Qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative. No more than four qualifying patients or designated providers may become members of a cooperative under this section and all members must hold valid recognition cards. All members of the cooperative must be at least twenty-one years old. The designated provider of a qualifying patient who is under twenty-one years old may be a member of a cooperative on the qualifying patient's behalf.

(2) ~~((Cooperatives may not be located within one mile of a marijuana retailer. People))~~ Qualifying patients and designated providers who wish to form a cooperative must register the location with the state liquor and cannabis board and this is the only location where cooperative members may grow or process marijuana. This registration must include the names of all participating members and copies of each participant's recognition card. Only qualifying patients or designated providers registered with the state liquor and cannabis board in association with the location may participate in growing or receive useable marijuana or marijuana-infused products grown at that location.

(3) No cooperative may be located in any of the following areas:

(a) Within one mile of a marijuana retailer;

(b) Within the smaller of either:

(i) One thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade that admission to which is not restricted to persons aged twenty-one years or older; or

(ii) The area restricted by ordinance, if the cooperative is located in a city, county, or town that has passed an ordinance pursuant to RCW 69.50.331(8); or

(c) Where prohibited by a city, town, or county zoning provision.

(4) The state liquor and cannabis board must deny the registration of any cooperative if the location (~~is within one mile of a marijuana retailer~~) does not comply with the requirements set forth in subsection (3) of this section.

~~((3))~~ (5) If a qualifying patient or designated provider no longer participates in growing at the location, he or she must notify the state liquor and cannabis board within fifteen days of the date the qualifying patient or designated provider ceases participation. The state liquor and cannabis board must remove his or her name from connection to the cooperative. Additional qualifying patients or designated providers may not join the cooperative until sixty days have passed since the date on which the last qualifying patient or designated provider notifies the state liquor and cannabis board that he or she no longer participates in that cooperative.

~~((4))~~ (6) Qualifying patients or designated providers who participate in a cooperative under this section:

(a) May grow up to the total amount of plants for which each participating member is authorized on their recognition cards, up to a maximum of sixty plants. At the location, the qualifying patients or designated providers may possess the amount of useable marijuana that can be produced with the number of plants permitted under this subsection, but no more than seventy-two ounces;

(b) May only participate in one cooperative;

(c) May only grow plants in the cooperative and if he or she grows plants in the cooperative may not grow plants elsewhere;

(d) Must provide assistance in growing plants. A monetary contribution or donation is not to be considered assistance under this section. Participants must provide nonmonetary resources and labor in order to participate; and

(e) May not sell, donate, or otherwise provide marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to a person who is not participating under this section.

~~((5))~~ (7) The location of the cooperative must be the domicile of one of the participants. Only one cooperative may be located per property tax parcel. A copy of each participant's recognition card must be kept at the location at all times.

~~((6))~~ (8) The state liquor and cannabis board may adopt rules to implement this section including:

(a) Any security requirements necessary to ensure the safety of the cooperative and to reduce the risk of diversion from the cooperative;

(b) A seed to sale traceability model that is similar to the seed to sale traceability model used by licensees that will allow the state liquor and cannabis board to track all marijuana grown in a cooperative.

~~((7))~~ (9) The state liquor and cannabis board or law enforcement may inspect a cooperative registered under this section to ensure members are in compliance with this section. The state liquor and cannabis board must adopt rules on reasonable inspection hours and reasons for inspections.

NEW SECTION. Sec. 1002. A new section is added to chapter 42.56 RCW to read as follows:

(1) Registration information submitted to the state liquor and cannabis board under RCW 69.51A.--- (section 26, chapter 70, Laws of 2015) including the names of all participating members of a cooperative, copies of each member's recognition card, location of the cooperative, and other information required for registration by the state liquor and cannabis board is exempt from disclosure under this chapter.

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

(a) "Cooperative" means a cooperative established under RCW 69.51A.--- (section 26, chapter 70, Laws of 2015) to produce and process marijuana only for the medical use of members of the cooperative.

(b) "Recognition card" has the same meaning as provided in RCW 69.51A.010.

PART XI

Dedicated Marijuana Account

Sec. 1101. RCW 69.50.530 and 2013 c 3 s 26 are each amended to read as follows:

~~((1)) There shall be a fund, known as the dedicated marijuana fund, which shall consist of all marijuana excise taxes, license fees, penalties, forfeitures, and all other moneys, income, or revenue received by the state liquor control board from marijuana-related activities. The state treasurer shall be custodian of the fund.~~

~~(2))~~ The dedicated marijuana account is created in the state treasury. All moneys received by the state liquor ((control)) and cannabis board, or any employee thereof, from marijuana-related activities ((shall)) must be deposited ((each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the dedicated marijuana fund.

~~(3) Disbursements from the dedicated marijuana fund shall be on authorization of the state liquor control board or a duly authorized representative thereof) in the account. Unless otherwise provided in this act, all marijuana excise taxes collected from sales of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products under RCW 69.50.535, and the license fees, penalties, and forfeitures derived under this chapter from marijuana producer, marijuana processor, marijuana researcher, and marijuana retailer licenses, must be deposited in the account. Moneys in the account may only be spent after appropriation.~~

PART XII

Synthetic Cannabinoids and Bath Salts

NEW SECTION. Sec. 1201. A new section is added to chapter 69.50 RCW to read as follows:

(1) It is an unfair or deceptive practice under RCW 19.86.020 for any person or entity to distribute, dispense, manufacture, display for sale, offer for sale, attempt to sell, or sell to a purchaser any product that contains any amount of any synthetic cannabinoid. The legislature finds that practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this section are not reasonable in relation to the development and preservation of business.

(2) "Synthetic cannabinoid" includes any chemical compound identified in RCW 69.50.204(c)(30) or by the pharmacy quality assurance commission under RCW 69.50.201.

NEW SECTION. Sec. 1202. A new section is added to chapter 69.50 RCW to read as follows:

It is an unfair or deceptive practice under RCW 19.86.020 for any person or entity to distribute, dispense, manufacture, display for sale, offer for sale, attempt to sell, or sell to a purchaser any product that contains any amount of any cathinone or methcathinone as identified in RCW 69.50.204(e) (3) and (5). The legislature finds that practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this section are not reasonable in relation to the development and preservation of business.

Sec. 1203. RCW 69.50.204 and 2010 c 177 s 2 are each amended to read as follows:

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule I:

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Allylprodine;

(4) Alphacetylmethadol, except levoalphacetylmethadol, also known as levoalphaacetylmethadol, levomethadyl acetate, or LAAM;

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(9) Benzethidine;

(10) Betacetylmethadol;

(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)4-piperidinyl]-N-phenylpropanamide);

- (12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxidine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacilmorphan;
- (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl)-4-piperidinyl]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracymethadol;
- (39) Norlevorphanol;
- (40) Normethadone;
- (41) Norpipanone;
- (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
- (43) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (44) Phenadoxone;
- (45) Phenampromide;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Piritramide;
- (49) Proheptazine;
- (50) Properidine;
- (51) Propiram;
- (52) Racemoramide;
- (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- (54) Tilidine;
- (55) Trimeperidine.

(b) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine, except hydrochloride salt;
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

(c) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation. For the purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers:

(1) Alphaethyltryptamine: Some trade or other names: Etryptamine; monase; aethyl1Hindole3ethanamine; 3(2aminobutyl) indole; aET; and AET;

(2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;

(3) 4bromo2,5dimethoxyphenethylamine: Some trade or other names: 2(4bromo2,5dimethoxyphenyl)1aminoethane; alpha-desmethyl DOB; 2CB, nexus;

(4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;

(5) 2,5dimethoxy4ethylamphetamine (DOET);

(6) 2,5dimethoxy4(n)propylthiophenethylamine: Other name: 2CT7;

(7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;

(8) 5-methoxy-3,4-methylenedioxy-amphetamine;

(9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";

(10) 3,4-methylenedioxy amphetamine;

(11) 3,4-methylenedioxyamphetamine (MDMA);

(12) 3,4-methylenedioxyNethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(13) Nhydroxy3,4methylenedioxyamphetamine also known as Nhydroxyalphamethyl3,4(methylenedioxy)phenethylamine,N-hydroxy MDA;

(14) 3,4,5-trimethoxy amphetamine;

(15) Alphamethyltryptamine: Other name: AMT;

(16) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(17) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;

(18) Dimethyltryptamine: Some trade or other names: DMT;

(19) 5methoxyN,Ndiisopropyltryptamine: Other name: 5MeODIPT;

(20) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2' 1,2) azepino (5,4-b) indole; Tabernanthe iboga;

(21) Lysergic acid diethylamide;

(22) Marihuana or marijuana;

(23) Mescaline;

(24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;

(25) Peyote, meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812 (c), Schedule I (c)(12));

(26) N-ethyl-3-piperidyl benzilate;

(27) N-methyl-3-piperidyl benzilate;

(28) Psilocybin;

(29) Psilocyn;

(30) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, species, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(i) 1 - cis - or trans tetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;

(ii) 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;

(iii) 3,4 - cis - or trans tetrahydrocannabinol, and its optical isomers; or

(iv) That is chemically synthesized and either:

(a) Has been demonstrated to have binding activity at one or more cannabinoid receptors; or

(b) Is a chemical analog or isomer of a compound that has been demonstrated to have binding activity at one or more cannabinoid receptors: (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(31) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

(32) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

(33) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thenyl]-cyclohexyl)-piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP;

(34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other name is TCPy.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) Gammahydroxybutyric acid: Some other names include GHB; gammahydroxybutyrate; 4hydroxybutyrate; 4hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate;

(2) Mecloqualone;

(3) Methaqualone.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4, 5-dihydro-5phenyl-2-oxazolamine;

(2) N-Benzylpiperazine: Some other names: BZP, 1benzylpiperazine;

(3) Cathinone, also known as 2amino 1phenyl 1propanone, alphaaminopropiophenone, 2aminopropiophenone and norephedrone;

(4) Fenethylamine;

(5) Methcathinone: Some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(6) (+)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(7) N-ethylamphetamine;

(8) N,N-dimethylamphetamine: Some trade or other names: N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

Sec. 1204. RCW 69.50.430 and 2015 c 265 s 36 are each amended to read as follows:

(1) Every adult offender convicted of a felony violation of RCW 69.50.401 through 69.50.4013, 69.50.4015, 69.50.402, 69.50.403, 69.50.406, 69.50.407, 69.50.410, or 69.50.415 (~~shall~~) must be fined one thousand dollars in addition to any other fine or penalty imposed. Unless the court finds the adult offender to be indigent, this additional fine (~~shall~~) may not be suspended or deferred by the court.

(2) On a second or subsequent conviction for violation of any of the laws listed in subsection (1) of this section, the adult offender (~~shall~~) must be fined two thousand dollars in addition to any other fine or penalty imposed. Unless the court finds the adult offender to be indigent, this additional fine (~~shall~~) may not be suspended or deferred by the court.

(3) In addition to any other civil or criminal penalty, every person who violates or causes another to violate RCW 69.50.401 by distributing, dispensing, manufacturing, displaying for sale, offering for sale, attempting to sell, or selling to a purchaser any product that contains any amount of any synthetic cannabinoid, as identified in RCW 69.50.204, must be fined not less than ten thousand dollars and not more than five hundred thousand dollars. If, however, the person who violates or causes another to violate RCW 69.50.401 by distributing, dispensing, manufacturing, displaying for sale, offering for sale, attempting to sell, or selling any product that contains any amount of any synthetic cannabinoid, as identified in RCW 69.50.204, to a purchaser under the age of eighteen, the minimum penalty is twenty-five thousand dollars if the person is at least two years older than the minor. Unless the court finds the person to be indigent, this additional fine may not be suspended or deferred by the court.

NEW SECTION. Sec. 1205. A new section is added to chapter 69.50 RCW to read as follows:

In addition to any other civil or criminal penalty, every person who violates or causes another to violate RCW 69.50.401 by distributing, dispensing, manufacturing, displaying for sale, offering for sale, attempting to sell, or selling to a purchaser any product that contains any amount of any cathinone or methcathinone, as identified in RCW 69.50.204, must be fined not less than ten thousand dollars and not more than five hundred thousand dollars. If, however, the person who violates or causes another to violate RCW 69.50.401 by distributing, dispensing, manufacturing, displaying for sale, offering for sale, attempting to sell, or selling any product that contains any amount of any cathinone or methcathinone, as identified in RCW 69.50.204, to a purchaser under the age of eighteen, the minimum penalty is twenty-five thousand dollars if the person is at least two years older than the minor. Unless the court finds the person to be indigent, this additional fine may not be suspended or deferred by the court.

PART XIII

Restricting Certain Methods of Selling Marijuana

NEW SECTION. Sec. 1301. A new section is added to chapter 69.50 RCW to read as follows:

(1) A retailer licensed under this chapter is prohibited from operating a vending machine, as defined in RCW 82.08.080(3) for the sale of marijuana

products at retail or a drive-through purchase facility where marijuana products are sold at retail and dispensed through a window or door to a purchaser who is either in or on a motor vehicle or otherwise located outside of the licensed premises at the time of sale.

(2) The state liquor and cannabis board may not issue, transfer, or renew a marijuana retail license for any licensee in violation of the provisions of subsection (1) of this section.

PART XIV Marijuana Clubs

NEW SECTION. **Sec. 1401.** A new section is added to chapter 69.50 RCW to read as follows:

(1) It is unlawful for any person to conduct or maintain a marijuana club by himself or herself or by associating with others, or in any manner aid, assist, or abet in conducting or maintaining a marijuana club.

(2) It is unlawful for any person to conduct or maintain a public place where marijuana is held or stored, except as provided for a licensee under this chapter, or consumption of marijuana is permitted.

(3) Any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

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

(a) "Marijuana club" means a club, association, or other business, for profit or otherwise, that conducts or maintains a premises for the primary or incidental purpose of providing a location where members or other persons may keep or consume marijuana on the premises.

(b) "Public place" means, in addition to the definition provided in RCW 66.04.010, any place to which admission is charged or for which any pecuniary gain is realized by the owner or operator of such place.

PART XV Marijuana Research Licenses

Sec. 1501. RCW 69.50.--- and 2015 c 71 s 1 are each amended to read as follows:

(1) There shall be a marijuana research license that permits a licensee to produce, process, and possess marijuana for the following limited research purposes:

- (a) To test chemical potency and composition levels;
- (b) To conduct clinical investigations of marijuana-derived drug products;
- (c) To conduct research on the efficacy and safety of administering marijuana as part of medical treatment; and
- (d) To conduct genomic or agricultural research.

(2) As part of the application process for a marijuana research license, an applicant must submit to the life sciences discovery fund authority a description of the research that is intended to be conducted. The life sciences discovery fund authority must review the project and determine that it meets the requirements of subsection (1) of this section. If the life sciences discovery fund authority

determines that the research project does not meet the requirements of subsection (1) of this section, the application must be denied.

(3) A marijuana research licensee may only sell marijuana grown or within its operation to other marijuana research licensees. The state liquor ~~((control))~~ and cannabis board may revoke a marijuana research license for violations of this subsection.

(4) A marijuana research licensee may contract with the University of Washington or Washington State University to perform research in conjunction with the university. All research projects, not including those projects conducted pursuant to a contract entered into under RCW 28B.20.502(3), must be approved by the life sciences discovery fund authority and meet the requirements of subsection (1) of this section.

(5) In establishing a marijuana research license, the state liquor ~~((control))~~ and cannabis board may adopt rules on the following:

- (a) Application requirements;
- (b) Marijuana research license renewal requirements, including whether additional research projects may be added or considered;
- (c) Conditions for license revocation;
- (d) Security measures to ensure marijuana is not diverted to purposes other than research;
- (e) Amount of plants, useable marijuana, marijuana concentrates, or marijuana-infused products a licensee may have on its premises;
- (f) Licensee reporting requirements;
- (g) Conditions under which marijuana grown by marijuana processors may be donated to marijuana research licensees; and
- (h) Additional requirements deemed necessary by the state liquor ~~((control))~~ and cannabis board.

(6) The production, processing, possession, delivery, donation, and sale of marijuana in accordance with this section and the rules adopted to implement and enforce it, by a validly licensed marijuana researcher, shall not be a criminal or civil offense under Washington state law. Every marijuana research license ~~((shall))~~ must be issued in the name of the applicant, ~~((shall))~~ must specify the location at which the marijuana researcher intends to operate, which must be within the state of Washington, and the holder thereof ~~((shall))~~ may not allow any other person to use the license.

(7) The application fee for a marijuana research license is two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana research license is one thousand dollars. Fifty percent of the application fee, the issuance fee, and the renewal fee must be deposited to the life sciences discovery fund under RCW 43.350.070, or, if that fund ceases to exist, to the general fund.

Sec. 1502. RCW 28B.20.502 and 2015 c 71 s 2 are each amended to read as follows:

(1) The University of Washington and Washington State University may conduct scientific research on the efficacy and safety of administering marijuana as part of medical treatment. As part of this research, the University of Washington and Washington State University may develop and conduct studies to ascertain the general medical safety and efficacy of marijuana, and may develop medical guidelines for the appropriate administration and use of marijuana.

(2) The University of Washington and Washington State University may, in accordance with RCW 69.50.--- (section 1, chapter 71, Laws of 2015), contract with marijuana research licensees to conduct research permitted under this section and RCW 69.50.--- (section 1, chapter 71, Laws of 2015).

(3) The University of Washington and Washington State University may contract to conduct marijuana research with an entity licensed to conduct such research by a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

Sec. 1503. RCW 43.350.030 and 2015 c 71 s 3 are each amended to read as follows:

In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

(1) Use public moneys in the life sciences discovery fund, leveraging those moneys with amounts received from other public and private sources in accordance with contribution agreements, to promote life sciences research;

(2) Solicit and receive gifts, grants, and bequests, and enter into contribution agreements with private entities and public entities other than the state to receive moneys in consideration of the authority's promise to leverage those moneys with amounts received through appropriations from the legislature and contributions from other public entities and private entities, in order to use those moneys to promote life sciences research. Nonstate moneys received by the authority for this purpose shall be deposited in the life sciences discovery fund created in RCW 43.350.070;

(3) Hold funds received by the authority in trust for their use pursuant to this chapter to promote life sciences research;

(4) Manage its funds, obligations, and investments as necessary and as consistent with its purpose including the segregation of revenues into separate funds and accounts;

(5) Make grants to entities pursuant to contract for the promotion of life sciences research to be conducted in the state. Grant agreements (~~shall~~) must specify deliverables to be provided by the recipient pursuant to the grant. The authority shall solicit requests for funding and evaluate the requests by reference to factors such as: (a) The quality of the proposed research; (b) 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; (c) its potential for leveraging additional funding; (d) its potential to provide health care benefits or benefit human learning and development; (e) its potential to stimulate the health care delivery, biomedical manufacturing, and life sciences related employment in the state; (f) the geographic diversity of the grantees within Washington; (g) evidence of potential royalty income and contractual means to recapture such income for purposes of this chapter; and (h) evidence of public and private collaboration;

(6) Create one or more advisory boards composed of scientists, industrialists, and others familiar with life sciences research;

(7) Review and approve or disapprove marijuana research license applications under RCW 69.50.--- (section 1, chapter 71, Laws of 2015);

(8) Review any reports made by marijuana research licensees under state liquor (~~control~~) and cannabis board rule and provide the state liquor (~~control~~)

and cannabis board with its determination on whether the research project continues to meet research qualifications under RCW 69.50.---(1) (section 1, chapter 71, Laws of 2015); and

(9) Adopt policies and procedures to facilitate the orderly process of grant application, review, and reward.

Sec. 1504. RCW 42.56.--- and 2015 c 71 s 4 are each amended to read as follows:

Reports submitted by marijuana research licensees in accordance with rules adopted by the state liquor (~~(control)~~) and cannabis board under RCW 69.50.--- (section 1, chapter 71, Laws of 2015) that contain proprietary information are exempt from disclosure under this chapter.

PART XVI

Miscellaneous Provisions

Sec. 1601. RCW 69.50.342 and 2015 c 70 s 7 are each amended to read as follows:

(1) For the purpose of carrying into effect the provisions of chapter 3, Laws of 2013 according to their true intent or of supplying any deficiency therein, the state liquor and cannabis board may adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the state liquor and cannabis board is empowered to adopt rules regarding the following:

(a) The equipment and management of retail outlets and premises where marijuana is produced or processed, and inspection of the retail outlets and premises where marijuana is produced or processed;

(b) The books and records to be created and maintained by licensees, the reports to be made thereon to the state liquor and cannabis board, and inspection of the books and records;

(c) Methods of producing, processing, and packaging marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(d) Security requirements for retail outlets and premises where marijuana is produced or processed, and safety protocols for licensees and their employees;

(e) Screening, hiring, training, and supervising employees of licensees;

(f) Retail outlet locations and hours of operation;

(g) Labeling requirements and restrictions on advertisement of marijuana, useable marijuana, marijuana concentrates, cannabis health and beauty aids, and marijuana-infused products for sale in retail outlets;

(h) Forms to be used for purposes of this chapter and chapter 69.51A RCW or the rules adopted to implement and enforce these chapters, the terms and conditions to be contained in licenses issued under this chapter and chapter 69.51A RCW, and the qualifications for receiving a license issued under this chapter and chapter 69.51A RCW, including a criminal history record information check. The state liquor and cannabis board may submit any criminal history record information check to the Washington state patrol and to the

identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor and cannabis board (~~shall~~) must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(i) Application, reinstatement, and renewal fees for licenses issued under this chapter and chapter 69.51A RCW, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this chapter and chapter 69.51A RCW;

(j) The manner of giving and serving notices required by this chapter and chapter 69.51A RCW or rules adopted to implement or enforce these chapters;

(k) Times and periods when, and the manner, methods, and means by which, licensees (~~shall~~) transport and deliver marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

(l) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this chapter or chapter 69.51A RCW or the rules adopted to implement and enforce these chapters.

(2) Rules adopted on retail outlets holding medical marijuana endorsements must be adopted in coordination and consultation with the department.

NEW SECTION. Sec. 1602. RCW 69.50.425 (Misdemeanor violations—Minimum penalties) and 2015 c 265 s 35, 2002 c 175 s 44, & 1989 c 271 s 105 are each repealed.

NEW SECTION. Sec. 1603. (1) Subject to appropriation, if, in addition to any distributions required by section 206 of this act, funding of at least six million dollars per fiscal year for fiscal years 2016 and 2017 is not provided by June 30, 2015, in the omnibus appropriations act for distribution to local governments for marijuana enforcement, this section is null and void. The appropriation in the omnibus appropriations act must reference this section by bill and section number. Distributions to local governments are based on the distribution formula in subsection (2) of this section.

(2)(a) The distribution amount allocated to each county, including the portion for eligible cities within the county, is ratably based on the total amount of taxable sales of marijuana products subject to the marijuana excise tax under RCW 69.50.535 in the prior fiscal year within the county, including all taxable sales attributable to the incorporated areas within the county. Distribution amounts allocated to each county, and eligible cities within the county, must be distributed in four installments by the last day of each fiscal quarter as follows.

(b) Sixty percent must be distributed to each county, except where there is no eligible city with taxable sales of marijuana products in the prior fiscal year, in which case the county must receive one hundred percent of the distribution amount allocated to the county as determined in (a) of this subsection. A county in which the producing, processing, or retailing of marijuana products is prohibited in the unincorporated area of the county is not entitled to a

distribution and the distribution amount must be distributed instead to the eligible cities within the county as provided in (c) of this subsection.

(c) After making any distribution to counties as provided in (b) of this subsection, the treasurer must distribute the remaining amount to eligible cities within the counties. The share to each eligible city within a county must be determined by a division among the eligible cities within each county ratably based on total sales, from the prior fiscal year, of all marijuana products subject to the marijuana excise tax under RCW 69.50.535 within the boundaries of each eligible city located within the county. "Eligible city" means any city or town in which sales of marijuana products are attributable to a marijuana retailer, as defined in RCW 69.50.101, located within the boundaries of the city or town.

(d) By September 15th of each year, the state liquor and cannabis board must provide the state treasurer the annual distribution amount, if any, for each county and city as determined in subsection (2) of this section.

NEW SECTION. Sec. 1604. 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. 1605. (1) Except as provided otherwise in this section, 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, 2015.

(2) Except for section 503 of this act, part V of this act takes effect October 1, 2015.

(3) Sections 203 and 1001 of this act take effect July 1, 2016.

(4) Sections 302, 503, 901, 1204, and 1601 of this act and part XV 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 24, 2015.

Passed by the House June 26, 2015.

Passed by the Senate June 27, 2015.

Approved by the Governor June 30, 2015.

Filed in Office of Secretary of State June 30, 2015.

CHAPTER 5

[Second Engrossed House Bill 2151]

HOSPITAL SAFETY NET

AN ACT Relating to continuation of the hospital safety net assessment for two additional biennia; amending RCW 74.60.005, 74.60.020, 74.60.030, 74.60.050, 74.60.090, 74.60.100, 74.60.120, 74.60.130, 74.60.150, 74.60.160, and 74.60.901; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 74.60.005 and 2013 2nd sp.s. c 17 s 1 are each amended to read as follows:

(1) The purpose of this chapter is to provide for a safety net assessment on certain Washington hospitals, which will be used solely to augment funding from all other sources and thereby support additional payments to hospitals for medicaid services as specified in this chapter.

(2) The legislature finds that federal health care reform will result in an expansion of medicaid enrollment in this state and an increase in federal financial participation. ~~((As a result, the hospital safety net assessment and hospital safety net assessment fund created in this chapter will begin phasing down over a four-year period beginning in fiscal year 2016 as federal medicaid expansion is fully implemented. The state will end its reliance on the assessment and the fund by the end of fiscal year 2019.))~~

(3) In adopting this chapter, it is the intent of the legislature:

(a) To impose a hospital safety net assessment to be used solely for the purposes specified in this chapter;

(b) To generate approximately ~~((four hundred forty-six million three hundred thirty-eight thousand))~~ nine hundred seventy-five million dollars per state fiscal ~~((year in fiscal years 2014 and 2015, and then phasing down in equal increments to zero by the end of fiscal year 2019.))~~ biennium in new state and federal funds by disbursing all of that amount to pay for medicaid hospital services and grants to certified public expenditure and critical access hospitals, except costs of administration as specified in this chapter, in the form of additional payments to hospitals and managed care plans, which may not be a substitute for payments from other sources, but which include quality improvement incentive payments under RCW 74.09.611;

(c) To generate ~~((one hundred ninety-nine million eight hundred thousand))~~ two hundred ninety-two million dollars ~~((in the 2013-2015 biennium, phasing down to zero by the end of the 2017-2019 biennium.))~~ per biennium during the 2015-2017 and 2017-2019 biennia in new funds to be used in lieu of state general fund payments for medicaid hospital services;

(d) That the total amount assessed not exceed the amount needed, in combination with all other available funds, to support the payments authorized by this chapter; ~~((and))~~

(e) To condition the assessment on receiving federal approval for receipt of additional federal financial participation and on continuation of other funding sufficient to maintain aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, at least at the levels the state paid for those services on July 1, ~~((2009))~~ 2015, as adjusted for current enrollment and utilization ~~((, but without regard to payment increases resulting from chapter 30, Laws of 2010 1st sp. sess)); and~~

(f) For each of the two biennia starting with fiscal year 2016 to generate:

(i) Four million dollars for new integrated evidence-based psychiatry residency program slots that did not receive state funding prior to 2016 at the integrated psychiatry residency program at the University of Washington; and

(ii) Eight million two hundred thousand dollars for new family medicine residency program slots that did not receive state funding prior to 2016, as directed through the family medicine residency network at the University of Washington, for slots where residents are employed by hospitals.

Sec. 2. RCW 74.60.020 and 2013 2nd sp.s. c 17 s 3 are each amended to read as follows:

(1) A dedicated fund is hereby established within the state treasury to be known as the hospital safety net assessment fund. The purpose and use of the fund shall be to receive and disburse funds, together with accrued interest, in accordance with this chapter. Moneys in the fund, including interest earned, shall

not be used or disbursed for any purposes other than those specified in this chapter. Any amounts expended from the fund that are later recouped by the authority on audit or otherwise shall be returned to the fund.

(a) Any unexpended balance in the fund at the end of a fiscal ~~((biennium))~~ year shall carry over into the following ~~((biennium))~~ fiscal year or that fiscal year and the following fiscal year and shall be applied to reduce the amount of the assessment under RCW 74.60.050(1)(c).

(b) Any amounts remaining in the fund after July 1, 2019, shall be refunded to hospitals, pro rata according to the amount paid by the hospital since July 1, 2013, subject to the limitations of federal law.

(2) All assessments, interest, and penalties collected by the authority under RCW 74.60.030 and 74.60.050 shall be deposited into the fund.

(3) Disbursements from the fund are conditioned upon appropriation and the continued availability of other funds sufficient to maintain aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, at least at the levels the state paid for those services on July 1, ~~((2009))~~ 2015, as adjusted for current enrollment and utilization ~~((but without regard to payment increases resulting from chapter 30, Laws of 2010 1st sp. sess)).~~

(4) Disbursements from the fund may be made only:

(a) To make payments to hospitals and managed care plans as specified in this chapter;

(b) To refund erroneous or excessive payments made by hospitals pursuant to this chapter;

(c) For one million dollars per biennium for payment of administrative expenses incurred by the authority in performing the activities authorized by this chapter;

(d) For ~~((one hundred ninety nine million eight hundred thousand))~~ two hundred eighty-three million dollars ~~((in the 2013-2015))~~ per biennium, ~~((phasing down to zero by the end of the 2017-2019 biennium))~~ to be used in lieu of state general fund payments for medicaid hospital services, provided that if the full amount of the payments required under RCW 74.60.120 and 74.60.130 cannot be distributed in a given fiscal year, this amount must be reduced proportionately;

(e) To repay the federal government for any excess payments made to hospitals from the fund if the assessments or payment increases set forth in this chapter are deemed out of compliance with federal statutes and regulations in a final determination by a court of competent jurisdiction with all appeals exhausted. In such a case, the authority may require hospitals receiving excess payments to refund the payments in question to the fund. The state in turn shall return funds to the federal government in the same proportion as the original financing. If a hospital is unable to refund payments, the state shall develop either a payment plan, or deduct moneys from future medicaid payments, or both;

(f) Beginning in state fiscal year 2015, to pay an amount sufficient, when combined with the maximum available amount of federal funds necessary to provide a one percent increase in medicaid hospital inpatient rates to hospitals eligible for quality improvement incentives under RCW 74.09.611; and

(g) For each state fiscal year 2016 through 2019 to generate:

(i) Two million dollars for new integrated evidence-based psychiatry residency program slots that did not receive state funding prior to 2016 at the integrated psychiatry residency program at the University of Washington; and

(ii) Four million one hundred thousand dollars for new family medicine residency program slots that did not receive state funding prior to 2016, as directed through the family medicine residency network at the University of Washington, for slots where residents are employed by hospitals.

Sec. 3. RCW 74.60.030 and 2014 c 143 s 1 are each amended to read as follows:

(1)(a) Upon satisfaction of the conditions in RCW 74.60.150(1), and so long as the conditions in RCW 74.60.150(2) have not occurred, an assessment is imposed as set forth in this subsection (~~(; effective October 1, 2013)~~). (~~Initial assessment notices must be sent to each hospital not earlier than thirty days after satisfaction of the conditions in RCW 74.60.150(1). Payment is due not sooner than thirty days thereafter. Except for the initial~~) Assessment(~~(;)~~) notices must be sent on or about thirty days prior to the end of each quarter and payment is due thirty days thereafter.

(b) Effective (~~(October 1, 2013)~~) July 1, 2015, and except as provided in RCW 74.60.050:

(i) (~~For fiscal year 2014, an annual assessment for amounts determined as described in (b)(ii) through (iv) of this subsection is imposed for the time period of October 1, 2013, through June 30, 2014. The initial assessment notice must cover amounts due from October 1, 2013, through either: (A) The end of the calendar quarter prior to the satisfaction of the conditions in RCW 74.60.150(1) if federal approval is received more than forty-five days prior to the end of a quarter; or (B) the end of the calendar quarter after the satisfaction of the conditions in RCW 74.60.150(1) if federal approval is received within forty-five days of the end of a quarter. For subsequent assessments during fiscal year 2014, the authority shall calculate the amount due annually and shall issue assessments for the appropriate proportion of the annual amount due from each hospital;~~)

(~~(ii) After the assessments described in (b)(i) of this subsection,~~) Each prospective payment system hospital, except psychiatric and rehabilitation hospitals, shall pay a quarterly assessment. Each quarterly assessment shall be no more than one quarter of three hundred (~~(forty-four)~~) fifty dollars for each annual nonmedicare hospital inpatient day, up to a maximum of fifty-four thousand days per year. For each nonmedicare hospital inpatient day in excess of fifty-four thousand days, each prospective payment system hospital shall pay an assessment of one quarter of seven dollars for each such day;

(~~(iii) After the assessments described in (b)(i) of this subsection,~~) (ii) Each critical access hospital shall pay a quarterly assessment of one quarter of ten dollars for each annual nonmedicare hospital inpatient day;

(~~(iv) After the assessments described in (b)(i) of this subsection,~~) (iii) Each psychiatric hospital shall pay a quarterly assessment of no more than one quarter of (~~(sixty-seven)~~) seventy dollars for each annual nonmedicare hospital inpatient day; and

(~~(v) After the assessments described in (b)(i) of this subsection,~~) (iv) Each rehabilitation hospital shall pay a quarterly assessment of no more than one quarter of (~~(sixty-seven)~~) seventy dollars for each annual nonmedicare hospital inpatient day.

(2) The authority shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare hospital inpatient days for each hospital that is not exempt from the assessment under RCW 74.60.040(~~(-taken)~~). The authority shall obtain inpatient data from the hospital's 2552 cost report data file or successor data file available through the centers for medicare and medicaid services, as of a date to be determined by the authority. For state fiscal year (~~(2014)~~) 2016, the authority shall use cost report data for hospitals' fiscal years ending in (~~(2010)~~) 2012. For subsequent years, the hospitals' next succeeding fiscal year cost report data must be used.

(a) With the exception of a prospective payment system hospital commencing operations after January 1, 2009, for any hospital without a cost report for the relevant fiscal year, the authority shall work with the affected hospital to identify appropriate supplemental information that may be used to determine annual nonmedicare hospital inpatient days.

(b) A prospective payment system hospital commencing operations after January 1, 2009, must be assessed in accordance with this section after becoming an eligible new prospective payment system hospital as defined in RCW 74.60.010.

Sec. 4. RCW 74.60.050 and 2013 2nd sp.s. c 17 s 5 are each amended to read as follows:

(1) The authority, in cooperation with the office of financial management, shall develop rules for determining the amount to be assessed to individual hospitals, notifying individual hospitals of the assessed amount, and collecting the amounts due. Such rule making shall specifically include provision for:

(a) Transmittal of notices of assessment by the authority to each hospital informing the hospital of its nonmedicare hospital inpatient days and the assessment amount due and payable;

(b) Interest on delinquent assessments at the rate specified in RCW 82.32.050; and

(c) Adjustment of the assessment amounts in accordance with subsection(~~(s)~~) (2) (~~(and (3))~~) of this section.

(2) For state fiscal year (~~(2015)~~) 2016 and each subsequent state fiscal year, the assessment amounts established under RCW 74.60.030 must be adjusted as follows:

(a) If sufficient other funds, including federal funds, are available to make the payments required under this chapter and fund the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f) without utilizing the full assessment under RCW 74.60.030, the authority shall reduce the amount of the assessment to the minimum levels necessary to support those payments;

(b) If the total amount of inpatient or outpatient supplemental payments under RCW 74.60.120 is in excess of the upper payment limit and the entire excess amount cannot be disbursed by additional payments to managed care organizations under RCW 74.60.130, the authority shall proportionately reduce future assessments on prospective payment hospitals to the level necessary to generate additional payments to hospitals that are consistent with the upper payment limit plus the maximum permissible amount of additional payments to managed care organizations under RCW 74.60.130;

(c) If the amount of payments to managed care organizations under RCW 74.60.130 cannot be distributed because of failure to meet federal actuarial

soundness or utilization requirements or other federal requirements, the authority shall apply the amount that cannot be distributed to reduce future assessments to the level necessary to generate additional payments to managed care organizations that are consistent with federal actuarial soundness or utilization requirements or other federal requirements;

(d) If required in order to obtain federal matching funds, the maximum number of nonmedicare inpatient days at the higher rate provided under RCW 74.60.030(1)(b)(i) may be adjusted in order to comply with federal requirements;

(e) If the number of nonmedicare inpatient days applied to the rates provided in RCW 74.60.030 will not produce sufficient funds to support the payments required under this chapter and the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f), the assessment rates provided in RCW 74.60.030 may be increased proportionately by category of hospital to amounts no greater than necessary in order to produce the required level of funds needed to make the payments specified in this chapter and the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f); and

(f) Any actual or estimated surplus remaining in the fund at the end of the fiscal year must be applied to reduce the assessment amount for the subsequent fiscal year or that fiscal year and the following fiscal years prior to and including fiscal year 2019.

~~(3) ((For each fiscal year after June 30, 2015, the assessment amounts established under RCW 74.60.030 must be adjusted as follows:~~

~~(a) In order to support the payments required in this chapter, the assessment amounts must be reduced in approximately equal yearly increments each fiscal year by category of hospital until the assessment amount is zero by July 1, 2019;~~

~~(b) If sufficient other funds, including federal funds, are available to make the payments required under this chapter and fund the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f) without utilizing the full assessment under RCW 74.60.030, the authority shall reduce the amount of the assessment to the minimum levels necessary to support those payments;~~

~~(c) If in any fiscal year the total amount of inpatient or outpatient supplemental payments under RCW 74.60.120 is in excess of the upper payment limit and the entire excess amount cannot be disbursed by additional payments to managed care organizations under RCW 74.60.130, the authority shall proportionately reduce future assessments on prospective payment hospitals to the level necessary to generate additional payments to hospitals that are consistent with the upper payment limit plus the maximum permissible amount of additional payments to managed care organizations under RCW 74.60.130;~~

~~(d) If the amount of payments to managed care organizations under RCW 74.60.130 cannot be distributed because of failure to meet federal actuarial soundness or utilization requirements or other federal requirements, the authority shall apply the amount that cannot be distributed to reduce future assessments to the level necessary to generate additional payments to managed care organizations that are consistent with federal actuarial soundness or utilization requirements or other federal requirements;~~

~~(e) If required in order to obtain federal matching funds, the maximum number of nonmedicare inpatient days at the higher rate provided under RCW~~

~~74.60.030(1)(b)(i) may be adjusted in order to comply with federal requirements;~~

~~(f) If the number of nonmedicare inpatient days applied to the rates provided in RCW 74.60.030 will not produce sufficient funds to support the payments required under this chapter and the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f), the assessment rates provided in RCW 74.60.030 may be increased proportionately by category of hospital to amounts no greater than necessary in order to produce the required level of funds needed to make the payments specified in this chapter and the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f); and~~

~~(g) Any actual or estimated surplus remaining in the fund at the end of the fiscal year must be applied to reduce the assessment amount for the subsequent fiscal year.~~

~~(4))(a) Any adjustment to the assessment amounts pursuant to this section, and the data supporting such adjustment, including, but not limited to, relevant data listed in (b) of this subsection, must be submitted to the Washington state hospital association for review and comment at least sixty calendar days prior to implementation of such adjusted assessment amounts. Any review and comment provided by the Washington state hospital association does not limit the ability of the Washington state hospital association or its members to challenge an adjustment or other action by the authority that is not made in accordance with this chapter.~~

~~(b) The authority shall provide the following data to the Washington state hospital association sixty days before implementing any revised assessment levels, detailed by fiscal year, beginning with fiscal year 2011 and extending to the most recent fiscal year, except in connection with the initial assessment under this chapter:~~

~~(i) The fund balance;~~

~~(ii) The amount of assessment paid by each hospital;~~

~~(iii) The state share, federal share, and total annual medicaid fee-for-service payments for inpatient hospital services made to each hospital under RCW 74.60.120, and the data used to calculate the payments to individual hospitals under that section;~~

~~(iv) The state share, federal share, and total annual medicaid fee-for-service payments for outpatient hospital services made to each hospital under RCW 74.60.120, and the data used to calculate annual payments to individual hospitals under that section;~~

~~(v) The annual state share, federal share, and total payments made to each hospital under each of the following programs: Grants to certified public expenditure hospitals under RCW 74.60.090, for critical access hospital payments under RCW 74.60.100; and disproportionate share programs under RCW 74.60.110;~~

~~(vi) The data used to calculate annual payments to individual hospitals under (b)(v) of this subsection; and~~

~~(vii) The amount of payments made to managed care plans under RCW 74.60.130, including the amount representing additional premium tax, and the data used to calculate those payments.~~

(c) On a monthly basis, the authority shall provide the Washington state hospital association the amount of payments made to managed care plans under RCW 74.60.130, including the amount representing additional premium tax, and the data used to calculate those payments.

Sec. 5. RCW 74.60.090 and 2013 2nd sp.s. c 17 s 8 are each amended to read as follows:

(1) In each fiscal year commencing upon satisfaction of the applicable conditions in RCW 74.60.150(1), funds must be disbursed from the fund and the authority shall make grants to certified public expenditure hospitals, which shall not be considered payments for hospital services, as follows:

(a) University of Washington medical center: ~~((Three million three hundred thousand dollars per state fiscal year in fiscal years 2014 and 2015, and then reduced in approximately equal increments per fiscal year until the grant amount is zero by July 1,))~~ Ten million five hundred fifty-five thousand dollars in each state fiscal year 2016 through 2019 paid as follows, except if the full amount of the payments required under RCW 74.60.120 and 74.60.130 cannot be distributed in a given fiscal year, the amounts in this subsection (ii) and (iii) must be reduced proportionately:

(i) Four million four hundred fifty-five thousand dollars;

(ii) Two million dollars to new integrated, evidence-based psychiatry residency program slots that did not receive state funding prior to 2016, at the integrated psychiatry residency program at the University of Washington; and

(iii) Four million one hundred thousand dollars to new family medicine residency program slots that did not receive state funding prior to 2016, as directed through the family medicine residency network at the University of Washington, for slots where residents are employed by hospitals;

(b) Harborview medical center: ~~((Seven million six hundred thousand dollars per state fiscal year in fiscal years 2014 and 2015, and then reduced in approximately equal increments per fiscal year until the grant amount is zero by July 1,))~~ Ten million two hundred sixty thousand dollars in each state fiscal year 2016 through 2019;

(c) All other certified public expenditure hospitals: ~~((Four million seven hundred thousand dollars per state fiscal year in fiscal years 2014 and 2015, and then reduced in approximately equal increments per fiscal year until the grant amount is zero by July 1,))~~ Six million three hundred forty-five thousand dollars in each state fiscal year 2016 through 2019. The amount of payments to individual hospitals under this subsection must be determined using a methodology that provides each hospital with a proportional allocation of the group's total amount of medicaid and state children's health insurance program payments determined from claims and encounter data using the same general methodology set forth in RCW 74.60.120 (3) and (4).

(2) Payments must be made quarterly, before the end of each quarter, taking the total disbursement amount and dividing by four to calculate the quarterly amount. ((The initial payment, which must include all amounts due from and after July 1, 2013, to the date of the initial payment, must be made within thirty days after satisfaction of the conditions in RCW 74.60.150(1-)) The authority shall provide a quarterly report of such payments to the Washington state hospital association.

Sec. 6. RCW 74.60.100 and 2013 2nd sp.s. c 17 s 9 are each amended to read as follows:

In each fiscal year commencing upon satisfaction of the conditions in RCW 74.60.150(1), the authority shall make access payments to critical access hospitals that do not qualify for or receive a small rural disproportionate share hospital payment in a given fiscal year in the total amount of ~~((five hundred twenty))~~ seven hundred two thousand dollars from the fund and to critical access hospitals that receive disproportionate share payments in the total amount of one million three hundred thirty-six thousand dollars. The amount of payments to individual hospitals under this section must be determined using a methodology that provides each hospital with a proportional allocation of the group's total amount of medicaid and state children's health insurance program payments determined from claims and encounter data using the same general methodology set forth in RCW 74.60.120 (3) and (4). Payments must be made after the authority determines a hospital's payments under RCW 74.60.110. These payments shall be in addition to any other amount payable with respect to services provided by critical access hospitals and shall not reduce any other payments to critical access hospitals. The authority shall provide a report of such payments to the Washington state hospital association within thirty days after payments are made.

Sec. 7. RCW 74.60.120 and 2014 c 143 s 2 are each amended to read as follows:

(1) ~~((Beginning))~~ In each state fiscal year ~~((2014)),~~ commencing ~~((thirty days after))~~ upon satisfaction of the applicable conditions in RCW 74.60.150(1), ~~((and for the period of state fiscal years 2014 through 2019,))~~ the authority shall make supplemental payments directly to Washington hospitals, separately for inpatient and outpatient fee-for-service medicaid services, as follows:

(a) For inpatient fee-for-service payments for prospective payment hospitals other than psychiatric or rehabilitation hospitals, ~~twenty-nine million ((two hundred twenty-five thousand))~~ one hundred sixty-two thousand five hundred dollars per state fiscal year ((in fiscal years 2014 and 2015, and then amounts reduced in equal increments per fiscal year until the supplemental payment amount is zero by July 1, 2019, from the fund,)) plus federal matching funds;

(b) For outpatient fee-for-service payments for prospective payment hospitals other than psychiatric or rehabilitation hospitals, ~~thirty million dollars per state fiscal year ((in fiscal years 2014 and 2015, and then amounts reduced in equal increments per fiscal year until the supplemental payment amount is zero by July 1, 2019, from the fund,))~~ plus federal matching funds;

(c) For inpatient fee-for-service payments for psychiatric hospitals, ~~(((six hundred twenty-five thousand))~~ eight hundred seventy-five thousand dollars per state fiscal year ~~((in fiscal years 2014 and 2015, and then amounts reduced in equal increments per fiscal year until the supplemental payment amount is zero by July 1, 2019, from the fund,))~~ plus federal matching funds;

(d) For inpatient fee-for-service payments for rehabilitation hospitals, ~~(((one hundred fifty thousand))~~ two hundred twenty-five thousand dollars per state fiscal year ~~((in fiscal years 2014 and 2015, and then amounts reduced in equal increments per fiscal year until the supplemental payment amount is zero by July 1, 2019, from the fund,))~~ plus federal matching funds;

(e) For inpatient fee-for-service payments for border hospitals, two hundred fifty thousand dollars per state fiscal year (~~(in fiscal years 2014 and 2015, and then amounts reduced in equal increments per fiscal year until the supplemental payment amount is zero by July 1, 2019, from the fund,)~~) plus federal matching funds; and

(f) For outpatient fee-for-service payments for border hospitals, two hundred fifty thousand dollars per state fiscal year (~~(in fiscal years 2014 and 2015, and then amounts reduced in equal increments per fiscal year until the supplemental payment amount is zero by July 1, 2019, from the fund,)~~) plus federal matching funds.

(2) If the amount of inpatient or outpatient payments under subsection (1) of this section, when combined with federal matching funds, exceeds the upper payment limit, payments to each category of hospital must be reduced proportionately to a level where the total payment amount is consistent with the upper payment limit. Funds under this chapter unable to be paid to hospitals under this section because of the upper payment limit must be paid to managed care organizations under RCW 74.60.130, subject to the limitations in this chapter.

(3) The amount of such fee-for-service inpatient payments to individual hospitals within each of the categories identified in subsection (1)(a), (c), (d), and (e) of this section must be determined by:

(a) Applying the medicaid fee-for-service rates in effect on July 1, 2009, without regard to the increases required by chapter 30, Laws of 2010 1st sp. sess. to each hospital's inpatient fee-for-services claims and medicaid managed care encounter data for the base year;

(b) Applying the medicaid fee-for-service rates in effect on July 1, 2009, without regard to the increases required by chapter 30, Laws of 2010 1st sp. sess. to all hospitals' inpatient fee-for-services claims and medicaid managed care encounter data for the base year; and

(c) Using the amounts calculated under (a) and (b) of this subsection to determine an individual hospital's percentage of the total amount to be distributed to each category of hospital.

(4) The amount of such fee-for-service outpatient payments to individual hospitals within each of the categories identified in subsection (1)(b) and (f) of this section must be determined by:

(a) Applying the medicaid fee-for-service rates in effect on July 1, 2009, without regard to the increases required by chapter 30, Laws of 2010 1st sp. sess. to each hospital's outpatient fee-for-services claims and medicaid managed care encounter data for the base year;

(b) Applying the medicaid fee-for-service rates in effect on July 1, 2009, without regard to the increases required by chapter 30, Laws of 2010 1st sp. sess. to all hospitals' outpatient fee-for-services claims and medicaid managed care encounter data for the base year; and

(c) Using the amounts calculated under (a) and (b) of this subsection to determine an individual hospital's percentage of the total amount to be distributed to each category of hospital.

(5) (~~Thirty days before the initial payments and~~) Sixty days before the first payment in each subsequent fiscal year, the authority shall provide each hospital

and the Washington state hospital association with an explanation of how the amounts due to each hospital under this section were calculated.

(6) Payments must be made in quarterly installments on or about the last day of every quarter. ~~((The initial payment must be made within thirty days after satisfaction of the conditions in RCW 74.60.150(1) and must include all amounts due from July 1, 2013, to either: (a) The end of the calendar quarter prior to when the conditions in RCW 70.60.150(1) [74.60.150(1)] are satisfied if approval is received more than forty five days prior to the end of a quarter; or (b) the end of the calendar quarter after the satisfaction of the conditions in RCW 74.60.150(1) if approval is received within forty five days of the end of a quarter.))~~

(7) A prospective payment system hospital commencing operations after January 1, 2009, is eligible to receive payments in accordance with this section after becoming an eligible new prospective payment system hospital as defined in RCW 74.60.010.

(8) Payments under this section are supplemental to all other payments and do not reduce any other payments to hospitals.

Sec. 8. RCW 74.60.130 and 2014 c 143 s 3 are each amended to read as follows:

(1) For state fiscal year ~~((2014))~~ 2016 and for each subsequent fiscal year, commencing within thirty days after satisfaction of the conditions in RCW 74.60.150(1) and subsection ~~((6))~~ (5) of this section, ~~((and for the period of state fiscal years 2014 through 2019,))~~ the authority shall increase capitation payments in a manner consistent with federal contracting requirements to managed care organizations by an amount at least equal to the amount available from the fund after deducting disbursements authorized by RCW 74.60.020(4) (c) through (f) and payments required by RCW 74.60.080 through 74.60.120. The capitation payment under this subsection must be no less than ~~((one hundred fifty three))~~ ninety-six million ~~((one hundred thirty one thousand six hundred))~~ dollars per state fiscal year ~~((in fiscal years 2014 and 2015, and then the increased capitation payment amounts are reduced in equal increments per fiscal year until the increased capitation payment amount is zero by July 1, 2019,))~~ plus the maximum available amount of federal matching funds. The initial payment following satisfaction of the conditions in RCW 74.60.150(1) must include all amounts due from July 1, ~~((2013))~~ 2015, to the end of the calendar month during which the conditions in RCW 74.60.150(1) are satisfied. Subsequent payments shall be made monthly.

(2) ~~((In fiscal years 2015, 2016, and 2017, the authority shall use any additional federal matching funds for the increased managed care capitation payments under subsection (1) of this section available from medicaid expansion under the federal patient protection and affordable care act to substitute for assessment funds which otherwise would have been used to pay managed care plans under this section.~~

~~(3))~~ Payments to individual managed care organizations shall be determined by the authority based on each organization's or network's enrollment relative to the anticipated total enrollment in each program for the fiscal year in question, the anticipated utilization of hospital services by an organization's or network's medicaid enrollees, and such other factors as are reasonable and appropriate to ensure that purposes of this chapter are met.

~~((4))~~ (3) If the federal government determines that total payments to managed care organizations under this section exceed what is permitted under applicable medicaid laws and regulations, payments must be reduced to levels that meet such requirements, and the balance remaining must be applied as provided in RCW 74.60.050. Further, in the event a managed care organization is legally obligated to repay amounts distributed to hospitals under this section to the state or federal government, a managed care organization may recoup the amount it is obligated to repay under the medicaid program from individual hospitals by not more than the amount of overpayment each hospital received from that managed care organization.

~~((5))~~ (4) Payments under this section do not reduce the amounts that otherwise would be paid to managed care organizations: PROVIDED, That such payments are consistent with actuarial soundness certification and enrollment.

~~((6))~~ (5) Before making such payments, the authority shall require medicaid managed care organizations to comply with the following requirements:

(a) All payments to managed care organizations under this chapter must be expended for hospital services provided by Washington hospitals, which for purposes of this section includes psychiatric and rehabilitation hospitals, in a manner consistent with the purposes and provisions of this chapter, and must be equal to all increased capitation payments under this section received by the organization or network, consistent with actuarial certification and enrollment, less an allowance for any estimated premium taxes the organization is required to pay under Title 48 RCW associated with the payments under this chapter;

(b) Managed care organizations shall expend the increased capitation payments under this section in a manner consistent with the purposes of this chapter, with the initial expenditures to hospitals to be made within thirty days of receipt of payment from the authority. Subsequent expenditures by the managed care plans are to be made before the end of the quarter in which funds are received from the authority;

(c) Providing that any delegation or attempted delegation of an organization's or network's obligations under agreements with the authority do not relieve the organization or network of its obligations under this section and related contract provisions.

~~((7))~~ (6) No hospital or managed care organizations may use the payments under this section to gain advantage in negotiations.

~~((8))~~ (7) No hospital has a claim or cause of action against a managed care organization for monetary compensation based on the amount of payments under subsection ~~((6))~~ (5) of this section.

~~((9))~~ (8) If funds cannot be used to pay for services in accordance with this chapter the managed care organization or network must return the funds to the authority which shall return them to the hospital safety net assessment fund.

Sec. 9. RCW 74.60.150 and 2013 2nd sp.s. c 17 s 15 are each amended to read as follows:

(1) The assessment, collection, and disbursement of funds under this chapter shall be conditional upon:

(a) Final approval by the centers for medicare and medicaid services of any state plan amendments or waiver requests that are necessary in order to implement the applicable sections of this chapter including, if necessary, waiver

of the broad-based or uniformity requirements as specified under section 1903(w)(3)(E) of the federal social security act and 42 C.F.R. 433.68(e);

(b) To the extent necessary, amendment of contracts between the authority and managed care organizations in order to implement this chapter; and

(c) Certification by the office of financial management that appropriations have been adopted that fully support the rates established in this chapter for the upcoming fiscal year.

(2) This chapter does not take effect or ceases to be imposed, and any moneys remaining in the fund shall be refunded to hospitals in proportion to the amounts paid by such hospitals, if and to the extent that any of the following conditions occur:

(a) The federal department of health and human services and a court of competent jurisdiction makes a final determination, with all appeals exhausted, that any element of this chapter, other than RCW 74.60.100, cannot be validly implemented;

(b) Funds generated by the assessment for payments to prospective payment hospitals or managed care organizations are determined to be not eligible for federal match;

(c) Other funding sufficient to maintain aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, at least at the levels the state paid for those services on July 1, ~~((2009))~~ 2015, as adjusted for current enrollment and utilization ~~((, but without regard to payment increases resulting from chapter 30, Laws of 2010 1st sp. sess.))~~ is not appropriated or available;

(d) Payments required by this chapter are reduced, except as specifically authorized in this chapter, or payments are not made in substantial compliance with the time frames set forth in this chapter; or

(e) The fund is used as a substitute for or to supplant other funds, except as authorized by RCW 74.60.020.

Sec. 10. RCW 74.60.160 and 2013 2nd sp.s. c 17 s 17 are each amended to read as follows:

(1) The legislature intends to provide the hospitals with an opportunity to contract with the authority each fiscal biennium to protect the hospitals from future legislative action during the biennium that could result in hospitals receiving less from supplemental payments, increased managed care payments, disproportionate share hospital payments, or access payments than the hospitals expected to receive in return for the assessment based on the biennial appropriations and assessment legislation.

(2) Each odd-numbered year after enactment of the biennial omnibus operating appropriations act, the authority shall offer to enter into a contract or to extend an existing contract for the period of the fiscal biennium beginning July 1st with a hospital that is required to pay the assessment under this chapter. The contract must include the following terms:

(a) The authority must agree not to do any of the following:

(i) Increase the assessment from the level set by the authority pursuant to this chapter on the first day of the contract period for reasons other than those allowed under RCW 74.60.050 ~~((3))~~ (2)(e);

(ii) Reduce aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed

care, ~~((allowing for variations due to budget neutral rebasing and))~~ adjusting for changes in enrollment and utilization, from the levels the state paid for those services on the first day of the contract period;

(iii) For critical access hospitals only, reduce the levels of disproportionate share hospital payments under RCW 74.60.110 or access payments under RCW 74.60.100 for all critical access hospitals below the levels specified in those sections on the first day of the contract period;

(iv) For prospective payment system, psychiatric, and rehabilitation hospitals only, reduce the levels of supplemental payments under RCW 74.60.120 for all prospective payment system hospitals below the levels specified in that section on the first day of the contract period unless the supplemental payments are reduced under RCW 74.60.120(2);

(v) For prospective payment system, psychiatric, and rehabilitation hospitals only, reduce the increased capitation payments to managed care organizations under RCW 74.60.130 below the levels specified in that section on the first day of the contract period unless the managed care payments are reduced under RCW 74.60.130~~((4))~~ (3); or

(vi) Except as specified in this chapter, use assessment revenues for any other purpose than to secure federal medicaid matching funds to support payments to hospitals for medicaid services; and

(b) As long as payment levels are maintained as required under this chapter, the hospital must agree not to challenge the authority's reduction of hospital reimbursement rates to July 1, 2009, levels, which results from the elimination of assessment supported rate restorations and increases, under 42 U.S.C. Sec. 1396a(a)(30)(a) either through administrative appeals or in court during the period of the contract.

(3) If a court finds that the authority has breached an agreement with a hospital under subsection (2)(a) of this section, the authority:

(a) Must immediately refund any assessment payments made subsequent to the breach by that hospital upon receipt; and

(b) May discontinue supplemental payments, increased managed care payments, disproportionate share hospital payments, and access payments made subsequent to the breach for the hospital that are required under this chapter.

(4) The remedies provided in this section are not exclusive of any other remedies and rights that may be available to the hospital whether provided in this chapter or otherwise in law, equity, or statute.

Sec. 11. RCW 74.60.901 and 2013 2nd sp.s. c 17 s 19 are each amended to read as follows:

This chapter expires July 1, ~~((2017))~~ 2019.

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 immediately.

Passed by the House June 24, 2015.

Passed by the Senate June 26, 2015.

Approved by the Governor June 30, 2015.

Filed in Office of Secretary of State June 30, 2015.

CHAPTER 6

[Engrossed Senate Bill 6092]

PUBLIC EMPLOYEES--COLLECTIVE BARGAINING--COURT MARSHALS

AN ACT Relating to adding certain commissioned court marshals of county sheriff's offices to the definition of uniformed personnel for the purposes of public employees' collective bargaining; and amending RCW 41.56.030.

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

Sec. 1. RCW 41.56.030 and 2011 1st sp.s. c 21 s 11 are each amended to read as follows:

As used in this chapter:

(1) "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.

(2) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(3) "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.

(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) "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.

(8) "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.

(9) "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.

(10)(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 June 10, 2010, 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.

(11) "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.

(12) "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.

(13) "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(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; ~~((h))~~ (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; or (i) court marshals of any county who are employed by, trained for, and commissioned by the county sheriff and charged with the responsibility of enforcing laws, protecting and maintaining security in all county-owned or contracted property,

and performing any other duties assigned to them by the county sheriff or mandated by judicial order.

Passed by the Senate June 24, 2015.

Passed by the House June 27, 2015.

Approved by the Governor July 9, 2015.

Filed in Office of Secretary of State July 9, 2015.

CHAPTER 7

[Second Engrossed Second Substitute House Bill 1272]

CRIMES--DISTRIBUTION OF INTIMATE IMAGES

AN ACT Relating to the wrongful distribution of intimate images; adding a new chapter to Title 9A RCW; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** (1) A person commits the crime of disclosing intimate images when the person knowingly discloses an intimate image of another person and the person disclosing the image:

(a) Obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private;

(b) Knows or should have known that the depicted person has not consented to the disclosure; and

(c) Knows or reasonably should know that disclosure would cause harm to the depicted person.

(2) A person who is under the age of eighteen is not guilty of the crime of disclosing intimate images unless the person:

(a) Intentionally and maliciously disclosed an intimate image of another person;

(b) Obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private; and

(c) Knows or should have known that the depicted person has not consented to the disclosure.

(3) This section does not apply to:

(a) Images involving voluntary exposure in public or commercial settings; or

(b) Disclosures made in the public interest including, but not limited to, the reporting of unlawful conduct, or the lawful and common practices of law enforcement, criminal reporting, legal proceedings, or medical treatment.

(4) This section does not impose liability upon the following entities solely as a result of content provided by another person:

(a) An interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2);

(b) A provider of public or private mobile service, as defined in section 13-214 of the public utilities act; or

(c) A telecommunications network or broadband provider.

(5) It shall be an affirmative defense to a violation of this section that the defendant is a family member of a minor and did not intend any harm or harassment in disclosing the images of the minor to other family or friends of the defendant. This affirmative defense shall not apply to matters defined under RCW 9.68A.011.

(6) For purposes of this section:

(a) "Disclosing" includes transferring, publishing, or disseminating, as well as making a digital depiction available for distribution or downloading through the facilities of a telecommunications network or through any other means of transferring computer programs or data to a computer;

(b) "Intimate image" means any photograph, motion picture film, videotape, digital image, or any other recording or transmission of another person who is identifiable from the image itself or from information displayed with or otherwise connected to the image, and that was taken in a private setting, is not a matter of public concern, and depicts:

(i) Sexual activity, including sexual intercourse as defined in RCW 9A.44.010 and masturbation; or

(ii) A person's intimate body parts, whether nude or visible through less than opaque clothing, including the genitals, pubic area, anus, or post-pubescent female nipple.

(7) The crime of disclosing intimate images:

(a) Is a gross misdemeanor on the first offense; or

(b) Is a class C felony if the defendant has one or more prior convictions for disclosing intimate images.

(8) Nothing in this section is construed to:

(a) Alter or negate any rights, obligations, or immunities of an interactive service provider under 47 U.S.C. Sec. 230; or

(b) Limit or preclude a plaintiff from securing or recovering any other available remedy.

NEW SECTION. Sec. 2. Section 1 of this act constitutes a new chapter in Title 9A RCW.

Passed by the House June 11, 2015.

Passed by the Senate June 25, 2015.

Approved by the Governor July 9, 2015.

Filed in Office of Secretary of State July 9, 2015.

CHAPTER 8

[Engrossed Substitute House Bill 2160]

CIVIL ACTIONS--DISTRIBUTION OF INTIMATE IMAGES

AN ACT Relating to the distribution of intimate images; adding a new section to chapter 4.24 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 4.24 RCW to read as follows:

(1) A person distributes an intimate image of another person when that person intentionally and without consent distributes, transmits, or otherwise makes available an intimate image or images of that other person that was:

(a) Obtained under circumstances in which a reasonable person would know or understand that the image was to remain private; or

(b) Knowingly obtained by that person without authorization or by exceeding authorized access from the other person's property, accounts, messages, files, or resources.

(2) Any person who distributes an intimate image of another person as described in subsection (1) of this section and at the time of such distribution knows or reasonably should know that disclosure would cause harm to the depicted person shall be liable to that other person for actual damages including, but not limited to, pain and suffering, emotional distress, economic damages, and lost earnings, reasonable attorneys' fees, and costs. The court may also, in its discretion, award injunctive relief as it deems necessary.

(3) Factors that may be used to determine whether a reasonable person would know or understand that the image was to remain private include:

- (a) The nature of the relationship between the parties;
- (b) The circumstances under which the intimate image was taken;
- (c) The circumstances under which the intimate image was distributed; and
- (d) Any other relevant factors.

(4) It shall be an affirmative defense to a violation of this section that the defendant is a family member of a minor and did not intend any harm or harassment in disclosing the images of the minor to other family or friends of the defendant. This affirmative defense shall not apply to matters defined under RCW 9.68A.011.

(5) As used in this section, "intimate image" means any photograph, motion picture film, videotape, digital image, or any other recording or transmission of another person who is identifiable from the image itself or from information displayed with or otherwise connected to the image, and that was taken in a private setting, is not a matter of public concern, and depicts:

(a) Sexual activity, including sexual intercourse as defined in RCW 9A.44.010 and masturbation; or

(b) A person's intimate body parts, whether nude or visible through less than opaque clothing, including the genitals, pubic area, anus, or postpubescent female nipple.

(6) In an action brought under this section, the court shall:

(a) Make it known to the plaintiff as early as possible in the proceedings of the action that the plaintiff may use a confidential identity in relation to the action;

(b) Allow a plaintiff to use a confidential identity in all petitions, filings, and other documents presented to the court;

(c) Use the confidential identity in all of the court's proceedings and records relating to the action, including any appellate proceedings; and

(d) Maintain the records relating to the action in a manner that protects the confidentiality of the plaintiff.

(7) Nothing in this act shall be construed to impose liability on an interactive computer service, as defined in 47 U.S.C. 230(f)(2) as it exists on the effective date of this section, for content provided by another person.

Passed by the House June 11, 2015.

Passed by the Senate June 25, 2015.

Approved by the Governor July 9, 2015.

Filed in Office of Secretary of State July 9, 2015.

CHAPTER 9

[Substitute House Bill 1738]

FUEL TAX REFUNDS--NONHIGHWAY USERS

AN ACT Relating to marine, off-road recreational vehicle, and snowmobile fuel tax refunds based on actual fuel taxes paid; amending RCW 46.09.520, 46.10.530, and 79A.25.070; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that through statutory mechanisms and voter-approved initiatives, a longstanding commitment has been in place to direct refunds from fuel tax purchases made by boaters, off-road and nonhighway vehicle riders and drivers, and snowmobilers into dedicated nonhighway-purpose accounts that provide infrastructure grants and operating assistance to those nonhighway users.

The legislature finds that the state departed from its commitment in 2003 and 2005 when motor vehicle fuel tax increases of five cents and nine and one-half cents contained no statutory direction to dedicate the refund percentage from the fourteen and one-half cents of fuel tax purchases made by boaters, off-road and nonhighway vehicle riders and drivers, and snowmobilers into the appropriate nonhighway-purpose user accounts.

The legislature intends to remedy this problem by fully restoring the refund percentages into nonhighway-purpose accounts established to benefit nonhighway users of fuel. The legislature also intends to honor its commitment when the refund amounts from nonhighway-purpose fuel tax purchases are no longer necessary to repay bonded debt associated with the 2003 and 2005 motor vehicle fuel tax increases. The legislature also intends to specify that as of July 1, 2031, the state will apply the total percentage of nonhighway-purpose fuel tax refunds into the proper nonhighway user accounts for boaters, off-road and nonhighway vehicle riders and drivers, and snowmobilers.

Sec. 2. RCW 46.09.520 and 2013 c 225 s 608 are each amended to read as follows:

(1) From time to time, but at least once each year, the state treasurer must refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter 82.38 RCW, based on: (a) A tax rate of: ((+)) (i) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; ((+)) (ii) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; ((+)) (iii) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; ((+)) (iv) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and ((+)) (v) twenty-three cents per gallon of motor vehicle fuel ((beginning)) from July 1, 2011, ((and thereafter)) through June 30, 2031; and (b) beginning July 1, 2031, and thereafter, the state's motor vehicle fuel tax rate in existence at the time of the fuel purchase, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090.

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

(a) Thirty-six percent must 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 must 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 must 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 must 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 must 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 46.68.045, 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) are 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 46.68.045, 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 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. The appropriations under this subsection are not required to follow the specific distribution specified in subsection (2) of this section.

Sec. 3. RCW 46.10.530 and 2003 c 361 s 408 are each amended to read as follows:

From time to time, but at least once each four years, the department shall determine the amount of moneys paid to it as motor vehicle fuel tax that is tax on snowmobile fuel. Such determination shall use one hundred thirty-five gallons as the average yearly fuel usage per snowmobile, the number of registered snowmobiles during the calendar year under determination, and: (1) A fuel 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))~~ from July 1, 2011, ~~((and thereafter))~~ through June 30, 2031; and (2) beginning July 1, 2031, and thereafter, the state's motor vehicle fuel tax rate in existence at the time of the fuel purchase.

Sec. 4. RCW 79A.25.070 and 2010 c 23 s 3 are each amended to read as follows:

Upon expiration of the time limited by RCW 82.36.330 for claiming of refunds of tax on marine fuel, the state of Washington shall succeed to the right to such refunds. The director of licensing, after taking into account past and anticipated claims for refunds from and deposits to the marine fuel tax refund account, shall request the state treasurer to transfer monthly from the marine fuel tax refund account an amount equal to the proportion of the moneys in the account representing: (1) A motor vehicle fuel 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))~~ from July 1, 2011, ~~((and thereafter))~~ through June 30, 2031; and (2) beginning July 1, 2031, and thereafter, the state's motor vehicle fuel tax rate in existence at the time of the fuel purchase, to the recreation resource account and the remainder to the motor vehicle fund.

Passed by the House June 11, 2015.

Passed by the Senate June 27, 2015.

Approved by the Governor July 9, 2015.

Filed in Office of Secretary of State July 9, 2015.

CHAPTER 10

[Engrossed House Bill 2122]

REAL ESTATE EXCISE TAX REVENUES--TRANSACTIONS--LOCAL GOVERNMENT AUTHORITY

AN ACT Relating to real estate as it concerns the local government authority in the use of real estate excise tax revenues and regulating real estate transactions; amending RCW 82.46.010 and 43.110.030; adding new sections to chapter 82.46 RCW; and adding a new section to chapter 64.06 RCW.

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

Sec. 1. RCW 82.46.010 and 2014 c 44 s 1 are each amended to read as follows:

(1) The legislative authority of any county or city must identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and must indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2)(a) The legislative authority of any county or any city may impose an excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. The revenues from this tax must be used by any city or county with a population of five thousand or less and any city or county that does not plan under RCW 36.70A.040 for any capital purpose identified in a capital improvements plan and local capital improvements, including those listed in RCW 35.43.040.

(b) After April 30, 1992, revenues generated from the tax imposed under this subsection (2) in counties over five thousand population and cities over five thousand population that are required or choose to plan under RCW 36.70A.040 must be used solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan and housing relocation assistance under RCW 59.18.440 and 59.18.450. However, revenues (i) pledged by such counties and cities to debt retirement prior to April 30, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (ii) committed prior to April 30, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed.

(3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the legislative authority of any county or any city may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-half of one percent of the selling price.

(4) Taxes imposed under this section must be collected from persons who are taxable by the state under chapter 82.45 RCW upon the occurrence of any taxable event within the unincorporated areas of the county or within the corporate limits of the city, as the case may be.

(5) Taxes imposed under this section must comply with all applicable rules, regulations, laws, and court decisions regarding real estate excise taxes as imposed by the state under chapter 82.45 RCW.

(6) ~~((As used in this section,))~~ The definitions in this subsection (6) apply throughout this section unless the context clearly requires otherwise.

(a) "City" means any city or town ~~((and))~~.

(b) "Capital project" means those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets; roads; highways; sidewalks; street and road lighting systems; traffic signals; bridges; domestic water systems; storm and sanitary sewer systems; parks; recreational facilities; law enforcement facilities; fire protection facilities; trails; libraries; administrative ~~((and/or))~~ facilities; judicial facilities; river ~~((and/or))~~ flood control projects; waterway flood control projects by those jurisdictions that,

prior to June 11, 1992, have expended funds derived from the tax authorized by this section for such purposes; ~~(and,))~~ until December 31, 1995, housing projects for those jurisdictions that, prior to June 11, 1992, have expended or committed to expend funds derived from the tax authorized by this section or the tax authorized by RCW 82.46.035 for such purposes; and technology infrastructure that is integral to the capital project.

(7) From July 22, 2011, until December 31, 2016, a city or county may use the greater of one hundred thousand dollars or thirty-five percent of available funds under this section, but not to exceed one million dollars per year, for the operations and maintenance of existing capital projects as defined in subsection (6) of this section.

NEW SECTION. Sec. 2. A new section is added to chapter 82.46 RCW to read as follows:

(1) A city or county that meets the requirements of subsection (2) of this section may use the greater of one hundred thousand dollars or twenty-five percent of available funds, but not to exceed one million dollars per year, from revenues collected under RCW 82.46.010 for the maintenance of capital projects, as defined in RCW 82.46.010(6)(b).

(2) A city or county may use revenues pursuant to subsection (1) of this section if:

(a) The city or county prepares a written report demonstrating that it has or will have adequate funding from all sources of public funding to pay for all capital projects, as defined in RCW 82.46.010, identified in its capital facilities plan for the succeeding two-year period. Cities or counties not required to prepare a capital facilities plan may satisfy this provision by using a document that, at a minimum, identifies capital project needs and available public funding sources for the succeeding two-year period; and

(b) The city or county has not enacted, after the effective date of this section, any requirement on the listing, leasing, or sale of real property, unless the requirement is either specifically authorized by state or federal law or is a seller or landlord disclosure requirement pursuant to section 4 of this act.

(3) The report prepared under subsection (2)(a) of this section must: (a) Include information necessary to determine compliance with the requirements of subsection (2)(a) of this section; (b) identify how revenues collected under RCW 82.46.010 were used by the city or county during the prior two-year period; (c) identify how funds authorized under subsection (1) of this section will be used during the succeeding two-year period; and (d) identify what percentage of funding for capital projects within the city or county is attributable to revenues under RCW 82.46.010 compared to all other sources of capital project funding. The city or county must prepare and adopt the report as part of its regular, public budget process.

(4) The authority to use funds as authorized in this section is in addition to the authority to use funds pursuant to RCW 82.46.010(7), which remains in effect through December 31, 2016.

(5) For purposes of this section, "maintenance" means the use of funds for labor and materials that will preserve, prevent the decline of, or extend the useful life of a capital project. "Maintenance" does not include labor or material costs for routine operations of a capital project.

NEW SECTION. Sec. 3. A new section is added to chapter 82.46 RCW to read as follows:

(1) A city or county that meets the requirements of subsection (2) of this section may use the greater of one hundred thousand dollars or twenty-five percent of available funds, but not to exceed one million dollars per year, from revenues collected under RCW 82.46.035 for:

(a) The maintenance of capital projects, as defined in RCW 82.46.035(5); or

(b) The planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, improvement, or maintenance of capital projects as defined in RCW 82.46.010(6)(b) that are not also included within the definition of capital projects in RCW 82.46.035(5).

(2) A city or county may use revenues pursuant to subsection (1) of this section if:

(a) The city or county prepares a written report demonstrating that it has or will have adequate funding from all sources of public funding to pay for all capital projects, as defined in RCW 82.46.035(5), identified in its capital facilities plan for the succeeding two-year period; and

(b) The city or county has not enacted, after the effective date of this section, any requirement on the listing, leasing, or sale of real property, unless the requirement is either specifically authorized by state or federal law or is a seller or landlord disclosure requirement pursuant to section 4 of this act.

(3) The report prepared under subsection (2)(a) of this section must: (a) Include information necessary to determine compliance with the requirements of subsection (2)(a) of this section; (b) identify how revenues collected under RCW 82.46.035 were used by the city or county during the prior two-year period; (c) identify how funds authorized under subsection (1) of this section will be used during the succeeding two-year period; and (d) identify what percentage of funding for capital projects within the city or county is attributable to revenues under RCW 82.46.035 compared to all other sources of capital project funding. The city or county must prepare and adopt the report as part of its regular, public budget process.

(4) The authority to use funds as authorized in this section is in addition to the authority to use funds pursuant to RCW 82.46.035(7), which remains in effect through December 31, 2016.

(5) For purposes of this section, "maintenance" means the use of funds for labor and materials that will preserve, prevent the decline of, or extend the useful life of a capital project. "Maintenance" does not include labor or material costs for routine operations of a capital project.

NEW SECTION. Sec. 4. A new section is added to chapter 64.06 RCW to read as follows:

(1) Any ordinance, resolution, or policy adopted by a city or county that imposes a requirement on landlords or sellers of real property, or their agents, to provide information to a buyer or tenant pertaining to the subject property or the surrounding area is effective only after the ordinance, resolution, or policy is posted electronically in accordance with RCW 43.110.030(2)(e).

(2) If, prior to the effective date of this section, a city or county adopted an ordinance, resolution, or policy that imposes a requirement on landlords or sellers of real property, or their agents, to provide information to a buyer or tenant pertaining to the subject property or the surrounding area, the city or

county must cause the ordinance, resolution, or policy to be posted electronically in accordance with RCW 43.110.030(2)(e) within ninety days of the effective date of this section, or the requirement shall thereafter cease to be in effect.

Sec. 5. RCW 43.110.030 and 2012 2nd sp.s. c 5 s 5 are each amended to read as follows:

(1) The department of commerce must contract for the provision of municipal research and services to cities, towns, and counties. Contracts for municipal research and services must be made with state agencies, educational institutions, or private consulting firms, that in the judgment of the department are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the department are qualified to provide such support.

(2) Municipal research and services consists of:

(a) Studying and researching city, town, and county government and issues relating to city, town, and county government;

(b) Acquiring, preparing, and distributing publications related to city, town, and county government and issues relating to city, town, and county government;

(c) Providing educational conferences relating to city, town, and county government and issues relating to city, town, and county government; ~~((and))~~

(d) Furnishing legal, technical, consultative, and field services to cities, towns, and counties concerning planning, public health, utility services, fire protection, law enforcement, public works, and other issues relating to city, town, and county government; and

(e) Providing a list of all requirements imposed by all cities, towns, and counties on landlords or sellers of real property to provide information to a buyer or tenant pertaining to the subject property or the surrounding area. The list must be posted in a specific section on a web site maintained by the entity with which the department of commerce contracts for the provision of municipal research and services under this section, and must list by jurisdiction all applicable requirements. Cities, towns, and counties must provide information for posting on the web site in accordance with section 4 of this act.

(3) Requests for legal services by county officials must be sent to the office of the county prosecuting attorney. Responses by the department of commerce to county requests for legal services must be provided to the requesting official and the county prosecuting attorney.

(4) The department of commerce must coordinate with the association of Washington cities and the Washington state association of counties in carrying out the activities in this section.

Passed by the House June 11, 2015.

Passed by the Senate June 25, 2015.

Approved by the Governor July 9, 2015.

Filed in Office of Secretary of State July 9, 2015.

CHAPTER 11

[Engrossed House Bill 2253]

JOINT ADMINISTRATIVE RULES REVIEW COMMITTEE--STATUTORY TIMELINES

AN ACT Relating to amending statutory timelines governing the administration and organization of the joint administrative rules review committee that prescribe when member, alternate, chair, and vice chair appointments and final decisions regarding petitions for review must be made; and amending RCW 34.05.610 and 34.05.655.

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

Sec. 1. RCW 34.05.610 and 1998 c 280 s 9 are each amended to read as follows:

(1) There is hereby created a joint administrative rules review committee which shall be a bipartisan committee consisting of four senators and four representatives from the state legislature. The senate members of the committee shall be appointed by the president of the senate, and the house members of the committee shall be appointed by the speaker of the house. Not more than two members from each house may be from the same political party. The appointing authorities shall also appoint one alternate member from each caucus of each house. All appointments to the committee are subject to approval by the caucuses to which the appointed members belong.

(2)(a) Members and alternates shall be appointed as soon as possible after the legislature convenes in regular session in an odd-numbered year (~~(, and their terms shall extend until their successors are appointed and qualified at the next regular session of the legislature in an odd-numbered year or until such persons no longer serve in the legislature, whichever occurs first)~~). Except when filling a vacancy, a successor to any member or alternate must be appointed in an odd-numbered year as soon as possible after the legislature convenes in regular session, but no later than by June 30th of the same year. A vacancy on the committee must be filled in accordance with subsection (4) of this section within thirty days of the vacancy occurring. Members and alternates may be reappointed to the committee.

(b) The term of any member or alternate appointed to the committee extends until a successor is appointed and qualified, or until the member or alternate no longer serves in the legislature, whichever occurs first.

(3) (~~On or about January 1, 1999,~~) The president of the senate shall appoint the chairperson and the vice chairperson from among the committee membership as soon as possible after the legislature convenes in regular session in January 2016. The speaker of the house shall appoint the chairperson and the vice chairperson in alternating even-numbered years beginning in the year (~~(2000)~~) 2018 from among the committee membership. The secretary of the senate shall appoint the chairperson and the vice chairperson in the alternating even-numbered years beginning in the year (~~(2002)~~) 2020 from among the committee membership. (~~Such~~) Appointments of the chairperson and vice chairperson shall be made in (January of) each even-numbered year as soon as possible after a legislative session convenes in regular session, but no later than by June 30th of the same year.

(4) The chairperson of the committee shall cause all meeting notices and committee documents to be sent to the members and alternates. A vacancy (~~(shall)~~) must be filled by appointment of a legislator from the same political

party as the original appointment. The appropriate appointing authority shall make the appointment within thirty days of the vacancy occurring.

Sec. 2. RCW 34.05.655 and 1998 c 21 s 3 are each amended to read as follows:

(1) Any person may petition the rules review committee for a review of a proposed or existing rule or a proposed or existing policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent. A petition to review a statement, guideline, or document that is of general applicability, or its equivalent, may only be filed for the purpose of requesting the committee to determine whether the statement, guideline, or document that is of general applicability, or its equivalent, is being used as a rule that has not been adopted in accordance with all provisions of law. Within thirty days of the receipt of the petition, the rules review committee shall acknowledge receipt of the petition and describe any initial action taken. If the rules review committee rejects the petition, a written statement of the reasons for rejection shall be included.

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

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

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

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

(c) State the reasons why the petitioner believes that the rule is not within the intent of the legislature, or that its adoption was not or is not in accordance with law, and provide documentation to support these statements;

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

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

(4) A petition for review of a policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, under subsection (1) of this section shall:

(a) Identify the specific policy or interpretative statement, guideline, or document that is of general applicability, or its equivalent, to be reviewed;

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

(c) State the reasons why the petitioner believes that the policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, meets the definition of a rule under RCW 34.05.010 and should have been adopted according to the procedures of this chapter;

(d) Identify any known judicial action regarding the policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, or statutes identified in the petition.

(5) ~~((Within ninety days of receipt of the petition, the rules review committee shall make a final decision on the rule for which the petition for review was not previously rejected))~~ Except for petitions that the rules review committee rejects, the rules review committee shall make a final decision within ninety days of receipt of a petition for review under subsection (1) of this section. If the legislature meets in regular or special session at any time before the rules review committee makes a final decision on a petition, the rules review committee may defer making a final decision until after the adjournment sine die of the regular or special session or sessions. The rules review committee shall make a final decision on a deferred petition within ninety days of adjournment. During a legislative session, petitioners may bring any concerns raised in a petition to any legislator, and those concerns may be addressed directly through legislation.

Passed by the House June 11, 2015.

Passed by the Senate June 25, 2015.

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WASHINGTON LAWS

2015 THIRD SPECIAL SESSION

CHAPTER 1

[Engrossed Second Substitute Senate Bill 5315]

STATE AGENCIES--TRANSFER OF DUTIES--INFORMATION TECHNOLOGY

AN ACT Relating to aligning functions of the consolidated technology services agency, office of the chief information officer, office of financial management, and department of enterprise services; amending RCW 43.41A.003, 43.105.020, 43.105.047, 43.105.052, 43.105.111, 43.105.825, 41.07.020, 43.41A.025, 43.88.160, 43.41A.010, 43.41A.027, 43.41A.030, 43.41A.035, 43.41A.040, 43.41A.045, 43.41A.050, 43.41A.055, 43.41A.060, 43.41A.065, 43.41A.070, 43.41A.075, 43.41A.080, 43.41A.085, 43.41A.095, 43.41A.105, 43.41A.130, 43.41A.140, 43.41A.150, 43.41A.152, 43.82.055, 43.82.150, 43.88.160, 47.04.280, 47.64.170, 47.64.360, 79.44.060, 28A.345.060, 34.05.030, 34.12.100, 41.04.665, 41.04.680, 41.06.157, 41.06.167, 42.17A.705, 41.80.020, 43.03.040, 43.06.013, 43.41.113, 43.131.090, 48.37.060, 49.74.020, 2.36.057, 2.36.0571, 2.68.060, 19.34.100, 36.28A.070, 42.17A.705, 43.19.794, 43.70.054, 43.88.090, 43.88.092, 44.68.065, and 70.58.005; reenacting and amending RCW 41.04.340 and 41.06.020; adding new sections to chapter 43.105 RCW; adding new sections to chapter 43.41 RCW; adding new sections to chapter 43.19 RCW; creating new sections; recodifying RCW 43.41A.003, 43.41A.010, 43.41A.025, 43.41A.027, 43.41A.030, 43.41A.035, 43.41A.040, 43.41A.045, 43.41A.050, 43.41A.055, 43.41A.060, 43.41A.065, 43.41A.070, 43.41A.075, 43.41A.080, 43.41A.110, 43.41A.115, 43.41A.130, 43.41A.135, 43.41A.140, 43.41A.150, 43.41A.152, 43.41A.900, 43.105.047, 43.41A.085, 43.41A.090, 43.41A.095, 43.41A.100, 43.41A.105, 43.41.130, 43.41.140, 43.41.150, 43.41.370, and 43.41.380; decodifying RCW 43.41A.125; repealing RCW 43.41A.006, 43.41A.015, 43.41A.020, 43.41A.120, 43.105.340, 43.41.190, 43.41.195, and 43.19.791; providing effective dates; and declaring an emergency.

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

PART I

CONSOLIDATED TECHNOLOGY SERVICES AGENCY

Sec. 101. RCW 43.41A.003 and 2011 1st sp.s. c 43 s 701 are each amended to read as follows:

Information technology is a tool used by state agencies to improve their ability to deliver public services efficiently and effectively. Advances in information technology ((-)), including advances in hardware, software, and business processes for implementing and managing these resources ((-)), offer new opportunities to improve the level of support provided to citizens and state agencies and to reduce the per-transaction cost of these services. These advances are one component in the process of reengineering how government delivers services to citizens.

To fully realize the service improvements and cost efficiency from the effective application of information technology to its business processes, state government must establish decision-making structures that connect business processes and information technology in an operating model. Many of these business practices transcend individual agency processes and should be worked at the enterprise level. To do this requires an effective partnership of executive management, business processes owners, and providers of support functions necessary to efficiently and effectively deliver services to citizens.

To maximize the potential for information technology to contribute to government business process reengineering, the state must establish clear central authority to plan, set enterprise policies and standards, and provide project oversight and management analysis of the various aspects of a business process.

Establishing ~~((the office of))~~ a state chief information officer ~~((and partnering it with the director of financial management))~~ as the director of the consolidated technology services agency will provide state government with the

cohesive structure necessary to develop improved operating models with agency directors and reengineer business process to enhance service delivery while capturing savings.

To achieve maximum benefit from advances in information technology, the state establishes a centralized provider and procurer of certain information technology services as an agency to support the needs of public agencies. This agency shall be known as the consolidated technology services agency. To ensure maximum benefit to the state, state agencies shall rely on the consolidated technology services agency for those services with a business case of broad use, uniformity, scalability, and price sensitivity to aggregation and volume.

To successfully meet public agency needs and meet its obligation as the primary service provider for these services, the consolidated technology services agency must offer high quality services at the best value. It must be able to attract an adaptable and competitive workforce, be authorized to procure services where the business case justifies it, and be accountable to its customers for the efficient and effective delivery of critical business services.

The consolidated technology services agency is established with clear accountability to the agencies it serves and to the public. This accountability will come through enhanced transparency in the agency's operation and performance. The agency is also established with broad flexibility to adapt its operations and service catalog to address the needs of customer agencies, and to do so in the most cost-effective ways.

Sec. 102. RCW 43.105.020 and 2011 1st sp.s. c 43 s 802 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 the consolidated technology services agency.

(2) "Board" means the technology services board.

(3) "Customer agencies" means all entities that purchase or use information technology resources, telecommunications, or services from the consolidated technology services agency.

~~((3))~~ (4) "Director" means the state chief information officer, who is the director of the consolidated technology services agency.

~~((4))~~ (5) "Equipment" means the machines, devices, and transmission facilities used in information processing, including but not limited to computers, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment.

~~((5))~~ (6) "Enterprise architecture" means an ongoing (~~(program)~~) activity for translating business vision and strategy into effective enterprise change. It is a continuous activity. Enterprise architecture creates, communicates, and improves the key principles and models that describe the enterprise's future state and enable its evolution.

~~((6))~~ (7) "Information" includes, but is not limited to, data, text, voice, and video.

(8) "Information technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation,

electronic commerce, radio technologies, and all related interactions between people and machines.

~~((7))~~ (9) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

~~((8))~~ (10) "K20 network" means the network established in RCW 43.41A.085 (as recodified by this act).

(11) "Local governments" includes all municipal and quasi-municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately.

~~((9))~~ (12) "Office" means the office of the state chief information officer within the consolidated technology services agency.

(13) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications.

~~((10))~~ (14) "Proprietary software" means that software offered for sale or license.

~~((11))~~ (15) "Public agency" means any agency of this state or another state; any political subdivision or unit of local government of this state or another state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any public benefit nonprofit corporation; any agency of the United States; and any Indian tribe recognized as such by the federal government.

(16) "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.

(17) "Public record" has the definitions in RCW 42.56.010 and chapter 40.14 RCW and includes legislative records and court records that are available for public inspection.

(18) "State agency" means every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official.

(19) "Telecommunications" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related interactions between people and machines. (~~"Telecommunications" does not include public safety communications.~~)

(20) "Utility-based infrastructure services" includes personal computer and portable device support, servers and server administration, security administration, network administration, telephony, email, and other information technology services commonly used by state agencies.

Sec. 103. RCW 43.105.047 and 2011 1st sp. s. c 43 s 803 are each amended to read as follows:

(1) There is created the consolidated technology services agency, an agency of state government. The agency shall be headed by a director, who is the state chief information officer. The director shall be appointed by the governor with the consent of the senate. The director shall serve at the governor's pleasure and shall receive such salary as determined by the governor. If a vacancy occurs in

the position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he or she shall present to that body his or her nomination for the position.

(2) The director shall:

~~((1))~~ (a) Appoint a confidential secretary and such deputy and assistant directors as needed to administer the agency; and

~~((2))~~ (b) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter in accordance with chapter 41.06 RCW, except as otherwise provided by law.

(3) The director may create such administrative structures as he or she deems appropriate and may delegate any power or duty vested in him or her by this chapter or other law.

(4) The director shall exercise all the powers and perform all the duties prescribed by law with respect to the administration of this chapter including:

(a) Reporting to the governor any matters relating to abuses and evasions of this chapter;

(b) Accepting and expending gifts and grants that are related to the purposes of this chapter;

(c) Applying for grants from public and private entities, and receiving and administering any grant funding received for the purpose and intent of this chapter; and

(d) Performing other duties as are necessary and consistent with law.

Sec. 104. RCW 43.105.052 and 2011 1st sp.s. c 43 s 804 are each amended to read as follows:

The agency shall:

(1) Make available information services to public agencies and public benefit nonprofit corporations ~~((For the purposes of this section "public agency" means any agency of this state or another state; any political subdivision, or unit of local government of this state or another state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any agency of the United States; and any Indian tribe recognized as such by the federal government and "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));~~

(2) Establish rates and fees for services provided by the agency ~~((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 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 agency and the office of financial management. The rate plan and any adjustments to rates shall be approved by the office of financial management));~~

(3) ~~((With the advice of the board and customer agencies, develop a state strategic information technology plan and performance reports as required under RCW 43.41A.030;~~

(4)) Develop a billing rate plan for a two-year period to coincide with the budgeting process. The rate plan must be subject to review at least annually by

the office of financial management. The rate plan must show the proposed rates by each cost center and show the components of the rate structure as mutually determined by the agency and the office of financial management. The rate plan and any adjustments to rates must be approved by the office of financial management:

(4) Develop a detailed business plan for any service or activity to be contracted under RCW 41.06.142(7)(b);

(5) Develop plans for the agency's achievement of statewide goals and objectives set forth in the state strategic information technology plan required under RCW 43.41A.030 (as recodified by this act);

(6) Enable the standardization and consolidation of information technology infrastructure across all state agencies to support enterprise-based system development and improve and maintain service delivery; and

~~((§))~~ (7) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

Sec. 105. RCW 43.105.111 and 2011 1st sp.s. c 43 s 806 are each amended to read as follows:

The director shall set performance targets and approve plans for achieving measurable and specific goals for the agency. By January ~~((2012))~~ 2017, the appropriate organizational performance and accountability measures and performance targets shall be submitted to the governor. These measures and targets shall include measures of performance demonstrating specific and measurable improvements related to service delivery and costs, operational efficiencies, and overall customer satisfaction. The agency shall develop a dashboard of key performance measures that will be updated quarterly and made available on the agency public web site.

The director shall report to the governor on agency performance at least quarterly. The reports shall be included on the agency's web site and accessible to the public.

Sec. 106. RCW 43.105.825 and 2012 c 229 s 588 are each amended to read as follows:

(1) In overseeing the technical aspects of the K-20 network, the ~~((information services))~~ board is not intended to duplicate the statutory responsibilities of the student achievement council, the superintendent of public instruction, the ~~((information services))~~ board, the state librarian, or the governing boards of the institutions of higher education.

(2) The board may not interfere in any curriculum or legally offered programming offered over the network.

(3) The responsibility to review and approve standards and common specifications for the network remains the responsibility of the ~~((information services))~~ board ~~((under RCW 43.105.041)).~~

(4) The coordination of telecommunications planning for the common schools remains the responsibility of the superintendent of public instruction. ~~((Except as set forth in RCW 43.105.041(1)(d).))~~ The board may recommend, but not require, revisions to the superintendent's telecommunications plans.

Sec. 107. RCW 41.07.020 and 2011 1st sp.s. c 43 s 441 are each amended to read as follows:

The (~~(department of enterprise services)~~) consolidated technology services agency is authorized to administer, maintain, and operate the central personnel-payroll system and to provide its services for any state agency designated jointly by the (~~(director of the department of enterprise services)~~) consolidated technology services agency and the director of financial management.

(~~(The system shall be operated through state data processing centers.)~~) State agencies shall convert personnel and payroll processing to the central personnel-payroll system as soon as administratively and technically feasible as determined by the office of financial management and the (~~(department of enterprise services)~~) consolidated technology services agency. It is the intent of the legislature to provide, through the central personnel-payroll system, for uniform reporting to the office of financial management and to the legislature regarding salaries and related costs, and to reduce present costs of manual procedures in personnel and payroll recordkeeping and reporting.

Sec. 108. RCW 43.41A.025 and 2013 2nd sp.s. c 33 s 1 are each amended to read as follows:

(1) The (~~(chief information officer)~~) director shall establish standards and policies to govern information technology in the state of Washington.

(2) The office shall have the following powers and duties related to information services:

(a) To develop statewide standards and policies governing the:

(i) Acquisition (~~(and disposition)~~) of equipment, software, and (~~(personal and purchased)~~) technology-related services(-);

(ii) Disposition of equipment;

(iii) Licensing of the radio spectrum by or on behalf of state agencies(-); and

(iv) Confidentiality of computerized data;

(b) To develop statewide (~~(or)~~) and interagency technical policies, standards, and procedures;

(c) 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;

(d) (~~(To develop a detailed business plan for any service or activity to be contracted under RCW 41.06.142(7)(b) by the consolidated technology services agency;~~

~~(e) To~~) With input from the legislature and the judiciary, provide direction concerning strategic planning goals and objectives for the state(~~(The office shall seek input from the legislature and the judiciary))~~);

(~~(f)~~) (e) To establish policies for the periodic review by the (~~(office)~~) director of state 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; and

(iv) Cybersecurity;

(~~(g)~~) (f) To coordinate with state agencies with an annual information technology expenditure that exceeds ten million dollars to implement a technology business management program to identify opportunities for savings

and efficiencies in information technology expenditures and to monitor ongoing financial performance of technology investments; and

~~((h))~~ (g) In conjunction with the consolidated technology services agency, to develop statewide standards for agency purchases of technology networking equipment and services.

(3) 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 office shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems; and

(b) Require agencies to include an evaluation of electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the office is encouraged to include the state library, state archives, and appropriate representatives of state and local government.

~~((4) The office shall perform other matters and things necessary to carry out the purposes and provisions of this chapter.)~~

Sec. 109. RCW 43.88.160 and 2012 c 230 s 1 are each amended to read as follows:

This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) Except as provided in chapter 43.88C RCW, the director of financial management is responsible for quarterly reporting of primary operating budget

drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

Each agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following the standards of internal auditing of the institute of internal auditors;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter the plans, except that for the following agencies no amendment or alteration of the plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized employee years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix the number or the classes for the following: Agencies headed by elective officials;

(g) Adopt rules to effectuate provisions contained in (a) through (f) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;

(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than equipment maintenance providers or as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of enterprise services but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than twelve months after such payment except that institutions of higher education as defined in RCW 28B.10.016 and the consolidated technology services agency created in RCW 43.105.006 may make payments in advance for equipment maintenance services to be performed up to sixty months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the

agency head or the agency head's designee in accordance with rules issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official, or employee charged with the receipt, custody, or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance verifications and performance audits as expressly authorized by the legislature in the omnibus biennial appropriations acts or in the performance audit work plan approved by the joint legislative audit and review committee. The state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW or a performance verification, may report to the joint legislative audit and review committee or other appropriate committees of the legislature, in a manner prescribed by the joint legislative audit and review committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit or performance verification. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts or in the performance audit work plan. The results of a performance audit conducted by the state auditor that has been requested by the joint legislative audit and review committee must only be transmitted to the joint legislative audit and review committee.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken within six months, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110. The director of financial management shall annually report by December 31st the status of audit resolution to the appropriate committees of the

legislature, the state auditor, and the attorney general. The director of financial management shall include in the audit resolution report actions taken as a result of an audit including, but not limited to, types of personnel actions, costs and types of litigation, and value of recouped goods or services.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

In addition to the authority given to the state auditor in this subsection (6), the state auditor is authorized to conduct performance audits identified in RCW 43.09.470. Nothing in this subsection (6) shall limit, impede, or restrict the state auditor from conducting performance audits identified in RCW 43.09.470.

(7) The joint legislative audit and review committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in chapter 44.28 RCW as well as performance audits and program evaluations. To this end the joint committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs, and generally for an improved level of fiscal management.

PART II

OFFICE OF THE STATE CHIEF INFORMATION OFFICER

Sec. 201. RCW 43.41A.010 and 2013 2nd sp.s. c 33 s 3 are each amended to read as follows:

(1) The office of the state chief information officer is created within the ~~((office of financial management))~~ consolidated technology services agency.

(2) ~~((Powers, duties, and functions assigned to the department of information services as specified in this chapter shall be transferred to the office of chief information officer as provided in this chapter.~~

~~(3))~~ The primary duties of the office are:

(a) To prepare and lead the implementation of a strategic direction and enterprise architecture for information technology for state government;

~~(b) ((To enable the standardization and consolidation of information technology infrastructure across all state agencies to support enterprise-based system development and improve and maintain service delivery;~~

~~(e))~~ To establish standards and policies for the consistent and efficient operation of information technology services throughout state government;

~~((d))~~ (c) To establish statewide enterprise architecture that will serve as the organizing standard for information technology for state agencies;

~~((e))~~ (d) To educate and inform state managers and policymakers on technological developments, industry trends and best practices, industry benchmarks that strengthen decision making and professional development, and industry understanding for public managers and decision makers; and

(e) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

~~((4))~~ (3) In the case of institutions of higher education, the powers of the office and the provisions of this chapter apply to business and administrative applications but do not apply to (a) academic and research applications; and (b) medical, clinical, and health care applications, including the business and administrative applications for such operations. However, institutions of higher education must disclose to the office any proposed academic applications that are enterprise-wide in nature relative to the needs and interests of other institutions of higher education. Institutions of higher education shall provide to the ~~((chief information officer))~~ director sufficient data and information on proposed expenditures on business and administrative applications to permit the ~~((chief information officer))~~ director to evaluate the proposed expenditures pursuant to RCW 43.88.092(3).

~~((5))~~ (4) The legislature and the judiciary, which are constitutionally recognized as separate branches of government, are strongly encouraged to coordinate with the office and participate in shared services initiatives and the development of enterprise-based strategies, where appropriate. Legislative and judicial agencies of the state shall submit to the ~~((chief information officer))~~ director information on proposed information technology expenditures to allow the ~~((chief information officer))~~ director to evaluate the proposed expenditures on an advisory basis.

Sec. 202. RCW 43.41A.027 and 2013 2nd sp.s. c 33 s 8 are each amended to read as follows:

(1) The office shall establish security standards and policies to ensure the confidentiality, availability, and integrity of the information transacted, stored, or processed in the state's information technology systems and infrastructure. The director shall appoint a state chief information security officer. Each state agency, institution of higher education, the legislature, and the judiciary must develop an information technology security ~~((plan and))~~ program.

~~((4))~~ (2) Each state agency information technology security ~~((plan and))~~ program must adhere to the office's security standards and policies. Each state agency must review and update its ~~((plan and))~~ program annually and certify to the office that its ~~((plan and))~~ program is in compliance with the office's security standards and policies. The office ~~((may))~~ shall require ~~((an))~~ a state agency to obtain an independent compliance audit of its information technology security ~~((plan and))~~ program and controls at least once every three years to determine whether the state agency's information technology security program is in compliance with the standards and policies established by the agency and that security controls identified by the state agency in its security program are operating efficiently.

~~((2))~~ (3) In the case of institutions of higher education, the judiciary, and the legislature, each information technology security ~~((plan and))~~ program must be comparable to the intended outcomes of the office's security standards and policies. ~~((Each institution, the legislature, and the judiciary shall submit their~~

~~information technology security plan and program to the office annually for review and comment.)~~

Sec. 203. RCW 43.41A.030 and 2011 1st sp.s. c 43 s 707 are each amended to read as follows:

(1) The office 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 office. The office shall seek the advice of the board in the development of this plan.

The plan shall be updated as necessary and submitted to the governor and the legislature.

(2) The office shall prepare a biennial state performance report on information technology based on state agency performance reports required under RCW 43.41A.045 (as recodified by this act) and other information deemed appropriate by the office. 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; and

(d) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under RCW 43.41A.055 (as recodified by this act). At a minimum, the portion of the report regarding major technology projects must include:

(i) The total cost 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;

(iv) Discussion of lessons learned on the project, performance of any contractors used, and reasons for project delays or cost increases; and

(v) Identification of benefits generated by major information technology projects developed under RCW 43.41A.055 (as recodified by this act).

Copies of the report shall be distributed biennially to the governor and the legislature. The major technology section of the report must examine major information technology projects completed in the previous biennium.

Sec. 204. RCW 43.41A.035 and 2011 1st sp.s. c 43 s 708 are each amended to read as follows:

Management of information technology across state government requires managing resources and business processes across multiple agencies. It is no longer sufficient to pursue efficiencies within agency or individual business process boundaries. The state must manage the business process changes and

information technology in support of business processes as a statewide portfolio. The ~~((chief information officer))~~ director will use agency information technology portfolio planning as input to develop a statewide portfolio to guide resource allocation and prioritization decisions.

Sec. 205. RCW 43.41A.040 and 2011 1st sp.s. c 43 s 709 are each amended to read as follows:

~~((A))~~ A state agency information technology portfolio shall serve as the basis for making information technology decisions and plans which may include, but are not limited to:

- (1) System refurbishment, acquisitions, and development efforts;
- (2) Setting goals and objectives for using information technology;
- (3) Assessments of information processing performance, resources, and capabilities;
- (4) Ensuring the appropriate transfer of technological expertise for the operation of new systems developed using external resources;
- (5) Guiding new investment demand, prioritization, selection, performance, and asset value of technology and telecommunications; and
- (6) Progress toward providing electronic access to public information.

Sec. 206. RCW 43.41A.045 and 2011 1st sp.s. c 43 s 710 are each amended to read as follows:

(1) Each state agency shall develop an information technology portfolio consistent with RCW 43.41A.110 ~~(as recodified by this act)~~. The superintendent of public instruction shall develop its portfolio in conjunction with educational service districts and statewide or regional providers of K-12 education information technology services.

(2) ~~((Agency portfolios shall include, but not be limited to, the following:~~

~~(a) A baseline assessment of the agency's information technology resources and capabilities that will serve as the benchmark for subsequent planning and performance measures;~~

~~(b) A statement of the agency's mission, goals, and objectives for information technology, including goals and objectives for achieving electronic access to agency records, information, and services;~~

~~(c) An explanation of how the agency's mission, goals, and objectives for information technology support and conform to the state strategic information technology plan developed under RCW 43.41A.030;~~

~~(d) An implementation strategy to provide electronic access to public records and information. This implementation strategy must be assembled to include:~~

~~(i) Compliance with Title 40 RCW;~~

~~(ii) Adequate public notice and opportunity for comment;~~

~~(iii) Consideration of a variety of electronic technologies, including those that help transcend geographic locations, standard business hours, economic conditions of users, and disabilities;~~

~~(iv) Methods to educate both state employees and the public in the effective use of access technologies;~~

~~(e) Projects and resources required to meet the objectives of the portfolio; and~~

~~(f) Where feasible, estimated schedules and funding required to implement identified projects.~~

~~(3) Portfolios developed under subsection (1) of this section shall be submitted to the office for review and approval. The chief information officer may reject, require modification to, or approve portfolios as deemed appropriate. Portfolios submitted under this subsection shall be updated and submitted for review and approval as necessary.~~

~~(4) Each agency shall prepare and submit to the office a biennial performance report that evaluates progress toward the objectives articulated in its information technology portfolio and the strategic priorities of the state. The superintendent of public instruction shall develop its portfolio in conjunction with educational service districts and statewide or regional providers of K-12 education information technology services. The report shall include:~~

~~(a) An evaluation of the agency's performance relating to information technology;~~

~~(b) An assessment of progress made toward implementing the agency information technology portfolio;~~

~~(c) Progress toward electronic access to public information and enabling citizens to have two-way interaction for obtaining information and services from agencies; and~~

~~(d) An inventory of agency information services, equipment, and proprietary software.~~

~~(5) The office shall establish standards, elements, form, and format for plans and reports developed under this section.~~

~~(6) Agency activities to increase electronic access to public records and information, as required by this section, must be implemented within available resources and existing agency planning processes.~~

~~(7)) The ((office)) director may exempt any state agency from any or all of the requirements of this section.~~

Sec. 207. RCW 43.41A.050 and 2011 1st sp.s. c 43 s 711 are each amended to read as follows:

(1) Pursuant to RCW 43.88.092(3), at the request of the director of financial management, the office shall evaluate both state agency information technology current spending and technology budget requests, 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 office shall submit recommendations for funding all or part of such requests to the director of financial management. The office shall also submit recommendations regarding consolidation and coordination of similar proposals or other efficiencies it finds in reviewing proposals.

(2) The office shall establish criteria, consistent with portfolio-based information technology management, for the evaluation of agency budget requests under this section. Technology budget requests shall be evaluated in the context of the state's information technology portfolio; technology initiatives underlying budget requests are subject to review by the office. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with the state strategic information technology plan and the state enterprise architecture, 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, services, duration of investment, costs, and benefits.

Sec. 208. RCW 43.41A.055 and 2011 1st sp.s. c 43 s 712 are each amended to read as follows:

(1) The office shall establish standards and policies governing the planning, implementation, and evaluation of major information technology projects, 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 standards and policies shall:

(a) Establish criteria to identify projects which are subject to this section. Such criteria shall include, but not be limited to, significant anticipated cost, complexity, or statewide significance of the project; and

(b) Establish a model process and procedures which state agencies shall follow in developing and implementing projects within their information technology portfolios. This process may include project oversight experts or panels, as appropriate. State agencies may propose, for approval by the office, a process and procedures unique to the agency. The office may accept or require modification of such agency proposals or the office may reject ~~((such agency))~~ those proposals and require use of the model process and procedures established under this subsection. Any process and procedures developed under this subsection shall require (i) distinct and identifiable phases upon which funding may be based, (ii) user validation of products through system demonstrations and testing of prototypes and deliverables, and (iii) other elements identified by the office.

The ~~((chief information officer))~~ director may suspend or terminate a major project, and direct that the project funds be placed into unallotted reserve status, if the ~~((chief information officer))~~ director determines that the project is not meeting or is not expected to meet anticipated performance standards.

(2) The office of financial management shall establish policies and standards consistent with portfolio-based information technology management to govern the funding of projects developed under this section. The policies and standards shall provide for:

(a) Funding of a project under terms and conditions mutually agreed to by the ~~((chief information officer))~~ director, the director of financial management, and the head of the agency proposing the project. However, the office of financial management may require incremental funding of a project on a phase-by-phase basis whereby funds for a given phase of a project may be released only when the office of financial management determines, with the advice of the ~~((office))~~ director, that the previous phase is satisfactorily completed; and

(b) Other elements deemed necessary by the office of financial management.

Sec. 209. RCW 43.41A.060 and 2011 1st sp.s. c 43 s 713 are each amended to read as follows:

(1) Prior to making a commitment to purchase, acquire, or develop a major information technology project or service, state agencies must provide a proposal to the office outlining the business case of the proposed product or service, including the up-front and ongoing cost of the proposal.

(2) Within ~~((sixty))~~ thirty days of receipt of a proposal, the office shall approve the proposal, reject it, or propose modifications.

(3) In reviewing a proposal, the office must determine whether the product or service is consistent with:

(a) The standards and policies developed by the ~~((office))~~ director pursuant to RCW 43.41A.025 (as recodified by this act); and

(b) The state's enterprise-based strategy.

(4) If a substantially similar product or service is offered by the ~~((consolidated technology services))~~ agency ~~((established in RCW 43.105.047))~~, the ~~((office))~~ director may require the state agency to procure the product or service through the ~~((consolidated technology services))~~ agency, if doing so would benefit the state as an enterprise.

(5) The office shall provide guidance to state agencies as to what threshold of information technology spending constitutes a major information technology product or service under this section.

Sec. 210. RCW 43.41A.065 and 2011 1st sp.s. c 43 s 714 are each amended to read as follows:

(1) The office shall develop an enterprisebased strategy for information technology in state government informed by portfolio management planning and information technology expenditure information collected from state agencies pursuant to RCW 43.88.092.

(2)(a) The office shall develop an ongoing enterprise architecture program for translating business vision and strategy into effective enterprise change. This program will create, communicate, and improve the key principles and models that describe the enterprise's future state and enable its evolution, in keeping with the priorities of government and the information technology strategic plan.

(b) The enterprise architecture program will facilitate business process collaboration among agencies statewide; improving the reliability, interoperability, and sustainability of the business processes that state agencies use.

In developing an enterprisebased strategy for the state, the office is encouraged to consider the following strategies as possible opportunities for achieving greater efficiency:

(i) Developing evaluation criteria for deciding which common enterprise-wide business processes should become managed as enterprise services;

(ii) Developing a roadmap of priorities for creating enterprise services;

(iii) Developing decision criteria for determining implementation criteria for centralized or decentralized enterprise services;

(iv) Developing evaluation criteria for deciding which technology investments to continue, hold, or drop; and

(v) Performing such other duties as may be ~~((assigned by the office))~~ needed to promote effective enterprise change.

(c) The ~~((program))~~ office will establish performance measurement criteria for each of its initiatives; will measure the success of those initiatives; and will assess its quarterly results with the ~~((chief information officer))~~ director to determine whether to continue, revise, or disband the initiative.

Sec. 211. RCW 43.41A.070 and 2011 1st sp.s. c 43 s 715 are each amended to read as follows:

~~(1)~~ The technology services board is created within the ~~((office of the chief information officer))~~ agency.

~~((1+))~~ (2) The board shall be composed of thirteen members. Six members shall be appointed by the governor, three of whom shall be representatives of state agencies or institutions, and three of whom shall be representatives of the private sector. Of the state agency representatives, at least one of the representatives must have direct experience using the software projects overseen by the board or reasonably expect to use the new software developed under the oversight of the board. Two members shall represent the house of representatives and shall be selected by the speaker of the house of representatives with one representative chosen from each major caucus of the house of representatives; two members shall represent the senate and shall be appointed by the president of the senate with one representative chosen from each major caucus of the senate. One member shall be the ~~((chief information officer))~~ director who shall be a voting member of the board and serve as chair. Two nonvoting members with information technology expertise must be appointed by the governor as follows:

(a) One member representing state agency bargaining units shall be selected from a list of three names submitted by each of the general government exclusive bargaining representatives; and

(b) One member representing local governments shall be selected from a list of three names submitted by commonly recognized local government organizations.

The governor may reject all recommendations and request new recommendations.

~~((2))~~ (3) Of the initial members, three must be appointed for a one-year term, three must be appointed for a two-year term, and four must be appointed for a three-year term. Thereafter, members must be appointed for three-year terms.

~~((3))~~ (4) Vacancies shall be filled in the same manner that the original appointments were made for the remainder of the member's term.

~~((4))~~ (5) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

~~((5))~~ (6) The office shall provide staff support to the board.

Sec. 212. RCW 43.41A.075 and 2011 1st sp.s. c 43 s 716 are each amended to read as follows:

The board shall have the following powers and duties related to information services:

(1) To review and approve standards and ~~((procedures))~~ policies, developed by the office ~~((of the chief information officer))~~, 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;

(2) To review and approve statewide or interagency technical policies ~~((and standards))~~ and standards ~~((and procedures))~~ developed by the office ~~((of the chief information officer))~~;

(3) To review, approve, and provide oversight of major information technology projects to ensure that no major information technology project proposed by a state agency is approved or authorized funding by the board

without consideration of the technical and financial business case for the project, including a review of:

- (a) The total cost of ownership across the life of the project;
- (b) All major technical options and alternatives analyzed, and reviewed, if necessary, by independent technical sources; and
- (c) Whether the project is technically and financially justifiable when compared against the state's enterprise-based strategy, long-term technology trends, and existing or potential partnerships with private providers or vendors;
- (4) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by state 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;
- (5) To develop a policy to determine whether a proposed project, product, or service should undergo an independent technical and financial analysis prior to submitting a request to the office of financial management for the inclusion in any proposed operating, capital, or transportation budget;
- (6) To approve contracting for services and activities under RCW 41.06.142(7) for the (~~consolidated technology service~~) agency. To approve any service or activity to be contracted under RCW 41.06.142(7)(b), the board must also review the proposed business plan and recommendation submitted by the office;
- (7) To consider, on an ongoing basis, ways to promote strategic investments in enterprise-level information technology projects that will result in service improvements and cost efficiency;
- (8) To provide a forum to solicit external expertise and perspective on developments in information technology, enterprise architecture, standards, and policy development; and
- (9) To provide a forum where ideas and issues related to information technology plans, policies, and standards can be reviewed.

Sec. 213. RCW 43.41A.080 and 2011 1st sp.s. c 43 s 717 are each amended to read as follows:

(1) The (~~chief information officer~~) director shall appoint a state interoperability executive committee, the membership of which must include, but not be limited to, representatives of the military department, the Washington state patrol, the department of transportation, the office of the state chief information officer, the department of natural resources, city and county governments, state and local fire chiefs, police chiefs, and sheriffs, and state and local emergency management directors. The chair and legislative members of the board will serve as nonvoting ex officio members of the committee. Voting membership may not exceed fifteen members.

(2) The (~~chief information officer~~) director shall appoint the chair of the committee from among the voting members of the committee.

(3) The state interoperability executive committee has the following responsibilities:

(a) Develop policies and make recommendations to the office for technical standards for state wireless radio communications systems, including emergency communications systems. The standards must address, among other things, the interoperability of systems, taking into account both existing and future systems and technologies;

(b) Coordinate and manage on behalf of the office the licensing and use of state-designated and state-licensed radio frequencies, including the spectrum used for public safety and emergency communications, and serve as the point of contact with the federal communications commission and the first responders network authority on matters relating to allocation, use, and licensing of radio spectrum;

(c) Coordinate the purchasing of all state wireless radio communications system equipment to ensure that:

(i) After the transition from a radio over internet protocol network, any new trunked system shall be, at a minimum, project-25;

(ii) Any new system that requires advanced digital features shall be, at a minimum, project-25; and

(iii) Any new system or equipment purchases shall be, at a minimum, upgradable to project-25;

(d) Seek support, including possible federal or other funding, for state-sponsored wireless communications systems;

(e) Develop recommendations for legislation that may be required to promote interoperability of state wireless communications systems;

(f) Foster cooperation and coordination among public safety and emergency response organizations;

(g) Work with wireless communications groups and associations to ensure interoperability among all public safety and emergency response wireless communications systems; and

(h) Perform such other duties as may be assigned by the ((office)) director to promote interoperability of wireless communications systems.

(4) The office shall provide administrative support to the committee.

Sec. 214. RCW 43.41A.085 and 2011 1st sp.s. c 43 s 718 are each amended to read as follows:

(1) The office has the duty to govern 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; and resolving user/provider disputes.

(2) The office has the following powers and duties:

(a) In cooperation with the educational sectors and other interested parties, to establish goals and measurable objectives for the network;

(b) 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;

(c) 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;

(d) To prepare and submit to the governor and the legislature a coordinated budget for network development, operation, and expansion. The budget shall include the ~~((chief information officer's))~~ director of the consolidated technology services agency's recommendations on (i) 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, (ii) annual copayments to be charged to public educational sector institutions and other public entities connected to the network, and (iii) charges to nongovernmental entities connected to the network;

(e) To adopt and monitor the implementation of a methodology to evaluate the effectiveness of the network in achieving the educational goals and measurable objectives;

(f) 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 office 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. The office shall have sole responsibility for the implementation of enforcement procedures relating to technical conditions of use.

Sec. 215. RCW 43.41A.095 and 2011 1st sp.s. c 43 s 720 are each amended to read as follows:

The ~~((chief information officer))~~ office, in conjunction with the K-20 network users, shall maintain a technical plan of the K-20 telecommunications system and ongoing system enhancements. The office shall ensure that the technical plan adheres to the goals and objectives established under RCW 43.41A.025 (as recodified by this act). The technical plan shall provide for:

(1) A telecommunications 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)(a) Connection to the K-20 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 chief information officer; (b) distance education facilities and components for entities listed in this subsection and subsection (1) of this section; and (c) connection for independent nonprofit institutions of higher education, provided that:

(i) The ~~((chief information officer))~~ office 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 K-20 network policies; and

(ii) The ~~((chief information officer))~~ office 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.

Sec. 216. RCW 43.41A.105 and 2011 1st sp.s. c 43 s 722 are each amended to read as follows:

(1) The education technology revolving fund is created in the custody of the state treasurer. All receipts from billings under subsection (2) of this section must be deposited in the revolving fund. Only the ~~((chief information officer))~~ director or the ~~((chief information officer's))~~ director's designee may authorize expenditures from the fund. The revolving fund shall be used to pay for K-20 network operations, transport, equipment, software, supplies, and services, maintenance and depreciation of on-site data, and shared infrastructure, and other costs incidental to the development, operation, and administration of shared educational information technology services, telecommunications, and systems. The revolving fund shall not be used for the acquisition, maintenance, or operations of local telecommunications infrastructure or the maintenance or depreciation of on-premises video equipment specific to a particular institution or group of institutions.

(2) The revolving fund and all disbursements from the revolving fund are subject to the allotment procedure under chapter 43.88 RCW, but an appropriation is not required for expenditures. The office shall, subject to the review and approval of the office of financial management, establish and implement a billing structure for network services identified in subsection (1) of this section.

(3) The office shall charge those public entities connected to the K-20 telecommunications system under RCW 43.41A.095 (as recodified by this act) an annual copayment per unit of transport connection as determined by the legislature after consideration of the board's recommendations. This copayment shall be deposited into the revolving fund to be used for the purposes in subsection (1) of this section. It is the intent of the legislature to appropriate to the revolving fund such moneys as necessary to cover the costs for transport, maintenance, and depreciation of data equipment located at the individual public institutions, maintenance and depreciation of the K-20 network backbone, and services provided to the network under RCW 43.41A.085 (as recodified by this act).

Sec. 217. RCW 43.41A.130 and 1996 c 171 s 12 are each amended to read as follows:

Funding to meet the costs of providing access, including the building of the necessary information systems, the digitizing of information, developing the ability to mask nondisclosable information, and maintenance and upgrade of information access systems should come primarily from state and local appropriations, federal dollars, grants, private funds, cooperative ventures among governments, nonexclusive licensing, and public/private partnerships. ~~((Agencies should not offer customized electronic access services as the primary~~

~~way of responding to requests or as a primary source of revenue. Fees for staff time to respond to requests, and other direct costs may be included in costs of providing customized access:))~~

State agencies and local governments are encouraged to pool resources and to form cooperative ventures to provide electronic access to government records and information. State agencies are encouraged to seek federal and private grants for projects that provide increased efficiency and improve government delivery of information and services.

Sec. 218. RCW 43.41A.140 and 2011 c 60 s 39 are each amended to read as follows:

State agencies and local governments that collect and enter information concerning individuals into electronic records and information systems that will be widely accessible by the public under RCW 42.56.010 shall ensure the accuracy of this information to the extent possible. To the extent possible, information must be collected directly from, and with the consent of, the individual who is the subject of the data. State agencies shall establish procedures for correcting inaccurate information, including establishing mechanisms for individuals to review information about themselves and recommend changes in information they believe to be inaccurate. The inclusion of personal information in electronic public records that is widely available to the public should include information on the date when the database was created or most recently updated. If personally identifiable information is included in electronic public records that are made widely available to the public, state agencies must follow retention and archival schedules in accordance with chapter 40.14 RCW, retaining personally identifiable information only as long as needed to carry out the purpose for which it was collected. At least once every five years, each agency that collects information must review the information collected and justify why it is being collected and for what purpose.

Sec. 219. RCW 43.41A.150 and 2011 1st sp.s. c 43 s 735 are each amended to read as follows:

(1) Except as provided by subsection (2) of this section, state agencies shall locate all existing and new servers in the state data center.

(2) State agencies with a service requirement that requires servers to be located outside the state data center must receive a waiver from the office. Waivers must be based upon written justification from the requesting state agency citing specific service or performance requirements for locating servers outside the state's common platform.

(3) The office, in consultation with the office of financial management, shall continue to develop the business plan and migration schedule for moving all state agencies into the state data center.

(4) The legislature and the judiciary, which are constitutionally recognized as separate branches of government, may enter into an interagency agreement with the office to migrate its servers into the state data center.

(5) This section does not apply to institutions of higher education.

Sec. 220. RCW 43.41A.152 and 2011 1st sp.s. c 43 s 736 are each amended to read as follows:

(1) The office shall conduct a needs assessment and develop a migration strategy to ensure that, over time, all state agencies are moving towards using the

~~((consolidated technology services))~~ agency ~~((established in RCW 43.105.047))~~ as their central service provider for all utility-based infrastructure services, including centralized PC and infrastructure support. State agency-specific application services shall remain managed within individual agencies.

(2) The office shall develop short-term and long-term objectives as part of the migration strategy.

~~(3) ((For the purposes of this section, "utility-based infrastructure services" includes personal computer and portable device support, servers and server administration, security administration, network administration, telephony, e-mail, and other information technology services commonly utilized by state agencies.~~

~~(4))~~ This section does not apply to institutions of higher education.

NEW SECTION. Sec. 221. RCW 43.41A.003, 43.41A.010, 43.41A.025, 43.41A.027, 43.41A.030, 43.41A.035, 43.41A.040, 43.41A.045, 43.41A.050, 43.41A.055, 43.41A.060, 43.41A.065, 43.41A.070, 43.41A.075, 43.41A.080, 43.41A.110, 43.41A.115, 43.41A.130, 43.41A.135, 43.41A.140, 43.41A.150, 43.41A.152, 43.41A.900, and 43.105.047 are each recodified as sections in chapter 43.105 RCW.

NEW SECTION. Sec. 222. RCW 43.41A.085, 43.41A.090, 43.41A.095, 43.41A.100, and 43.41A.105 are each recodified as sections in chapter 43.41 RCW.

NEW SECTION. Sec. 223. RCW 43.41A.125 is decodified.

NEW SECTION. Sec. 224. The following acts or parts of acts are each repealed:

1RCW 43.41A.006 (Definitions) and 2011 1st sp.s. c 43 s 705;

2RCW 43.41A.015 (Chief information officer—Executive head and appointing authority) and 2011 1st sp.s. c 43 s 703;

3RCW 43.41A.020 (Chief information officer—Duties) and 2011 1st sp.s. c 43 s 704;

4RCW 43.41A.120 (Electronic access to public records—Definitions) and 2011 c 60 s 38 & 1996 c 171 s 2; and

5RCW 43.105.340 (Consumer protection web site) and 2011 1st sp.s. c 21 s 12 & 2008 c 151 s 2.

PART III

OFFICE OF FINANCIAL MANAGEMENT REALIGNMENT

Sec. 301. RCW 43.82.055 and 2015 c 225 s 76 are each amended to read as follows:

The office of financial management shall:

(1) Work with the department of enterprise services and all other state agencies to determine the long-term facility needs of state government; ~~((and))~~

(2) Develop and submit a six-year facility plan to the legislature by January 1st of every odd-numbered year~~((, beginning January 1, 2009,))~~ that includes state agency space requirements and other pertinent data necessary for cost-effective facility planning. The department of enterprise services shall assist with this effort as required by the office of financial management; and

(3) Establish and enforce policies and workplace strategies that promote the efficient use of state facilities.

Sec. 302. RCW 43.82.150 and 2007 c 506 s 7 are each amended to read as follows:

(1) The office of financial management shall develop and maintain an inventory system to account for all facilities owned or leased (~~facilities utilized~~) by state government. At a minimum, the inventory system must include the facility owner, location, type, condition, use data, and size of each facility. In addition, for owned facilities, the inventory system must include the date and cost of original construction and the cost of any major remodeling or renovation. The inventory must be updated by all agencies, departments, boards, commissions, and institutions by June 30th of each year. The office of financial management shall publish a report summarizing information contained in the inventory system for each agency by October 1st of each year, beginning in 2010 and shall submit this report to the appropriate fiscal committees of the legislature.

~~(2) ((All agencies, departments, boards, commissions, and institutions of the state of Washington shall provide to the office of financial management a complete inventory of owned and leased facilities by September 1, 2010. The inventory must be updated and submitted to the office of financial management by September 1st of each subsequent year.))~~ The ~~((inventories))~~ inventory required under this subsection must be submitted in a standard format prescribed by the office of financial management.

~~(3) ((The office of financial management shall report to the legislature by September 1, 2008, on recommended improvements to the inventory system, redevelopment costs, and an implementation schedule for the redevelopment of the inventory system. The report shall also make recommendations on other improvements that will improve accountability and assist in the evaluation of budget requests and facility management by the governor and the legislature.~~

~~(4))~~ For the purposes of this section, "facilities" means buildings and other structures with walls and a roof. "Facilities" does not mean roads, bridges, parking areas, utility systems, and other similar improvements to real property.

Sec. 303. RCW 43.88.160 and 2012 c 230 s 1 are each amended to read as follows:

This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures

manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) Except as provided in chapter 43.88C RCW, the director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

((Each)) (i) For those agencies that the director determines internal audit is required, the agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following ((the)) professional audit standards ((of internal auditing of)) including generally accepted government auditing standards or standards adopted by the institute of internal auditors, or both.

(ii) For those agencies that the director determines internal audit is not required, the agency head or authorized designee may establish and maintain internal audits following professional audit standards including generally accepted government auditing standards or standards adopted by the institute of internal auditors, or both, but at a minimum must comply with policies as established by the director to assess the effectiveness of the agency's systems of internal controls and risk management processes;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter the plans, except that for the following agencies no amendment or alteration of the plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized employee years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix the number or the classes for the following: Agencies headed by elective officials;

(g) Adopt rules to effectuate provisions contained in (a) through (f) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;

(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such

periodic maintenance services is currently in effect; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than equipment maintenance providers or as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of enterprise services but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than twelve months after such payment except that institutions of higher education as defined in RCW 28B.10.016 may make payments in advance for equipment maintenance services to be performed up to sixty months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with rules issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official, or employee charged with the receipt, custody, or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance verifications and performance audits as expressly authorized by the legislature in the omnibus biennial appropriations acts or in the performance audit work plan approved by the joint legislative audit and review committee. The state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW or a performance verification, may report to the joint legislative audit and review committee or other appropriate committees of the legislature, in a manner prescribed by the joint legislative audit and review committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit or performance verification. The auditor may make such a report to a legislative committee only

if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts or in the performance audit work plan. The results of a performance audit conducted by the state auditor that has been requested by the joint legislative audit and review committee must only be transmitted to the joint legislative audit and review committee.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken within six months, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110. The director of financial management shall annually report by December 31st the status of audit resolution to the appropriate committees of the legislature, the state auditor, and the attorney general. The director of financial management shall include in the audit resolution report actions taken as a result of an audit including, but not limited to, types of personnel actions, costs and types of litigation, and value of recouped goods or services.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

In addition to the authority given to the state auditor in this subsection (6), the state auditor is authorized to conduct performance audits identified in RCW 43.09.470. Nothing in this subsection (6) shall limit, impede, or restrict the state auditor from conducting performance audits identified in RCW 43.09.470.

(7) The joint legislative audit and review committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in chapter 44.28 RCW as well as performance audits and program evaluations. To this end the joint committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs, and generally for an improved level of fiscal management.

Sec. 304. RCW 47.04.280 and 2013 c 199 s 1 are each amended to read as follows:

(1) It is the intent of the legislature to establish policy goals for the planning, operation, performance of, and investment in, the state's transportation system. The policy goals established under this section are deemed consistent with the benchmark categories adopted by the state's blue ribbon commission on transportation on November 30, 2000. Public investments in transportation should support achievement of these policy goals:

(a) Economic vitality: To promote and develop transportation systems that stimulate, support, and enhance the movement of people and goods to ensure a prosperous economy;

(b) Preservation: To maintain, preserve, and extend the life and utility of prior investments in transportation systems and services;

(c) Safety: To provide for and improve the safety and security of transportation customers and the transportation system;

(d) Mobility: To improve the predictable movement of goods and people throughout Washington state;

(e) Environment: To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment; and

(f) Stewardship: To continuously improve the quality, effectiveness, and efficiency of the transportation system.

(2) The powers, duties, and functions of state transportation agencies must be performed in a manner consistent with the policy goals set forth in subsection (1) of this section.

(3) These policy goals are intended to be the basis for establishing detailed and measurable objectives and related performance measures.

(4) It is the intent of the legislature that the ~~((office of financial management))~~ department of transportation establish objectives and performance measures for the department ~~((of transportation))~~ and other state agencies with transportation-related responsibilities to ensure transportation system performance at local, regional, and state government levels progresses toward the attainment of the policy goals set forth in subsection (1) of this section. ~~((The office of financial management shall submit initial objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during the 2008 legislative session.))~~ The ~~((office of financial management))~~ department of transportation shall submit objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during each regular session of the legislature during an even-numbered year thereafter.

(5) A local or regional agency engaging in transportation planning may voluntarily establish objectives and performance measures to demonstrate progress toward the attainment of the policy goals set forth in subsection (1) of this section or any other transportation policy goals established by the local or regional agency. A local or regional agency engaging in transportation planning is encouraged to provide local and regional objectives and performance measures to be included with the objectives and performance measures submitted to the legislature pursuant to subsection (4) of this section.

(6) This section does not create a private right of action.

Sec. 305. RCW 47.64.170 and 2015 1st sp. s. c 10 s 707 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) 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, except to the extent provided in subsection (11) of this section and RCW 47.64.270(4), 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 except during the 2015-2017 fiscal biennium~~).

(9) Except as provided in subsection (11) of this section:

(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.

(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.

(11)(a) For the collective bargaining agreements negotiated for the 2011-2013 fiscal biennium, the legislature may consider a request for funds to implement a collective bargaining agreement even if the request for funds was not received by the office of financial management by October 1st and was not transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060.

(b) For the 2013-2015 fiscal biennium, a collective bargaining agreement related to employee health care benefits negotiated between the employer and coalition pursuant to RCW 41.80.020(3) regarding the dollar amount expended on behalf of each employee must be a separate agreement for which the governor may request funds necessary to implement the agreement. The legislature may act upon a 2013-2015 collective bargaining agreement related to employee health care benefits if an agreement is reached and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(c) For the collective bargaining agreements negotiated for the 2013-2015 fiscal biennium, the legislature may consider a request for funds to implement a collective bargaining agreement reached after October 1st after a determination of financial infeasibility by the director of the office of financial management if the request for funds is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060.

Sec. 306. RCW 47.64.360 and 2011 1st sp.s. c 16 s 12 are each amended to read as follows:

(1) The ~~((office of financial management))~~ department of transportation shall complete a government management and accountability performance report that provides a baseline assessment of current performance on the performance measures identified in RCW 47.64.355 ~~((and section 11 of this act))~~ using final 2009-2011 data. This report must be presented to the legislature by November 1, 2011, through the attainment report required in RCW 47.01.071(5) and 47.04.280.

(2) By December 31, 2012, and each year thereafter, the ~~((office of financial management))~~ department of transportation shall complete a performance report for the prior fiscal year. This report must be reviewed by the joint transportation committee.

(3) Management shall lead implementation of the performance measures in RCW 47.64.355 ~~((and section 11 of this act))~~.

Sec. 307. RCW 79.44.060 and 2003 c 334 s 508 are each amended to read as follows:

When the chief administrative officer of an agency of state government is satisfied that an assessing district has complied with all the conditions precedent to the levy of assessments for district purposes, pursuant to this chapter against lands occupied, used, or under the jurisdiction of the officer's agency, he or she shall pay them, together with any interest thereon from any funds specifically appropriated to the agency therefor or from any funds of the agency which under

existing law have been or are required to be expended to pay assessments on a current basis. (~~In all other cases, the chief administrative officer shall certify to the director of financial management that the assessment is one properly chargeable to the state. The director of financial management shall pay such assessments from funds available or appropriated for this purpose.~~)

Except as provided in RCW 79.44.190 no lands of the state shall be subject to a lien for unpaid assessments, nor shall the interest of the state in any land be sold for unpaid assessments where assessment liens attached to the lands prior to state ownership.

Sec. 308. RCW 28A.345.060 and 2011 1st sp.s. c 43 s 467 are each amended to read as follows:

The association shall contract with (~~the human resources director in~~) the office of financial management to audit in odd-numbered years the association's staff classifications and employees' salaries. The association shall give copies of the audit reports to the office of financial management and the committees of each house of the legislature dealing with common schools.

Sec. 309. RCW 34.05.030 and 2011 1st sp.s. c 43 s 431 are each amended to read as follows:

(1) This chapter shall not apply to:

(a) The state militia, or

(b) The board of clemency and pardons, or

(c) The department of corrections or the indeterminate sentencing review board with respect to persons who are in their custody or are subject to the jurisdiction of those agencies.

(2) The provisions of RCW 34.05.410 through 34.05.598 shall not apply:

(a) To adjudicative proceedings of the board of industrial insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

(b) Except for actions pursuant to chapter 46.29 RCW, to the denial, suspension, or revocation of a driver's license by the department of licensing;

(c) To the department of labor and industries where another statute expressly provides for review of adjudicative proceedings of a department action, order, decision, or award before the board of industrial insurance appeals;

(d) To actions of the Washington personnel resources board, the (~~human resources~~) director(~~, or the office~~) of financial management, and the department of enterprise services when carrying out their duties under chapter 41.06 RCW;

(e) To adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261; or

(f) To the extent they are inconsistent with any provisions of chapter 43.43 RCW.

(3) Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not apply to a review hearing conducted by the board of tax appeals.

(4) The rule-making provisions of this chapter do not apply to:

(a) Reimbursement unit values, fee schedules, arithmetic conversion factors, and similar arithmetic factors used to determine payment rates that apply to goods and services purchased under contract for clients eligible under chapter 74.09 RCW; and

(b) Adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261.

(5) All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

Sec. 310. RCW 34.12.100 and 2011 1st sp.s. c 43 s 469 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 (~~human resources~~) director (~~in the office~~) of financial management. 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 (~~department of personnel~~) director of financial management.

Sec. 311. RCW 41.04.340 and 2011 1st sp.s. c 43 s 432 and 2011 1st sp.s. c 39 s 12 are each reenacted and amended to read as follows:

(1) An attendance incentive program is established for all eligible employees. As used in this section the term "eligible employee" means any employee of the state, other than eligible employees of the community and technical colleges and the state board for community and technical colleges identified in RCW 28B.50.553, and teaching and research faculty at the state and regional universities and The Evergreen State College, entitled to accumulate sick leave and for whom accurate sick leave records have been maintained. No employee may receive compensation under this section for any portion of sick leave accumulated at a rate in excess of one day per month. The state and regional universities and The Evergreen State College shall maintain complete and accurate sick leave records for all teaching and research faculty.

(2) In January of the year following any year in which a minimum of sixty days of sick leave is accrued, and each January thereafter, any eligible employee may receive remuneration for unused sick leave accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

From July 1, 2011, through June 29, 2013, the rate of monetary compensation for the purposes of this subsection shall not be reduced by any temporary salary reduction.

(3) At the time of separation from state service due to retirement or death, an eligible employee or the employee's estate may elect to receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days of accrued sick leave. From July 1, 2011, through June 29, 2013, the rate of monetary compensation for the purposes of this subsection shall not be reduced by any temporary salary reduction.

(4) Remuneration or benefits received under this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

(5) Except as provided in subsections (7) through (9) of this section for employees not covered by chapter 41.06 RCW, this section shall be administered, and rules shall be adopted to carry out its purposes, by the

~~((human resources))~~ director of financial management for persons subject to chapter 41.06 RCW ~~((: PROVIDED, That determination of classes of eligible employees shall be subject to approval by the office of financial management))~~.

(6) Should the legislature revoke any remuneration or benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

(7) In lieu of remuneration for unused sick leave at retirement as provided in subsection (3) of this section, an agency head or designee may with equivalent funds, provide eligible employees with a benefit plan that provides for reimbursement for medical expenses. This plan shall be implemented only after consultation with affected groups of employees. For eligible employees covered by chapter 41.06 RCW, procedures for the implementation of these plans shall be adopted by the ~~((human resources))~~ director of the state health care authority. For eligible employees exempt from chapter 41.06 RCW, ~~((and classified employees who have opted out of coverage of chapter 41.06 RCW as provided in RCW 41.56.201.))~~ implementation procedures shall be adopted by an agency head having jurisdiction over the employees.

(8) Implementing procedures adopted by the ~~((human resources))~~ director of the state health care authority or agency heads shall require that each medical expense plan authorized by subsection (7) of this section apply to all eligible employees in any one of the following groups: (a) Employees in an agency; (b) employees in a major organizational subdivision of an agency; (c) employees at a major operating location of an agency; (d) exempt employees under the jurisdiction of an elected or appointed Washington state executive; (e) employees of the Washington state senate; (f) employees of the Washington state house of representatives; (g) classified employees in a bargaining unit established by the ~~((director of personnel))~~ public employment relations commission; or (h) other group of employees defined by an agency head that is not designed to provide an individual-employee choice regarding participation in a medical expense plan. However, medical expense plans for eligible employees in any of the groups under (a) through (h) of this subsection who are covered by a collective bargaining agreement shall be implemented only by written agreement with the bargaining unit's exclusive representative and a separate medical expense plan may be provided for unrepresented employees.

(9) Medical expense plans authorized by subsection (7) of this section must require as a condition of participation in the plan that employees in the group affected by the plan sign an agreement with the employer. The agreement must include a provision to hold the employer harmless should the United States government find that the employer or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the employer not withholding or deducting a tax, assessment, or other payment on the funds as required by federal law. The agreement must also include a provision that requires an eligible employee to forfeit remuneration under subsection (3) of this section if the employee belongs to a group that has been designated to participate in the medical expense plan permitted under this section and the employee refuses to execute the required agreement.

Sec. 312. RCW 41.04.665 and 2011 1st sp. s. c 43 s 435 are each amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services; or

(iv) The employee is a victim of domestic violence, sexual assault, or stalking; ~~(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), chapter 32, Laws of 2010 1st sp. sess.;)~~

(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), chapter 32, Laws of 2010 1st sp. sess., or stalking has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(c) The employee's absence and the use of shared leave are justified;

(d) The employee has depleted or will shortly deplete his or her:

(i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;

(ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

(iii) Annual leave if he or she qualifies under (a)(iii)(~~;~~) or (iv)(~~;~~~~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 five hundred twenty-two days of leave, except that, a supervisor may authorize leave in excess of five hundred twenty-two days in extraordinary circumstances for an employee qualifying for the shared leave program because he or she is suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature. Shared leave received under the uniformed service shared leave pool in RCW 41.04.685 is not included in this total.

(3) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(4) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(~~(2)~~)(1)(b) 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.

(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.

(11) The (~~human resources~~) director of financial management may adopt rules as necessary to implement subsection (2) of this section.

Sec. 313. RCW 41.04.680 and 2011 1st sp.s. c 43 s 437 are each amended to read as follows:

The office of financial management and other personnel authorities shall adopt rules or policies governing the accumulation and use of sick leave for state agency and department employees, expressly for the establishment of a plan allowing participating employees to pool sick leave and allowing any sick leave thus pooled to be used by any participating employee who has used all of the sick leave, annual leave, and compensatory leave that has been personally accrued by him or her. Each department or agency of the state may allow employees to participate in a sick leave pool established by the office of financial management and other personnel authorities.

(1) For purposes of calculating maximum sick leave that may be donated or received by any one employee, pooled sick leave:

(a) Is counted and converted in the same manner as sick leave under the Washington state leave sharing program as provided in this chapter; and

(b) Does not create a right to sick leave in addition to the amount that may be donated or received under the Washington state leave sharing program as provided in this chapter.

(2) The office of financial management and other personnel authorities, except the personnel authorities for higher education institutions, shall adopt rules which provide:

(a) That employees are eligible to participate in the sick leave pool after one year of employment with the state or agency of the state if the employee has accrued a minimum amount of unused sick leave, to be established by rule;

(b) That participation in the sick leave pool shall, at all times, be voluntary on the part of the employees;

(c) That any sick leave pooled shall be removed from the personally accumulated sick leave balance of the employee contributing the leave;

(d) That any sick leave in the pool that is used by a participating employee may be used only for the employee's personal illness, accident, or injury;

(e) That a participating employee is not eligible to use sick leave accumulated in the pool until all of his or her personally accrued sick, annual, and compensatory leave has been used;

(f) A maximum number of days of sick leave in the pool that any one employee may use;

(g) That a participating employee who uses sick leave from the pool is not required to retribute such sick leave to the pool, except as otherwise provided in this section;

(h) That an employee who cancels his or her membership in the sick leave pool is not eligible to withdraw the days of sick leave contributed by that employee to the pool;

(i) That an employee who transfers from one position in state government to another position in state government may transfer from one pool to another if the eligibility criteria of the pools are comparable and the administrators of the pools have agreed on a formula for transfer of credits;

(j) That alleged abuse of the use of the sick leave pool shall be investigated, and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave pool and shall be subject to such other disciplinary action as is determined by the agency head;

(k) That sick leave credits may be drawn from the sick leave pool by a part-time employee on a pro rata basis; and

(l) That each department or agency shall maintain accurate and reliable records showing the amount of sick leave which has been accumulated and is unused by employees, in accordance with guidelines established by the ~~(department of personnel)~~ office of financial management.

(3) Personnel authorities for higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions.

Sec. 314. RCW 41.06.020 and 2011 1st sp.s. c 43 s 401 are each reenacted and amended to read as follows:

Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section.

(1) "Affirmative action" means a procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system.

(2) "Agency" means an office, department, board, commission, or other separate unit or division, however designated, of the state government and all personnel thereof; it includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature.

(3) "Board" means the Washington personnel resources board established under the provisions of RCW 41.06.110, except that this definition does not apply to the words "board" or "boards" when used in RCW 41.06.070.

(4) "Career development" means the progressive development of employee capabilities to facilitate productivity, job satisfaction, and upward mobility through work assignments as well as education and training that are both state-sponsored and are achieved by individual employee efforts, all of which shall be consistent with the needs and obligations of the state and its agencies.

(5) "Classified service" means all positions in the state service subject to the provisions of this chapter.

(6) "Comparable worth" means the provision of similar salaries for positions that require or impose similar responsibilities, judgments, knowledge, skills, and working conditions.

(7) "Competitive service" means all positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

(8) "Department" means an agency of government that has as its governing officer a person, or combination of persons such as a commission, board, or council, by law empowered to operate the agency responsible either to (a) no other public officer or (b) the governor.

(9) "Director" means the (~~human resources~~) director (~~(within the office)~~) of financial management (~~(and appointed under RCW 43.41.113)~~) or the director's designee.

(10) "Institutions 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.

(11) "Noncompetitive service" means all positions in the classified service for which a competitive examination is not required.

(12) "Related boards" means the state board for community and technical colleges; and such other boards, councils, and commissions related to higher education as may be established.

(13) "Training" means activities designed to develop job-related knowledge and skills of employees.

Sec. 315. RCW 41.06.157 and 2011 1st sp.s. c 43 s 411 are each amended to read as follows:

(1) To promote the most effective use of the state's workforce and improve the effectiveness and efficiency of the delivery of services to the citizens of the state, the director shall adopt and maintain a comprehensive classification plan for all positions in the classified service. The classification plan must:

- (a) Be simple and streamlined;
- (b) Support state agencies in responding to changing technologies, economic and social conditions, and the needs of its citizens;
- (c) Value workplace diversity;
- (d) Facilitate the reorganization and decentralization of governmental services;
- (e) Enhance mobility and career advancement opportunities; and
- (f) Consider rates in other public employment and private employment in the state.

(2) An appointing authority and an employee organization representing classified employees of the appointing authority for collective bargaining purposes may jointly request the (~~(human resources)~~) director of financial management to initiate a classification study.

(3) For institutions of higher education and related boards, the director may adopt special salary ranges to be competitive with positions of a similar nature in the state or the locality in which the institution of higher education or related board is located.

(4) The director may undertake salary surveys of positions in other public and private employment to establish market rates. Any salary survey information collected from private employers which identifies a specific employer with salary rates which the employer pays to its employees shall not be subject to public disclosure under chapter 42.56 RCW.

Sec. 316. RCW 41.06.167 and 2011 1st sp.s. c 43 s 413 are each amended to read as follows:

The (~~(human resources)~~) director of financial management shall undertake comprehensive compensation surveys for officers and entry-level officer candidates of the Washington state patrol, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.56 RCW.

Sec. 317. RCW 42.17A.705 and 2012 c 229 s 582 are each amended to read as follows:

For the purposes of RCW 42.17A.700, "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the director of the department of services for the blind, the chief information officer of the office of chief information officer, the director of the state system of community and technical colleges, the director of commerce, the director of the consolidated technology services agency, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the director of enterprise services, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, (~~(the human resources director,)~~) the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue,

the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, Eastern Washington University board of trustees, Washington economic development finance authority, Washington energy northwest executive board, The Evergreen State College board of trustees, executive ethics board, fish and wildlife commission, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, student achievement council, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, state investment board, commission on judicial conduct, legislative ethics board, life sciences discovery fund authority board of trustees, liquor control board, lottery commission, Pacific Northwest electric power and conservation planning council, parks and recreation commission, Washington personnel resources board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, shorelines hearings board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington State University board of regents, and Western Washington University board of trustees.

Sec. 318. RCW 41.80.020 and 2013 2nd sp.s. c 4 s 972 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 (~~human resources~~) director of financial management, the director of enterprise services, or the Washington personnel resources board adopted under RCW 41.06.157.

(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). For agreements covering the 2013-2015 fiscal biennium, any agreement between the employer and the coalition regarding the dollar amount expended on behalf of each employee for health care benefits is a separate agreement and shall not be included in the master collective bargaining agreements negotiated by the parties.

(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.

Sec. 319. RCW 43.03.040 and 2011 1st sp.s. c 39 s 8 are each amended to read as follows:

Subject to RCW 41.04.820, 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(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 ~~((department of personnel))~~ office of financial management. From February 18, 2009, through June 30, 2013, a salary or wage increase shall not be granted to any position under this section, except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(1) The salary increase can be paid within existing resources;

(2) The salary increase will not adversely impact the provision of client services; and

(3) For any state agency of the executive branch, not including institutions of higher education, the salary increase is approved by the director of the office of financial management.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position under this section shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any agency granting a salary increase from July 1, 2011, through June 30, 2013, to a position under this section shall submit a report to the fiscal committees of the legislature by July 31, 2012, and July 31, 2013, detailing the positions for which salary increases were granted during the preceding fiscal year, the size of the increases, and the reasons for giving the increases.

Sec. 320. RCW 43.06.013 and 2011 1st sp.s. c 43 s 454 are each amended to read as follows:

When requested by the governor or the director of the department of enterprise services, nonconviction criminal history fingerprint record checks shall be conducted through the Washington state patrol identification and criminal history section and the federal bureau of investigation on applicants for agency head positions appointed by the governor. Information received pursuant to this section shall be confidential and made available only to the governor or director of ~~((the department of personnel))~~ financial management or their employees directly involved in the selection, hiring, or background investigation of the subject of the record check. When necessary, applicants may be employed on a conditional basis pending completion of the criminal history record check. "Agency head" as used in this section has the same definition as provided in RCW 34.05.010.

Sec. 321. RCW 43.41.113 and 2011 1st sp.s. c 43 s 430 are each amended to read as follows:

(1) The office of financial management shall direct and supervise the personnel policy and application of the civil service laws, chapter 41.06 RCW.

~~(2) ((The human resources director is created in the office of financial management. The human resources director shall be appointed by the governor, and shall serve at the pleasure of the governor. The director shall receive a salary in an amount fixed by the governor.~~

~~(3))~~ (3) The ~~((human resources))~~ director or the director's designee has the authority and shall perform the functions as prescribed in chapter 41.06 RCW, or as otherwise prescribed by law.

~~((4))~~ (3) The ~~((human resources))~~ director may delegate to any agency the authority to perform administrative and technical personnel activities if the agency requests such authority and the ~~((human resources))~~ director is satisfied that the agency has the personnel management capabilities to effectively perform the delegated activities. The ~~((human resources))~~ director shall prescribe standards and guidelines for the performance of delegated activities. If the ~~((human resources))~~ director determines that an agency is not performing delegated activities within the prescribed standards and guidelines, the director shall withdraw the authority from the agency to perform such activities.

Sec. 322. RCW 43.131.090 and 2011 1st sp.s. c 43 s 459 are each amended to read as follows:

Unless the legislature specifies a shorter period of time, a terminated entity shall continue in existence until June 30th of the next succeeding year for the

purpose of concluding its affairs: PROVIDED, That the powers and authority of the entity shall not be reduced or otherwise limited during this period. Unless otherwise provided:

(1) All employees of terminated entities classified under chapter 41.06 RCW, the state civil service law, shall be transferred as appropriate or as otherwise provided in the procedures adopted by the ~~((human resources))~~ director of financial management pursuant to RCW 41.06.150;

(2) 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 enterprise services;

(3) 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;

(4) Notwithstanding the provisions of RCW 34.05.020, all rules made by a terminated entity shall be repealed, without further action by the entity, at the end of the period provided in this section, unless assumed and reaffirmed by the entity assuming the related legal responsibilities of the terminated entity;

(5) 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.

Sec. 323. RCW 48.37.060 and 2011 1st sp.s. c 43 s 460 are each amended to read as follows:

(1) When the commissioner determines that other market conduct actions identified in RCW 48.37.040(4)(a) have not sufficiently addressed issues raised concerning company activities in Washington state, the commissioner has the discretion to conduct market conduct examinations in accordance with the NAIC market conduct uniform examination procedures and the NAIC market regulation handbook.

(2)(a) In lieu of an examination of an insurer licensed in this state, the commissioner shall accept an examination report of another state, unless the commissioner determines that the other state does not have laws substantially similar to those of this state, or does not have a market oversight system that is comparable to the market conduct oversight system set forth in this law.

(b) The commissioner's determination under (a) of this subsection is discretionary with the commissioner and is not subject to appeal.

(c) If the insurer to be examined is part of an insurance holding company system, the commissioner may also seek to simultaneously examine any affiliates of the insurer under common control and management which are licensed to write the same lines of business in this state.

(3) Before commencement of a market conduct examination, market conduct oversight personnel shall prepare a work plan consisting of the following:

(a) The name and address of the insurer being examined;

(b) The name and contact information of the examiner-in-charge;

(c) The name of all market conduct oversight personnel initially assigned to the market conduct examination;

- (d) The justification for the examination;
- (e) The scope of the examination;
- (f) The date the examination is scheduled to begin;
- (g) Notice of any noninsurance department personnel who will assist in the examination;
- (h) A time estimate for the examination;
- (i) A budget for the examination if the cost of the examination is billed to the insurer; and
- (j) An identification of factors that will be included in the billing if the cost of the examination is billed to the insurer.

(4)(a) Within ten days of the receipt of the information contained in subsection (3) of this section, insurers may request the commissioner's discretionary review of any alleged conflict of interest, pursuant to RCW 48.37.090(2), of market conduct oversight personnel and noninsurance department personnel assigned to a market conduct examination. The request for review shall specifically describe the alleged conflict of interest in the proposed assignment of any person to the examination.

(b) Within five business days of receiving a request for discretionary review of any alleged conflict of interest in the proposed assignment of any person to a market conduct examination, the commissioner or designee shall notify the insurer of any action regarding the assignment of personnel to a market conduct examination based on the insurer's allegation of conflict of interest.

(5) Market conduct examinations shall, to the extent feasible, use desk examinations and data requests before an on-site examination.

(6) Market conduct examinations shall be conducted in accordance with the provisions set forth in the NAIC market regulation handbook and the NAIC market conduct uniform examinations procedures, subject to the precedence of the provisions of chapter 82, Laws of 2007.

(7) The commissioner shall use the NAIC standard data request.

(8) Announcement of the examination shall be sent to the insurer and posted on the NAIC's examination tracking system as soon as possible but in no case later than sixty days before the estimated commencement of the examination, except where the examination is conducted in response to extraordinary circumstances as described in RCW 48.37.050(2)(a). The announcement sent to the insurer shall contain the examination work plan and a request for the insurer to name its examination coordinator.

(9) If an examination is expanded significantly beyond the original reasons provided to the insurer in the notice of the examination required by subsection (3) of this section, the commissioner shall provide written notice to the insurer, explaining the expansion and reasons for the expansion. The commissioner shall provide a revised work plan if the expansion results in significant changes to the items presented in the original work plan required by subsection (3) of this section.

(10) The commissioner shall conduct a preexamination conference with the insurer examination coordinator and key personnel to clarify expectations at least thirty days before commencement of the examination, unless otherwise agreed by the insurer and the commissioner.

(11) Before the conclusion of the field work for market conduct examination, the examiner-in-charge shall review examination findings to date

with insurer personnel and schedule an exit conference with the insurer, in accordance with procedures in the NAIC market regulation handbook.

(12)(a) No later than sixty days after completion of each market conduct examination, the commissioner shall make a full written report of each market conduct examination containing only facts ascertained from the accounts, records, and documents examined and from the sworn testimony of individuals, and such conclusions and recommendations as may reasonably be warranted from such facts.

(b) The report shall be certified by the commissioner or by the examiner-in-charge of the examination, and shall be filed in the commissioner's office subject to (c) of this subsection.

(c) The commissioner shall furnish a copy of the market conduct examination report to the person examined not less than ten days and, unless the time is extended by the commissioner, not more than thirty days prior to the filing of the report for public inspection in the commissioner's office. If the person so requests in writing within such period, the commissioner shall hold a hearing to consider objections of such person to the report as proposed, and shall not so file the report until after such hearing and until after any modifications in the report deemed necessary by the commissioner have been made.

(d) Within thirty days of the end of the period described in (c) of this subsection, unless extended by order of the commissioner, the commissioner shall consider the report, together with any written submissions or rebuttals and any relevant portions of the examiner's work papers and enter an order:

(i) Adopting the market conduct examination report as filed or with modification or corrections. If the market conduct examination report reveals that the company is operating in violation of any law, rule, or order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure that violation;

(ii) Rejecting the market conduct examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refile under this subsection; or

(iii) Calling for an investigatory hearing with no less than twenty days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(e) All orders entered under (d) of this subsection must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the market conduct examination report, relevant examiner work papers, and any written submissions or rebuttals. The order is considered a final administrative decision and may be appealed under the administrative procedure act, chapter 34.05 RCW, and must be served upon the company by certified mail or certifiable electronic means, together with a copy of the adopted examination report. A copy of the adopted examination report must be sent by certified mail or certifiable electronic means to each director at the director's residential address or to a personal e-mail account.

(f)(i) Upon the adoption of the market conduct examination report under (d) of this subsection, the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of five days except that the order may be disclosed to the person examined. Thereafter,

the commissioner may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication.

(ii) If the commissioner determines that regulatory action is appropriate as a result of any market conduct examination, he or she may initiate any proceedings or actions as provided by law.

(iii) Nothing contained in this subsection requires the commissioner to disclose any information or records that would indicate or show the existence or content of any investigation or activity of a criminal justice agency.

(g) The insurer's response shall be included in the commissioner's order adopting the final report as an exhibit to the order. The insurer is not obligated to submit a response.

(13) The commissioner may withhold from public inspection any examination or investigation report for so long as he or she deems it advisable.

(14)(a) Market conduct examinations within this state of any insurer domiciled or having its home offices in this state, other than a title insurer, made by the commissioner or the commissioner's examiners and employees shall, except as to fees, mileage, and expense incurred as to witnesses, be at the expense of the state.

(b) Every other examination, whatsoever, or any part of the market conduct examination of any person domiciled or having its home offices in this state requiring travel and services outside this state, shall be made by the commissioner or by examiners designated by the commissioner and shall be at the expense of the person examined; but a domestic insurer shall not be liable for the compensation of examiners employed by the commissioner for such services outside this state.

(c) When making a market conduct examination under this chapter, the commissioner may contract, in accordance with applicable state contracting procedures, for qualified attorneys, appraisers, independent certified public accountants, contract actuaries, and other similar individuals who are independently practicing their professions, even though those persons may from time to time be similarly employed or retained by persons subject to examination under this chapter, as examiners as the commissioner deems necessary for the efficient conduct of a particular examination. The compensation and per diem allowances paid to such contract persons shall be reasonable in the market and time incurred, shall not exceed one hundred twenty-five percent of the compensation and per diem allowances for examiners set forth in the guidelines adopted by the national association of insurance commissioners, unless the commissioner demonstrates that one hundred twenty-five percent is inadequate under the circumstances of the examination, and subject to the provisions of (a) of this subsection.

(d)(i) The person examined and liable shall reimburse the state upon presentation of an itemized statement thereof, for the actual travel expenses of the commissioner's examiners, their reasonable living expenses allowance, and their per diem compensation, including salary and the employer's cost of employee benefits, at a reasonable rate approved by the commissioner, incurred on account of the examination. Per diem, salary, and expenses for employees examining insurers domiciled outside the state of Washington shall be established by the commissioner on the basis of the national association of insurance commissioner's recommended salary and expense schedule for zone

examiners, or the salary schedule (~~(established by the human resources director)~~) and the expense schedule established by the office of financial management, whichever is higher. A domestic title insurer shall pay the examination expense and costs to the commissioner as itemized and billed by the commissioner.

(ii) The commissioner or the commissioner's examiners shall not receive or accept any additional emolument on account of any examination.

(iii) Market conduct examination fees subject to being reimbursed by an insurer shall be itemized and bills shall be provided to the insurer on a monthly basis for review prior to submission for payment, or as otherwise provided by state law.

(e) Nothing contained in this chapter limits the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action under the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination are prima facie evidence in any legal or regulatory action.

(f) The commissioner shall maintain active management and oversight of market conduct examination costs, including costs associated with the commissioner's own examiners, and with retaining qualified contract examiners necessary to perform an examination. Any agreement with a contract examiner shall:

(i) Clearly identify the types of functions to be subject to outsourcing;

(ii) Provide specific timelines for completion of the outsourced review;

(iii) Require disclosure to the insurer of contract examiners' recommendations;

(iv) Establish and use a dispute resolution or arbitration mechanism to resolve conflicts with insurers regarding examination fees; and

(v) Require disclosure of the terms of the contracts with the outside consultants that will be used, specifically the fees and/or hourly rates that can be charged.

(g) The commissioner, or the commissioner's designee, shall review and affirmatively endorse detailed billings from the qualified contract examiner before the detailed billings are sent to the insurer.

Sec. 324. RCW 49.74.020 and 2011 1st sp.s. c 43 s 463 are each amended to read as follows:

If the commission reasonably believes that a state agency, an institution of higher education, or the state patrol has failed to comply with an affirmative action rule adopted under RCW 41.06.150 or 43.43.340, the commission shall notify the director of the state agency, president of the institution of higher education, or chief of the Washington state patrol of the noncompliance, as well as the (~~human resources~~) director of financial management. The commission shall give the director of the state agency, president of the institution of higher education, or chief of the Washington state patrol an opportunity to be heard on the failure to comply.

NEW SECTION. **Sec. 325.** RCW 43.41.130, 43.41.140, 43.41.150, 43.41.370, and 43.41.380 are each recodified as sections in chapter 43.19 RCW.

NEW SECTION. **Sec. 326.** The following acts or parts of acts are each repealed:

(1) RCW 43.41.190 (Community network programs—Recommended legislation) and 1994 sp.s. c 7 s 318; and

(2) RCW 43.41.195 (Community networks—Fund distribution formula) and 1999 c 372 s 8 & 1994 sp.s. c 7 s 319.

PART IV CORRECTION OF OBSOLETE REFERENCES

Sec. 401. RCW 2.36.057 and 2015 c 225 s 2 are each amended to read as follows:

The supreme court is requested to adopt court rules (~~((to be effective by September 1, 1994,))~~) regarding methodology and standards for merging the list of registered voters in Washington state with the list of licensed drivers and identocard holders in Washington state for purposes of creating an expanded jury source list. The rules should specify the standard electronic format or formats in which the lists will be provided to requesting superior courts by the (~~((department of enterprise services))~~) consolidated technology services agency. In the interim, and until such court rules become effective, the methodology and standards provided in RCW 2.36.054 shall apply. An expanded jury source list shall be available to the courts for use by September 1, 1994.

Sec. 402. RCW 2.36.0571 and 2015 c 225 s 3 are each amended to read as follows:

~~((Not later than January 1, 1994,))~~ The secretary of state, the department of licensing, and the (~~((department of enterprise services))~~) consolidated technology services agency shall adopt administrative rules as necessary to provide for the implementation of the methodology and standards established pursuant to RCW 2.36.057 and 2.36.054 or by supreme court rule.

Sec. 403. RCW 2.68.060 and 2015 c 225 s 4 are each amended 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 43.41A.110 (as recodified by this act);

(2) Participate in the development of an enterprise-based statewide information technology strategy;

(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 (~~((office of the chief information officer))~~) consolidated technology services agency.

Sec. 404. RCW 19.34.100 and 2015 c 225 s 21 are each amended to read as follows:

(1) To obtain or retain a license, a certification authority must:

(a) Provide proof of identity to the secretary;

(b) Employ only certified operative personnel in appropriate positions;

(c) File with the secretary an appropriate, suitable guaranty, unless the certification authority is a city or county that is self-insured or the (~~department of enterprise services~~) consolidated technology services agency;

(d) Use a trustworthy system;

(e) Maintain an office in this state or have established a registered agent for service of process in this state; and

(f) Comply with all further licensing and practice requirements established by rule by the secretary.

(2) The secretary may by rule create license classifications according to specified limitations, and the secretary may issue licenses restricted according to the limits of each classification.

(3) The secretary may impose license restrictions specific to the practices of an individual certification authority. The secretary shall set forth in writing and maintain as part of the certification authority's license application file the basis for such license restrictions.

(4) The secretary may revoke or suspend a certification authority's license, in accordance with the administrative procedure act, chapter 34.05 RCW, for failure to comply with this chapter or for failure to remain qualified under subsection (1) of this section. The secretary may order the summary suspension of a license pending proceedings for revocation or other action, which must be promptly instituted and determined, if the secretary includes within a written order a finding that the certification authority has either:

(a) Utilized its license in the commission of a violation of a state or federal criminal statute or of chapter 19.86 RCW; or

(b) Engaged in conduct giving rise to a serious risk of loss to public or private parties if the license is not immediately suspended.

(5) The secretary may recognize by rule the licensing or authorization of certification authorities by other governmental entities, in whole or in part, provided that those licensing or authorization requirements are substantially similar to those of this state. If licensing by another government is so recognized:

(a) RCW 19.34.300 through 19.34.350 apply to certificates issued by the certification authorities licensed or authorized by that government in the same manner as it applies to licensed certification authorities of this state; and

(b) The liability limits of RCW 19.34.280 apply to the certification authorities licensed or authorized by that government in the same manner as they apply to licensed certification authorities of this state.

(6) A certification authority that has not obtained a license is not subject to the provisions of this chapter, except as specifically provided.

Sec. 405. RCW 36.28A.070 and 2015 c 225 s 32 are each amended to read as follows:

(1) The Washington association of sheriffs and police chiefs in consultation with the Washington state emergency management office, the Washington association of county officials, the Washington association of cities, the (~~office of the chief information officer~~) director of the consolidated technology services agency, the Washington state fire chiefs' association, and the Washington state patrol shall convene a committee to establish guidelines related to the statewide first responder building mapping information system. The committee shall have the following responsibilities:

(a) Develop the type of information to be included in the statewide first responder building mapping information system. The information shall include, but is not limited to: Floor plans, fire protection information, evacuation plans, utility information, known hazards, and text and digital images showing emergency personnel contact information;

(b) Develop building mapping software standards that must be utilized by all entities participating in the statewide first responder building mapping information system;

(c) Determine the order in which buildings shall be mapped when funding is received;

(d) Develop guidelines on how the information shall be made available. These guidelines shall include detailed procedures and security systems to ensure that the information is only made available to the government entity that either owns the building or is responding to an incident at the building;

(e) Recommend training guidelines regarding using the statewide first responder building mapping information system to the criminal justice training commission and the Washington state patrol fire protection bureau.

(2)(a) Nothing in this section supersedes the authority of the ~~((office of the chief information officer))~~ consolidated technology services agency or the technology services board under chapter ~~((43.41A))~~ 43.105 RCW.

(b) Nothing in this section supersedes the authority of state agencies and local governments to control and maintain access to information within their independent systems.

Sec. 406. RCW 42.17A.705 and 2012 c 229 s 582 are each amended to read as follows:

For the purposes of RCW 42.17A.700, "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the director of the department of services for the blind, ~~((the chief information officer of the office of chief information officer,))~~ the director of the state system of community and technical colleges, the director of commerce, the director of the consolidated technology services agency, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the director of enterprise services, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the human resources director, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state

patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, Eastern Washington University board of trustees, Washington economic development finance authority, Washington energy northwest executive board, The Evergreen State College board of trustees, executive ethics board, fish and wildlife commission, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, student achievement council, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, state investment board, commission on judicial conduct, legislative ethics board, life sciences discovery fund authority board of trustees, liquor control board, lottery commission, Pacific Northwest electric power and conservation planning council, parks and recreation commission, Washington personnel resources board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, shorelines hearings board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington State University board of regents, and Western Washington University board of trustees.

Sec. 407. RCW 43.19.794 and 2011 1st sp.s. c 43 s 602 are each amended to read as follows:

The (~~department of enterprise~~) consolidated technology services agency may become a licensed certification authority, under chapter 19.34 RCW, for the purpose of providing services to agencies, local governments, and other entities and persons for purposes of official state business. The department is not subject to RCW 19.34.100(1)(a). The department shall only issue certificates, as defined in RCW 19.34.020, in which the subscriber is:

(1) The state of Washington or a department, office, or agency of the state;

(2) A city, county, district, or other municipal corporation, or a department, office, or agency of the city, county, district, or municipal corporation;

(3) An agent or employee of an entity described by subsection (1) or (2) of this section, for purposes of official public business;

(4) Any other person or entity engaged in matters of official public business, however, such certificates shall be limited only to matters of official public business. The department may issue certificates to such persons or entities only if after issuing a request for proposals from certification authorities licensed under chapter 19.34 RCW and review of the submitted proposals, makes a determination that such private services are not sufficient to meet the department's published requirements. The department must set forth in writing

the basis of any such determination and provide procedures for challenge of the determination as provided by the state procurement requirements; or

(5) An applicant for a license as a certification authority for the purpose of compliance with RCW 19.34.100(1)(a).

Sec. 408. RCW 43.70.054 and 1997 c 274 s 2 are each amended to read as follows:

(1) To promote the public interest consistent with chapter 267, Laws of 1995, the department of health, in cooperation with the ~~((information services board established under RCW 43.105.032))~~ director of the consolidated technology services agency established in RCW 43.105.047 (as recodified by this act), shall develop health care data standards to be used by, and developed in collaboration with, consumers, purchasers, health carriers, providers, and state government as consistent with the intent of chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, to promote the delivery of quality health services that improve health outcomes for state residents. The data standards shall include content, coding, confidentiality, and transmission standards for all health care data elements necessary to support the intent of this section, and to improve administrative efficiency and reduce cost. Purchasers, as allowed by federal law, health carriers, health facilities and providers as defined in chapter 48.43 RCW, and state government shall utilize the data standards. The information and data elements shall be reported as the department of health directs by rule in accordance with data standards developed under this section.

(2) The health care data collected, maintained, and studied by the department under this section or any other entity: (a) Shall include a method of associating all information on health care costs and services with discrete cases; (b) shall not contain any means of determining the personal identity of any enrollee, provider, or facility; (c) shall only be available for retrieval in original or processed form to public and private requesters; (d) shall be available within a reasonable period of time after the date of request; and (e) shall give strong consideration to data standards that achieve national uniformity.

(3) The cost of retrieving data for state officials and agencies shall be funded through state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data or studies shall be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or study in the requested form.

(4) All persons subject to this section shall comply with departmental requirements established by rule in the acquisition of data, however, the department shall adopt no rule or effect no policy implementing the provisions of this section without an act of law.

(5) The department shall submit developed health care data standards to the appropriate committees of the legislature by December 31, 1995.

Sec. 409. RCW 43.88.090 and 2015 c 225 s 86 are each amended to read as follows:

(1) For purposes of developing budget proposals to the legislature, the governor shall have the power, and it shall be the governor's duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as the governor shall direct. The governor shall communicate statewide priorities to agencies for use in developing biennial

budget recommendations for their agency and shall seek public involvement and input on these priorities. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.

The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110. The estimates must reflect that the agency considered any alternatives to reduce costs or improve service delivery identified in the findings of a performance audit of the agency by the joint legislative audit and review committee. Nothing in this subsection requires performance audit findings to be published as part of the budget.

(2) Each state agency shall define its mission and establish measurable goals for achieving desirable results for those who receive its services and the taxpayers who pay for those services. Each agency shall also develop clear strategies and timelines to achieve its goals. This section does not require an agency to develop a new mission or goals in place of identifiable missions or goals that meet the intent of this section. The mission and goals of each agency must conform to statutory direction and limitations.

(3) For the purpose of assessing activity performance, each state agency shall establish quality and productivity objectives for each major activity in its budget. The objectives must be consistent with the missions and goals developed under this section. The objectives must be expressed to the extent practicable in outcome-based, objective, and measurable form unless an exception to adopt a different standard is granted by the office of financial management and approved by the legislative committee on performance review. Objectives must specifically address the statutory purpose or intent of the program or activity and focus on data that measure whether the agency is achieving or making progress toward the purpose of the activity and toward statewide priorities. The office of financial management shall provide necessary professional and technical assistance to assist state agencies in the development of strategic plans that include the mission of the agency and its programs, measurable goals, strategies, and performance measurement systems.

(4) Each state agency shall adopt procedures for and perform continuous self-assessment of each activity, using the mission, goals, objectives, and measurements required under subsections (2) and (3) of this section. The assessment of the activity must also include an evaluation of major information technology systems or projects that may assist the agency in achieving or making progress toward the activity purpose and statewide priorities. The evaluation of proposed major information technology systems or projects shall be in accordance with the standards and policies established by the ~~((office of the chief information officer))~~ technology services board. Agencies' progress toward the mission, goals, objectives, and measurements required by subsections (2) and (3) of this section is subject to review as set forth in this subsection.

(a) The office of financial management shall regularly conduct reviews of selected activities to analyze whether the objectives and measurements submitted by agencies demonstrate progress toward statewide results.

(b) The office of financial management shall consult with: (i) The four-year institutions of higher education in those reviews that involve four-year institutions of higher education; and (ii) the state board for community and technical colleges in those reviews that involve two-year institutions of higher education.

(c) The goal is for all major activities to receive at least one review each year.

(d) The ~~((office of the chief information officer))~~ consolidated technology services agency shall review major information technology systems in use by state agencies periodically.

(5) It is the policy of the legislature that each agency's budget recommendations must be directly linked to the agency's stated mission and program, quality, and productivity goals and objectives. Consistent with this policy, agency budget proposals must include integration of performance measures that allow objective determination of an activity's success in achieving its goals. When a review under subsection (4) of this section or other analysis determines that the agency's objectives demonstrate that the agency is making insufficient progress toward the goals of any particular program or is otherwise underachieving or inefficient, the agency's budget request shall contain proposals to remedy or improve the selected programs. The office of financial management shall develop a plan to merge the budget development process with agency performance assessment procedures. The plan must include a schedule to integrate agency strategic plans and performance measures into agency budget requests and the governor's budget proposal over three fiscal biennia. The plan must identify those agencies that will implement the revised budget process in the 1997-1999 biennium, the 1999-2001 biennium, and the 2001-2003 biennium. In consultation with the legislative fiscal committees, the office of financial management shall recommend statutory and procedural modifications to the state's budget, accounting, and reporting systems to facilitate the performance assessment procedures and the merger of those procedures with the state budget process. The plan and recommended statutory and procedural modifications must be submitted to the legislative fiscal committees by September 30, 1996.

(6) In reviewing agency budget requests in order to prepare the governor's biennial budget request, the office of financial management shall consider the extent to which the agency's activities demonstrate progress toward the statewide budgeting priorities, along with any specific review conducted under subsection (4) of this section.

(7) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make

recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate.

Sec. 410. RCW 43.88.092 and 2013 2nd sp.s. c 33 s 4 are each amended 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 technology services board policy. The office of financial management must work with the office of the state chief information officer to maximize the ability to draw this information from the information technology portfolio management data collected by the consolidated technology services agency. 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 (~~chief information officer~~) director of the consolidated technology services agency shall evaluate proposed information technology expenditures and establish priority ranking categories of the proposals. No more than one-third of the proposed expenditures shall be ranked in the highest priority category.

(4) The biennial budget documentation submitted by the office of financial management pursuant to RCW 43.88.030 must include an information technology plan and a technology budget for the state identifying current baseline funding for information technology, proposed and ongoing major information technology projects, and their associated costs. This plan and technology budget 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.

(5) 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.

(6) For the purposes of this section, "major information technology projects" includes projects that have a significant anticipated cost, complexity, or are of statewide significance, such as enterprise-level solutions, enterprise resource planning, and shared services initiatives.

Sec. 411. RCW 44.68.065 and 2015 c 225 s 96 are each amended to read as follows:

The legislative service center, under the direction of the joint legislative systems committee and the joint legislative systems administrative committee, shall:

(1) Develop a legislative information technology portfolio consistent with the provisions of RCW 43.41A.110 (as recodified by this act);

(2) Participate in the development of an enterprise-based statewide information technology strategy;

(3) Ensure the legislative information technology portfolio is organized and structured to clearly indicate participation in and use of enterprise-wide information technology strategies;

(4) As part of the biennial budget process, submit the legislative information technology portfolio to the chair and ranking member of the ways and means committees of the house of representatives and the senate, the office of financial management, and the (~~office of the chief information officer~~) consolidated technology services agency.

Sec. 412. RCW 70.58.005 and 2015 c 225 s 103 are each amended to read as follows:

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

(1) "Business days" means Monday through Friday except official state holidays.

(2) "Department" means the department of health.

(3) "Electronic approval" or "electronically approve" means approving the content of an electronically filed vital record through the processes provided by the department. Electronic approval processes shall be consistent with policies, standards, and procedures developed by the (~~office of the chief information officer~~) director of the consolidated technology services agency.

(4) "Embalmer" means a person licensed as required in chapter 18.39 RCW and defined in RCW 18.39.010.

(5) "Funeral director" means a person licensed as required in chapter 18.39 RCW and defined in RCW 18.39.010.

(6) "Vital records" means records of birth, death, fetal death, marriage, dissolution, annulment, and legal separation, as maintained under the supervision of the state registrar of vital statistics.

PART V

INFORMATION TECHNOLOGY ACCOUNTING REVISIONS

NEW SECTION. **Sec. 501.** A new section is added to chapter 43.105 RCW to read as follows:

(1) The consolidated technology services revolving account is created in the custody of the state treasurer. All receipts from agency fees and charges for services collected from public agencies must be deposited into the account. The account must be used for the:

(a) Acquisition of equipment, software, supplies, and services; and

(b) Payment of salaries, wages, and other costs incidental to the acquisition, development, maintenance, operation, and administration of: (i) Information

services; (ii) telecommunications; (iii) systems; (iv) software; (v) supplies; and (vi) equipment, including the payment of principal and interest on debt by the agency and other users as determined by the office of financial management.

(2) The director or the director's designee, with the approval of the technology services board, is authorized to expend up to one million dollars per fiscal biennium for the technology services board to conduct independent technical and financial analysis of proposed information technology projects.

(3) Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures except as provided in subsection (4) of this section.

(4) Expenditures for the strategic planning and policy component of the agency are subject to appropriation.

NEW SECTION. Sec. 502. A new section is added to chapter 43.41 RCW to read as follows:

(1) The statewide information technology system development revolving account is created in the custody of the state treasurer. All receipts from legislative appropriations and assessments to agencies for the development and acquisition of enterprise information technology systems must be deposited into the account. Moneys in the account may be spent only after appropriation. The account must be used solely for the development and acquisition of enterprise information technology systems that are consistent with the enterprise-based strategy established by the consolidated technology services agency in RCW 43.105.047 (as recodified by this act). Expenditures from the account may not be used for maintenance and operations of enterprise information technology systems. The account may be used for the payment of salaries, wages, and other costs directly related to the development and acquisition of enterprise information technology systems.

(2) All payment of principal and interest on debt issued for enterprise information technology systems must be paid from the account.

(3) The office may contract for the development or acquisition of enterprise information technology systems.

(4) For the purposes of this section and section 503 of this act, "enterprise information technology system" means an information technology system that serves agencies with a certain business need or process that are required to use the system unless the agency has received a waiver from the state chief information officer. "Enterprise information technology system" also includes projects that are of statewide significance including enterprise-level solutions, enterprise resource planning, and shared services initiatives.

NEW SECTION. Sec. 503. A new section is added to chapter 43.41 RCW to read as follows:

(1) The statewide information technology system maintenance and operations revolving account is created in the custody of the state treasurer. All receipts from fees, charges for services, and assessments to agencies for the maintenance and operations of enterprise information technology systems must be deposited into the account. The account must be used solely for the maintenance and operations of enterprise information technology systems.

(2) Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditure.

(3) The office may contract with the consolidated technology services agency for the billing of fees, charges for services, and assessments to agencies, and for the maintenance and operations of enterprise information technology systems.

(4) "Enterprise information technology system" has the definition in section 502 of this act.

NEW SECTION. Sec. 504. A new section is added to chapter 43.41 RCW to read as follows:

(1) The shared information technology system revolving account is created in the custody of the state treasurer. All receipts from fees, charges for services, and assessments to agencies for shared information technology systems must be deposited into the account.

(2) Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditure.

(3) The office may contract with the consolidated technology services agency for the billing of fees, charges for services, and assessments to agencies, and for the development, maintenance, and operations of shared information technology systems.

(4) For the purposes of this section, "shared information technology system" means an information technology system that is available to, but not required for use by, agencies.

NEW SECTION. Sec. 505. The office of financial management must convene a work group consisting of representatives of the legislative evaluation and accountability program committee, legislative staff of the fiscal committees of the house of representatives and senate, consolidated technology services agency, and the department of enterprise services. The purpose of the work group is to review and update the central services model that allocates state funds for budgeting the costs of central services. The work group must review the services and activities performed by each agency and develop a system of rates and charges to fund these services and activities. In addition, the work group must review each agency's chart of accounts and propose a structure to better align the budget reporting systems with each agency's current operational structure and to provide greater transparency in revenues and expenditures. These tasks should be completed in anticipation of the governor's 2017-2019 biennial budget submission.

NEW SECTION. Sec. 506. RCW 43.19.791 (Data processing revolving fund—Created—Use) and 2013 2nd sp.s. c 4 s 976 & 2011 2nd sp.s. c 9 s 906 are each repealed, effective January 1, 2016.

NEW SECTION. Sec. 507. No later than December 31, 2015, any residual balance of funds remaining in the data processing revolving fund repealed by section 506 of this act shall be apportioned by the director of financial management to the appropriate accounts created in sections 501 through 504 of this act.

PART VI
MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 601. (1) All powers, duties, and functions of the office of the chief information officer within the office of financial management pertaining to the office of the chief information officer are transferred to the consolidated technology services agency.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the office of the chief information officer within the office of financial management pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the consolidated technology services agency. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the office of the chief information officer within the office of financial management in carrying out the powers, duties, and functions transferred shall be made available to the consolidated technology services agency. All funds, credits, or other assets held in connection with the powers, duties, and functions transferred shall be assigned to the consolidated technology services agency.

(b) Any appropriations made to the office of the chief information officer within the office of financial management for carrying out the powers, duties, and functions transferred shall, on the effective date of this section, be transferred and credited to the consolidated technology services agency.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the office of the chief information officer within the office of financial management pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the consolidated technology services agency. All existing contracts and obligations shall remain in full force and shall be performed by the consolidated technology services agency.

(4) The transfer of the powers, duties, functions, and personnel of the office of the chief information officer within the office of financial management shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All exempt employees of the office of the chief information officer within the office of financial management engaged in performing the powers, duties, and functions transferred are transferred to the jurisdiction of the consolidated technology services agency. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the consolidated technology services agency to perform their usual duties upon the same terms as

formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

NEW SECTION. **Sec. 602.** (1) All powers, duties, and functions of the department of enterprise services pertaining to statewide information technology services and applications are transferred to the consolidated technology services agency.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of enterprise services pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the consolidated technology services agency. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of enterprise services in carrying out the powers, duties, and functions transferred shall be made available to the consolidated technology services agency. All funds, credits, or other assets held in connection with the powers, duties, and functions transferred shall be assigned to the consolidated technology services agency.

(b) Any appropriations made to the department of enterprise services for carrying out the powers, duties, and functions transferred shall, on the effective date of this section, be transferred and credited to the consolidated technology services agency.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of enterprise services pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the consolidated technology services agency. All existing contracts and obligations shall remain in full force and shall be performed by the consolidated technology services agency.

(4) The transfer of the powers, duties, functions, and personnel of the department of enterprise services shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of enterprise services engaged in performing the powers, duties, and functions transferred are transferred to the jurisdiction of the consolidated technology services agency. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the consolidated technology services agency to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(7) Positions in any bargaining unit within the consolidated technology services agency existing on the effective date of this section will not be removed from the existing bargaining unit as a result of this section unless and until modified by the public employment relations commission pursuant to a petition filed under Title 391 WAC. No positions will be added to any bargaining unit within the consolidated technology services agency as a result of this section unless and until the parties have fulfilled their bargaining obligation and the bargaining unit is modified by the public employment relations commission pursuant to a petition filed under Title 391 WAC.

NEW SECTION. Sec. 603. Sections 401 through 405, 409, 411, and 412 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 24, 2015.

NEW SECTION. Sec. 604. Sections 101 through 109, 201 through 224, 406 through 408, 410, 501 through 507, 601, and 602 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, 2015.

Passed by the Senate June 29, 2015.

Passed by the House June 29, 2015.

Approved by the Governor June 30, 2015.

Filed in Office of Secretary of State July 1, 2015.

CHAPTER 2

[Engrossed House Bill 2286]

BUDGET STABILIZATION ACCOUNT--DEPOSITS

AN ACT Relating to directing the treasurer to transfer budget stabilization account deposits that are attributable to extraordinary revenue growth in the 2013-2015, 2015-2017, and 2017-2019 fiscal biennia; adding a new section to chapter 43.79 RCW; 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 43.79 RCW to read as follows:

(1) By June 30, 2015, the treasurer shall transfer into the state general fund the entire budget stabilization account deposit for the 2013-2015 fiscal biennium that is attributable to extraordinary revenue growth, not to exceed fifty million dollars.

(2) During the 2015-2017 fiscal biennium, the treasurer shall transfer into the state general fund the entire budget stabilization account deposit for the 2015-2017 fiscal biennium that is attributable to extraordinary revenue growth, not to exceed seventy-five million dollars.

(3) During the 2017-2019 fiscal biennium, the treasurer shall transfer into the state general fund the entire budget stabilization account deposit for the 2017-2019 fiscal biennium that is attributable to extraordinary revenue growth, not to exceed five hundred fifty million dollars.

(4) For purposes of RCW 43.88.055(4), the transfers in this section do not alter the requirement to balance in ensuing biennia.

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 House June 29, 2015.

Passed by the Senate June 30, 2015.

Approved by the Governor June 30, 2015.

Filed in Office of Secretary of State July 1, 2015.

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 2015 session (64th Legislature), chapters 203 through 299, the 2015 first special session, chapters 1 through 10, the 2015 second special session, chapters 1 through 11, and the 2015 third special session, chapters 1 and 2, 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 18th day of September, 2015.

A handwritten signature in black ink that reads "K. Kyle Thiessen" with a long horizontal flourish extending to the right.

K. KYLE THIESSEN
Code Reviser